

TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION



GUIDELINES ON INSIDER REPORTING
(FOR PUBLIC COMMENT)

*Issued in accordance with Section 6(b)
of the Securities Industry Act 1995*

December 12, 2008



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PART I – BACKGROUND AND PURPOSE

1. PURPOSE

The purpose of these guidelines is assist persons connected to reporting issuers (“Insiders”) in reporting their ownership of and transactions in securities of issuers of which they are Insiders.

The guidelines strive to clarify the reporting obligations of Insiders and to promote consistency in filings to ensure that Insiders properly disclose their trading activities. The directions contained here are guidelines only, and do not necessarily represent the only way that such trading may be reported.

The effective date of publication of these guidelines is 2008.

These guidelines may be republished from time to time to reflect frequently asked questions or concerns.

2. BACKGROUND

a. Application of Guidelines

These Guidelines are issued pursuant to section 6(b) of the Securities Industry Act, 1995 (“the SIA”). They clarify the reporting obligations of persons who are in specific relationships with a reporting issuer since non-compliance with the reporting obligations may expose the person in default to penalties under the law.

These Guidelines apply to –

- (i) each director and senior officer of a reporting issuer;
- (ii) each director and senior officer of the reporting issuer’s affiliates or associates;
- (iii) each individual and entity who owns or controls 10% or more of the voting securities of the reporting issuer; and
- (iv) each director and senior officer of the 10% or more security holder who directly or indirectly owns , exercises control or direction over securities of the reporting issuer.



b. Why “Insider Reporting”?

A system of reporting by persons “connected to a reporting issuer” (referred to as “insider reporting”) plays a vital role in informing investors and in policing markets. It is standard international practice to require insiders to report their ownership of, and transactions in, securities of issuers of which they are insiders. Public reporting of such trading provides valuable information to the market and can affect the market’s evaluation of the securities.

The requirement to report all trading has a salutary effect in encouraging the disclosure of price sensitive information, discouraging illegal insider trading and facilitating its detection. The requirement to properly disclose any trading and the publication of information thereon makes it less likely that an insider will trade on undisclosed price sensitive information. If the insider trades on inside information and reports his trading, the report will draw attention to the possible misuse of information. However, the failure to report trading (including trading through nominee accounts) may, once detected, provide evidence of both illegal insider trading and a breach of insider reporting requirements.

In the circumstances, insiders are discouraged from illegal insider trading and conversely have a greater incentive to disclose the price sensitive information to the market (or less of an incentive to keep the information confidential).

c. What is ‘Illegal Insider Trading’?

Generally, ‘illegal insider trading’ means trading, or advising to trade by persons who are in possession of or may reasonably be expected to have access to price sensitive information. Price sensitive information refers to specific unpublished information which might reasonably be expected to affect the price or value of the securities materially if generally known.

d. The Current Regime

Part IX of the SIA, identifies those activities that constitute “illegal insider trading”. These activities are trading, or advising to trade, on the basis of specific unpublished price sensitive information by persons who are-

- i) connected with a reporting issuer;
- ii) “recipients” of information from “connected” persons (informally known as “tippees”); and
- iii) receivers of bidder information.



Section 122 of the SIA empowers an issuer to require any of its members to make certain disclosures namely the capacity in which the member holds any of its shares and, if he holds them otherwise than as beneficial owner, the person who has an interest in the shares and the nature of such interest.

The Companies Act, 1995 (“the CA”) at sections 179 to 183, imposes reporting obligations on directors and substantial shareholders of public companies as defined by the CA. They are required to report their shareholdings in the company or in its affiliates or associates to the company which then reports to the Commission.

Under these provisions a public company must keep a register recording particulars of any interest in shares in, or debentures of, the company or of any of its affiliates or associates, which is vested in a director and substantial shareholder.

An interest in shares or debentures is vested in a director if he is the legal or beneficial owner or exercises control over them.

Further, directors are required to notify the company of particulars of their interest in shares or debentures of the company such as :

- i) the number and classes of the shares and the number, classes and the amount of the principal and premiums payable to the holder of the debentures;
- ii) the nature of the interest and its duration;
- iii) the date of the acquisition of the interest and the consideration (if any) given by the director or any other person for the acquisition;
- iv) the date of the disposal of the interest by the director or the date of its cessation (whichever occurs first) and the consideration (if any) received by him or any other person for such disposal or cessation.

e. The Proposed Insider Reporting Regime

The system of insider reporting proposed under these Guidelines flows from the existing requirements under sections 179 to 185 of the CA for public company disclosure of directors’ interests and of substantial shareholder interests in the company, as well as those of such directors’ associates and affiliates. These Guidelines build upon those provisions by also incorporating the reporting responsibilities in the proposed Securities Act (“the proposed SA”). The report to be filed under these guidelines covers dealings in relation to all securities of the reporting issuer including convertible and derivative securities.

The proposed SA was born out of recommendations of the Canadian consultants who were retained by the Commission to review the existing securities regime in Trinidad and Tobago. The proposed SA therefore, is aimed at bringing our securities regulatory regime



to the level of international best practice. It creates a regime for insider reporting which is broader than that contained in the CA in terms of the persons who are required to report since the definition of 'connected person' encompasses, not only directors of reporting issuers and of associates or affiliates thereof, but also senior officers and 10% or more shareholders.

The Commission has recommended to the Government of Trinidad and Tobago that the existing SIA be repealed and replaced with the proposed SA as well as the insider reporting provisions of the CA. Accordingly, a comprehensive regime for insider reporting is contained in the proposed SA where it is thought to be more appropriately placed.

The legislative process for the enactment of the proposed SA and related By-laws is not yet completed. In the interim, the Commission has decided, to implement the insider reporting regime contained in the proposed SA, in the form of these Guidelines created under section 6(b) of the SIA in order to fulfill its mandate to maintain surveillance over the securities market, to ensure orderly, fair and equitable dealings in securities and to protect the integrity of the securities market against any abuses arising from insider trading. The market must be sensitized to the reporting requirements that persons who are connected to reporting issuers must make under the proposed SA.

As with all other guidelines the Commission encourages market participants to be guided by the insider reporting system set out here in the organization and conduct of their business.

PART II – THE GUIDELINES

PRELIMINARY

1. These Guidelines may be cited as the Insider Reporting Guidelines, 2008.

2. In these Guidelines -

“the Act” means the Securities Industry Act, 1995;

“affiliate” means an affiliated body corporate or affiliated person so that-

- a) (i) One body corporate is affiliated with another body corporate if one of them is the subsidiary of the other, or both are subsidiaries of the same body corporate, or each of them is controlled by the same person; and



- (ii) if two bodies corporate are affiliated with the same body corporate at the same time, they are affiliated with each other;
- (b) a body corporate is the holding body corporate of another if that other body corporate is its subsidiary; and
- (c) a person that is not a body corporate or an individual is considered to be an affiliated person of another person, including a body corporate, if it is controlled by that other, provided that a person is controlled by another person if:
 - (i) in the case of a partnership, the second-mentioned person owns or holds more than 50% of the interest in the partnership; and
 - (ii) in the case of the first-mentioned person other than a body corporate, an individual, or a partnership, securities of the first-mentioned person carrying more than 50% of the interests in such person, are held or owned by or for the benefit of the second-mentioned person;

“associate”, when used to indicate a relationship with any person, means:

- (a) a body corporate of which that person beneficially owns or controls, directly or indirectly, either shares or securities currently convertible into shares, carrying more than 10% of the voting rights –
 - (i) under all circumstances;
 - (ii) by reason of the occurrence of an event that has occurred and is continuing;or a currently exercisable option or right to purchase such shares or such convertible securities;
- b) a partner of that person acting on behalf of the partnership of which they are partners;
- c) a trust or estate, in which that person has a substantial beneficial interest or in respect of which he serves as a trustee, legal representative or in a similar capacity;
- d) a spouse or child of that person; or
- e) a relative of that person or of his spouse if that relative has the same residence as that person;



“connected” when used in relation to a reporting issuer means -

- (a) the person is a director or senior officer of the reporting issuer;
- (b) the person is a director or senior officer of:
 - (i) an affiliate or associate of the reporting issuer; or
 - (ii) any person who beneficially owns, directly or indirectly, or exercises control or direction over, voting securities of the reporting issuer, or a combination of both, carrying more than ten percent of the votes attached to all voting securities of the reporting issuer outstanding;
- (c) the person beneficially owns, directly or indirectly, or exercises control or direction over, voting securities of the reporting issuer, or a combination of both, carrying more than ten percent of the votes attached to all voting securities of the reporting issuer outstanding;
- (d) the person is contemplating or proposing, whether alone or with any other person, to make a take-over bid for any securities of the reporting issuer, or is contemplating or proposing, whether alone or with any other person, to become a party to any amalgamation, merger or similar business combination with the reporting issuer, or is contemplating or proposing any other material transaction with or including the reporting issuer;
- (e) the person is engaging in or is proposing to engage in any business or professional activity with or on behalf of the reporting issuer or any person identified in paragraph (d), or is an employee of any such person or of the reporting issuer or any affiliate;
- (f) the person learns, directly or indirectly, of undisclosed price sensitive information with respect to a reporting issuer from any person described in this subsection, including a person described in this subsection, and knows, or ought reasonably to have known, that the other person is connected to the reporting issuer; or
- (g) the person is an expert retained or hired by –
 - (i) a reporting issuer; or
 - (ii) a person within the meaning of paragraph (d);

“issuer” means a person that has securities outstanding or issues, or proposes to issue or distribute, a security;



“reporting issuer” means an issuer –

- (a) that has filed a registration statement with the Commission in accordance with the Act, and has not been the subject of an order altering its status as a reporting issuer;
- (b) that has filed a prospectus with the Commission in accordance with the Act and obtained a receipt for it;
- (c) that is required to be registered as a reporting issuer with the Commission in accordance with the Act;
- (d) any of whose securities are listed on the Stock Exchange; or
- (e) that is the issuer whose existence continues following the exchange of securities of an issuer by or for the account of such issuer with another issuer or the holders of securities of that issuer in connection with a statutory amalgamation or arrangement, or where existing issuers merge into one issuer, that continuing issuer, where one of the amalgamating or merged companies or the continuing company has been a reporting issuer for at least 12 months;

but does not include a government entity or international agency;

“senior officer” includes:

- (a) the chairman or vice-chairman of the board of directors of an issuer, the managing director, the chief executive officer, the deputy managing director, the president, the vice-president, the secretary, the treasurer, the chief financial officer, the financial controller, the general manager or the deputy general manager of an issuer or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office; and
- (b) each of the five highest paid employees of an issuer, including any individual referred to in paragraph (a).

3. For the purpose of these Guidelines a person is connected to a reporting issuer if -

- (1) the person is a director or senior officer of the reporting issuer;
- (2) the person is a director or senior officer of:
 - (a) an affiliate or associate of the reporting issuer, or



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(b) any person who beneficially owns, directly or indirectly, or exercises control or direction over, voting securities of the reporting issuer, or a combination of both, carrying more than ten percent of the votes attached to all voting securities of the reporting issuer outstanding;

(3) the person beneficially owns, directly or indirectly, or exercises control or direction over, voting securities of the reporting issuer, or a combination of both, carrying more than ten percent of the votes attached to all voting securities of the reporting issuer outstanding;

(4) the person is contemplating or proposing, whether alone or with any other person, to make a take-over bid for any securities of the reporting issuer, or is contemplating or proposing, whether alone or with any other person, to become a party to any amalgamation, merger or similar business combination with the reporting issuer, or is contemplating or proposing any other material transaction with or including the reporting issuer;

(5) the person is engaging in or is proposing to engage in any business or professional activity with or on behalf of the reporting issuer or any person identified in paragraph 3(4), or is an employee of any such person or of the reporting issuer or any affiliate;

(6) the person learns, directly or indirectly, of undisclosed price sensitive information with respect to a reporting issuer from any person described in this subsection, including a person described in this subsection, and knows, or ought reasonably to have known, that the other person is connected to the reporting issuer; or

(7) the person is an expert retained or hired by –

(a) a reporting issuer; or

(b) a person within the meaning of paragraph 3(4).

4. These Guidelines apply in addition to any requirements contained in the Act, its related By-laws and any other Guidelines.

PART III – REPORTING BY CONNECTED PERSONS

5. (1) A person who is connected to a reporting issuer should report his ownership of and transactions in securities of the reporting issuer.



- (2) A person is connected to a reporting issuer under paragraph 3 if he is a -
- a) Director of the reporting issuer;
 - b) Senior officer of the reporting issuer;
 - c) Director of an affiliate or associate of the reporting issuer;
 - d) Senior officer of an affiliate or associate of the reporting issuer;
 - e) Security holder who beneficially owns, directly or indirectly, or exercises control or direction over more than 10% of the voting securities of the reporting issuer;
 - f) Director of any security holder referred to in (e) above;
 - g) Senior officer of any security holder referred to in (e) above;
 - h) Person deemed to be connected to the reporting issuer;
 - i) Receiver of bidder information;
 - j) Recipient of price sensitive information;
 - k) Expert and consultant retained by the reporting issuer or by the receiver of bidder information.
- (3) A person who is connected to a reporting issuer, within the meaning of 'connected to a reporting issuer' in paragraph 3, continues to be deemed to be connected to a reporting issuer:
- (a) in the case of paragraphs (a) to (e) and (k) of paragraph 5(2), up to 6 months after the day that the person otherwise ceases to be connected to a reporting issuer;
 - (b) in the case of paragraph 5(2)(i), until the time any transaction contemplated is generally disclosed; and
 - (c) in the case of paragraph 5(2)(j), until such undisclosed price sensitive information is generally disclosed.



PART IV - REPORTING AND FILING WITH THE COMMISSION

6. For the purpose of this Part 'interests' means direct ownership of, or beneficial ownership of, or control or direction over, securities of the reporting issuer.
7. A person who reports under Part III should report -
 - (a) his interests in the securities of the reporting issuer to which he is connected;
 - (b) his interests in the securities of affiliates or associates of the reporting issuer to which he is connected;
 - (c) the interests of his associates upon becoming connected;
 - (d) any change or changes in his interests and in the interests of his associates in the securities of the reporting issuer to which he is connected on the day on which the change or changes occur;
 - (e) any transfer by him of his interests in any securities of the reporting issuer to which he is connected (except a transfer for the purpose of giving collateral for a genuine debt) into the name of an agent, nominee or custodian, other than a clearing agency.
8. Securities of the reporting issuer include -
 - (a) securities which are third-party derivative securities related to the reporting issuer;
 - (b) securities that are convertible or exchangeable for securities of a reporting issuer, whether or not on condition; or
 - (c) rights to acquire or to subscribe for, or otherwise receive, securities of a reporting issuer;

in each case whether or not such securities are securities issued by the reporting issuer.

(d) For purposes of this section, "*derivative securities*" include an instrument, agreement or security, the market price, value or payment obligations of which are derived from, referenced to, or based on, an underlying security, interest, benchmark or formula.



9. (1) A person who reports under Part III should file a report within five business days of –
- a) the day that he becomes connected to the reporting issuer, its affiliates or associates;
 - b) the day on which any change in his interests or the interests of his associates occurs in the securities of the reporting issuer or of its affiliates or associates; and
 - c) the day of any transfer of his interests in the securities of the reporting issuer, its associates or of its affiliates.
- (2) The form required to be filed with the Commission shall be made on the form headed “Trading Report of a Person connected to a Reporting Issuer” in the Schedule hereto.
- (3) The form contained in the Schedule hereto should be used in all cases to which it is applicable, and may be modified as directed by the Commission to meet other cases.
- (4) Three paper copies of the completed form should be mailed or delivered to the address of the Commission.
- (5) In addition to complying with Paragraph (4) the form may be delivered in an electronic format to the e-mail address of the Commission as the Commission may determine.
- (6) A report filed with the Commission will be deemed to be filed on the day on which the Commission receives it.

PART V – PUBLICATION OF THE REPORT BY THE COMMISSION

10. The Commission will make the report –
- a) available for public inspection during its normal business hours; and
 - b) available for public inspection on the internet website of the Commission,
- unless the Commission determines that disclosure would not be in the public interest.



PART VI – DELIVERY OF THE REPORT TO THE REPORTING ISSUER

11. A person who reports under Part III to the Commission should also deliver a copy of the report to the reporting issuer forthwith.

PART VII – FAILURE TO REPORT

12. A person who should report under Part III and –
- a) fails to file the report within the time limited thereby;
 - b) files a report which he knows to be false;
 - c) files a report which is misleading; or
 - d) files a report with incomplete information;
- may be guilty of an offence for which he is liable under the law.

SCHEDULE
TRADING REPORT OF A PERSON CONNECTED TO A REPORTING ISSUER
(Pursuant to section 6(b) of the Securities Industry Act, 1995)

1. IDENTIFICATION OF THE REPORTING ISSUER

NAME OF REPORTING ISSUER

2. IDENTIFICATION OF THE PERSON CONNECTED TO THE REPORTING ISSUER

FAMILY NAME OR CORPORATE NAME		
GIVEN NAMES (IN ORDER)		
No.	STREET	APT.
CITY	POSTAL CODE	
BUSINESS TELEPHONE NUMBER	BUSINESS FAX NUMBER	
CHANGE FROM PREVIOUS REPORT	YES	NO

3. PERSON CONNECTED TO THE REPORTING ISSUER DATA

RELATIONSHIP TO REPORTING ISSUER		Date of last report filed
	OR	
IF INITIAL REPORT, DATE ON WHICH YOU BECAME AN INSIDER		CHANGE IN RELATIONSHIP FROM LAST REPORT
		___ YES ___ NO

HOLDINGS AND CHANGES OF PERSONS CONNECTED TO THE REPORTING ISSUER (IF INITIAL REPORT, COMPLETE COLUMNS A,D,E AND F ONLY. SEE AS INSTRUCTION TO BOX 4)

A	B	C TRANSACTIONS							D	E	F
DESIGNATION OF CLASS OF SECURITIES	BALANCE OF CLASS OF SECURITIES ON LAST REPORT	DATE	NATURE	NUMBER/VALUE ACQUIRED	NUMBER/VALUE DISPOSED OF	UNIT PRICE/ EXERCISE PRICE	US\$/TT\$	PRESENT BALANCE OF CLASS OF SECURITIES HELD	DIRECT/ INDIRECT OWNERSHIP/ CONTROL OR DIRECTION	IDENTIFY THE REGISTERED HOLDER WHERE OWNERSHIP IS INDIRECT OR WHERE CONTROL OR DIRECTION IS EXERCISED	
		DAY	MONTH	YEAR							

ATTACHMENT ___ YES ___ NO

5. REMARKS

The undersigned hereby certifies that the information given in this report is true and complete in every respect. A person who gives false, misleading or incomplete information is guilty of an offence.

6. SIGNATURE

NAME (BLOCK LETTERS)	SIGNATURE	DATE OF THE REPORT
		DAY MONTH YEAR