



# **Reserve Bank of Fiji**

## **Capital Markets Supervision Policy Statement No. 10**

### **Code of Conduct for Prevention of Insider Trading**

**NOTICE TO CAPITAL MARKETS INTERMEDIARIES LICENSED UNDER  
THE CAPITAL MARKETS DECREE 2009**

## **PART I: PRELIMINARY**

### **1.0 Introduction**

1.1 This Policy is issued under section 5(r & v) and section 35 of the Capital Markets Decree 2009 as part of the Reserve Bank of Fiji's (RBF) standards governing the conduct of capital market intermediaries in the Fiji Islands. Under this Policy, capital market intermediaries are required to establish and maintain a code of conduct to prohibit insider trading.

### **2.0 Objective of this Policy**

2.1 The objective of this Policy is to:

- a) foster public confidence through equal access to information by shareholders;
- b) promote transparency trading of capital market intermediaries in the form of fair disclosures which in turn will foster market discipline and preserve market integrity; and
- c) outline the code of conduct for capital market intermediaries to prevent insider trading.

2.2 Under one of the objectives of the Reserve Bank to build an international reputable financial system, this policy aims to protect and promote investors confidence and enhance fair trading in Fiji's capital markets.

### **3.0 Background and Outline of the Approach**

3.1 As per IOSCO<sup>1</sup> definition, insider trading as trading based on inside information, sharing inside information, and making investment recommendations based on inside information. Further on, inside information is defined as information that is non-public and material.

3.2 Undermining public confidence in the securities market, insider trading creates an unfair advantage and allows for manipulative market practices.

3.3 In developing this policy, references were made to the IOSCO principles 16 & 17, the US SEC rule on *Selective Disclosure and Insider Trading*, and the SEBI<sup>2</sup> Prohibition of Insider Trading Regulations, 1992. Other guidelines considered were the SEBI *Corporate Disclosure Practices and Code of Conduct for prevention of Insider Trading* with the individual licensed entities and the AFMA (Australian Financial Markets Association) *Handling Confidential & Price Sensitive Information & Market Soundness*. The Policy also considered recommendations from a COSRA/IARC/Latin American Roundtable Survey, September 2011.

### **4.0 Definitions**

4.1 "Board" means Board of Directors.

4.2 "Company" shall include:

- a) Stock brokers;
- b) Unit Trusts; and
- c) Listed companies on the SPSE (South Pacific Stock Exchange).

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<sup>1</sup>International Organization of Securities Commission.

<sup>2</sup>Securities and Exchange Board of India

- 4.3 “Connected” means a connected person with the meaning given to it by section 35(8) of the Decree
- 4.4 “Decree” means the Capital Markets Decree 2009.
- 4.5 “Insider” means any person who, is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to unpublished price sensitive information in respect of securities of a company.
- 4.6 “Officer” means the officer with the meaning given to it by section 35(10) of the Decree.
- 4.7 “Price sensitive information” (PSI) means any information directly or indirectly relating to a company and which if published is likely to materially affect the price of securities of the company.  
Price sensitive information, at minimum includes:
- a) periodical financial results of the company;
  - b) intended declaration of dividends (interim and final);
  - c) issue of securities or by-back of securities;
  - d) any major expansion plans or execution of new projects;
  - e) amalgamation, mergers or takeovers;
  - f) disposal of the whole or substantial part of the undertaking;
  - g) and significant changes in policies, plans or operations of the company; and
  - h) any other event as may be notified.
- 4.8 “Stock Exchange” means the South Pacific Stock Exchange.
- 4.9 “Working day” shall mean the working day when the regular trading is permitted on the stock exchange where the securities of the company are listed.

## **PART II: REQUIREMENTS OF THE POLICY**

### ***A. Requirements under the Capital Markets Decree 2009***

#### **5.0 Prohibited Dealings**

- 5.1 Companies are required to comply with Section 35 of the Decree, which prohibits insider trading by individuals and body corporate.
- 5.2 Amongst other requirements mentioned in the section, the section prohibits individuals to:
- a) either on his own or on behalf of another person, deal in securities of a company listed on the stock exchange when in possession of any unpublished price sensitive information; and/or
  - b) communicate or counsel or acquire directly or indirectly any unpublished price sensitive information to any person.

### ***B. Additional Requirements***

#### **6.0 Oversight by the Board**

- 6.1 The Board of each company are required to ensure that the company:
- a) complies with Section 35 of the Decree and this Policy;
  - b) appoints a compliance officer who is to be responsible to report to the SPSE and RBF in the required format. The compliance officer may be an existing employee or newly recruited employee to serve such purpose; and

- c) officers and employees are:
  - (i) aware of the laws, policies relating to insider trading and penalties for contraventions; and
  - (ii) provided the necessary and ongoing training, incorporating:
    - current developments;
    - changes to Insider trading laws.

## **7.0 Appointment of the Compliance Officer**

- 7.1 The company must appoint a compliance officer who shall be responsible for:
- a) developing an in-house policies/procedures on prevention of insider trading and monitoring adherence;
  - b) pre-clearing of director/designated employees' and their dependents' trades,
  - c) monitoring of trades and the implementation of the code of conduct;
  - d) forwarding within ten working days of receipt of all disclosure; initial, changes or periodical disclosure of to the SPSE and RBF; and
  - e) maintaining records of all the declarations in the appropriate form given by the directors, officers and designated employees for a minimum period of three years.
- 7.2 Companies that have already appointed their Compliance Officer at the time of implementation of this Policy, will need to ensure that the responsibility outlined in this Policy is included in their Terms of Reference.

## **8.0 Prevention of Insider Trading Policy**

- 8.1 Each company must establish and implement an in-house Policy on "Prevention of Insider Trading", approved by the Board.
- 8.2 The in-house Policy must cover at a minimum, but not limited to procedures for:
- a) identification of employees/individuals/entities considered as "insider" or "connected" to price-sensitive information;
  - b) disclosures by directors/designated employees/insiders on allotment or acquisition of shares;
  - c) handling and disclosing price sensitive information;
  - d) responding to any queries or requests for verification of market rumours;  
Companies shall decide whether a public announcement is necessary for verifying or denying rumours and then make the disclosure.
  - e) duty of disclosures to the SPSE/RBF;  
Companies must ensure prompt disclosure to the stock exchange or to the Reserve Bank where necessary.
  - f) prevention of insider trading; and
  - g) disciplinary actions or penalty for any director/employee/officer who trades in securities or communicates any information in contravention of the code of conduct.
- 8.3 A copy of the company's policy must be submitted to the SPSE and RBF within 30 calendar days of being approved/reviewed by the company's Board.

## **9.0 Duty of Disclosure for holdings in securities**

- 9.1 For the purpose of this Policy, Holdings by directors, designated employee or anyone considered as "insider" includes shares held:
- a) in own name:

- b) by or through dependent family members; and
  - c) through companies (private/public/provincial).
- 9.2 Newly appointed director or designated employee of the company must complete and submit to the company, within ten working days of appointment:
- Undertaking for securities trading (Form I-1); and
  - Initial Disclosure (Form I-2) disclosing the number of shares or voting rights held.
- 9.3 Upon implementation of this Policy in the industry, all existing directors and designated employees must complete and submit Form I-1 and I-2 within ten working days of the RBF dated letter.
- 9.4 Newly licensed capital market intermediaries must submit Forms I-1 and I-2 for its directors and designated employees, within ten working days of the approval of licence.
- 9.5 Any changes in the shareholding by directors/designated employees since the last disclosure made to the company must be disclosed in Form I-3, within ten working days of receipt/dispose of shares or voting rights to the company.
- 9.6 Directors/designated employee must complete and submit Form I-4 to the company by the last working day in June and December. The form is a semi-annual statement of the shareholding by the director/designated employee or his/her dependent family.

## **10.0 Duty of pre – clearance of trades**

- 10.1 Directors/designated employees intending to deal in the securities of the company (above the company’s defined minimum threshold) must pre-clear the transaction as per the pre-dealing procedure.
- 10.2 An application may be made in such form as the company may notify, indicating the estimated number of securities that the director/employee intends to deal in, the details as to the depository with which he has a security account, the details as to the securities in such depository mode and such other details as may be required by any rule made by the company in this behalf.
- 10.3 All directors/designated employees (and their dependents) shall execute their order in respect of securities of the company within five working days after the approval of pre-clearance is given. If the order is not executed within five working days after the approval is given, the employee/director must pre-clear the transaction again.

## **PART III: OVERSIGHT AND IMPLEMENTATION ARRANGEMENTS**

### **11.0 Responsibility of the SPSE**

- 11.1 SPSE is also considered a “connected” party to listed companies and stock broking firms in Fiji’s capital market.
- 11.2 In situations where SPSE is classified as “insider”, sections of this Policy will apply to SPSE and Disclosure Forms (I-1 to I-4) must also be submitted by SPSE to the Reserve Bank.
- 11.3 As the front line regulators, SPSE must ensure compliance of the Decree and this Policy by all capital market intermediaries.

11.4 Any suspicions or findings of insider trading must be immediately reported to the Reserve Bank.

## **12.0 Oversight of the Reserve Bank**

12.1 The Reserve Bank will assess the compliance of each company with the requirements of this Policy in the course of its supervision.

12.2 Should any person contravene Section 35 of the Decree and the requirements of this Policy, the Reserve Bank shall impose fines and sanctions as specified in section 35(11) and 40 of the Decree.

## **13.0 Implementation Arrangements**

13.1 This Notice applies to all stockbroking companies, listed companies on the stock exchange, SPSE and all capital market intermediaries regulated under the Capital Markets Decree 2009.

13.2 This Policy shall become effective from 1 July 2012.

## **Reserve Bank of Fiji**

### Attachments:

Form I-1: Undertaking for Securities Trading

Form I-2: Initial Disclosure

Form I-3: Changes in Shareholding

Form I-4: Semi-annual return