

Share dealing code Q&A

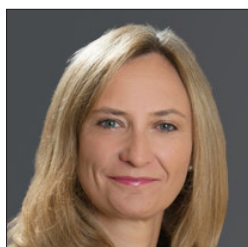
The Market Abuse Regulation (“**MAR**”) came into force on 3 July 2016. Amongst other things, MAR contains (1) restrictions on share dealing during a closed period, and (2) obligations on directors and other persons discharging managerial responsibilities (“**PDMRs**”), and persons closely associated (“**PCAs**”) with them, to notify an issuer and the Financial Conduct Authority (“**FCA**”) when they deal in the issuer’s shares. Main Market and AIM issuers should be reviewing and updating their share dealing codes to ensure they comply with MAR.

<p>Do issuers still need a share dealing code?</p>	<p>From 3 July 2016, Main Market issuers (premium listing or standard listing) are not required by the Listing Rules to adopt a share dealing code. However, we understand that almost all Main Market issuers will continue to have a share dealing code to help the issuers themselves, and their PDMRs and PCAs, to comply with the MAR requirements. The market will most likely expect Main Market issuers to have a dealing code in place, even if no longer required under the Listing Rules.</p> <p>Under new AIM Rule 21, AIM companies are now specifically required to have a dealing policy in place.</p>
<p>Can issuers continue to adopt the Model Code?</p>	<p>The Model Code is partially incompatible with MAR, and has been deleted from the Listing Rules, so any issuer who continues to follow the Model Code could end up breaching MAR.</p>
<p>Is there a new market standard share dealing code?</p>	<p>Yes. The Institute of Chartered Secretaries and Administrators (“ICSA”) has published a guidance note on MAR which contains (1) a specimen group-wide dealing policy (2) a specimen dealing code and (3) a specimen dealing procedures manual. These documents have been drafted in conjunction with GC100, the Quoted Companies Alliance and other market participants, and are being submitted to the FCA and London Stock Exchange (“LSE”) for their review and comment.</p> <p>It is expected that many issuers will use the ICSA specimen documents as the basis for their replacement codes of dealings.</p>
<p>How is the new specimen dealing code structured?</p>	<p>The share dealing code is split into Part A and Part B.</p> <p>Part A contains dealing clearance procedures which have to be followed by the issuer’s PDMRs, and other employees who have been told that the clearance procedures apply to them (for example employees who are in possession of inside information, or working on the preparation of the issuer’s accounts). These are referred to as “Code Employees”.</p> <p>Part B contains additional provisions which apply to PDMRs. These deal with notification of transactions (by the PDMRs to both the issuer and the FCA), and other steps the PDMRs have to take in relation to PCAs.</p> <p>The dealing procedures manual contains more detail about when clearance can and cannot be given, and is aimed at the company secretary or others responsible for dealing with requests for clearance to deal.</p>

<p>When is a company in a closed period?</p>	<p><u>Under MAR</u></p> <p>The closed period under MAR is 30 calendar days before the announcement of an interim financial report or a year-end report which the issuer is obliged to make public (reduced from 60 calendar days under the Model Code). This closed period applies to both Main Market and AIM issuers.</p> <p>Most Main Market companies are used to the closed period being tied to publication of their preliminary results, rather than year-end report. However, unlike the Model Code, MAR does not make any reference to preliminary results. In response to this uncertainty, the FCA has said pending clarification from the European Securities and Markets Authority (ESMA), it will continue to take the view that where an issuer announces preliminary results, the closed period is the 30 calendar days immediately before the preliminary results are announced, provided the preliminary results announcement contains all inside information expected to be included in the year-end report.</p> <p>AIM companies will be more used to the concept of having their closed period tied to publication of their year-end reports. Under the AIM Rules, the closed period was tied to publication of the annual accounts, and special dispensation was needed from the LSE to tie the closed period to preliminary results. Assuming the FCA continues to take the view that the closed period runs up to announcement of preliminary results, AIM companies will no longer need to seek dispensation to apply their closed periods in this way.</p> <p><u>Under the specimen share dealing code and dealing procedures manual</u></p> <p>ICSA's specimen share dealing code has a wider definition of a closed period than is strictly required under MAR. For example in relation to the year-end, the closed period under the share dealing code runs from the end of the relevant financial year until the release of the preliminary results (or year-end report where no preliminary results are published) or, if longer, the period of 30 calendar days before such results are released.</p> <p>In relation to decisions about whether to give a PDMR clearance to deal, the ICSA dealing procedures manual distinguishes between a "MAR closed period" and a "closed period" during which there can be more flexibility (see <i>When can PDMRs be given clearance to deal under the specimen dealing code?</i>).</p>
<p>When can PDMRs be given clearance to deal under the specimen dealing code?</p>	<p>PDMRs will not be given clearance to deal during a MAR closed period (except on a case-by-case basis in exceptional circumstances permitted by MAR).</p> <p>During a closed period that is not a MAR closed period, it is acknowledged that the company will not ordinarily give a PDMR clearance to deal but there is greater flexibility and clearance can be considered on a case-by-case basis.</p>
<p>When can Code Employees be given clearance to deal under the specimen dealing code?</p>	<p>Code Employees (see <i>How is the new specimen dealing code structured?</i>) will not usually be given clearance to deal when they are in possession of inside information or, if appropriate, where they are aware of sensitive information relating to the issuer.</p>

<p>Can clearance be given where dealing is on considerations of a short term nature?</p>	<p>This is up to the issuer, depending on what it decides to put in its share dealing policy. Under the Model Code, clearance to deal could not be given where the dealing was on considerations of a short term nature. This has not been replicated under MAR, but it has been included as an option under the ICSA specimen dealing code.</p>
<p>What notifications must PDMRs and PCAs make?</p>	<p>PDMRs and PCAs must notify the issuer and the FCA within three business days of any transactions. The form of notification to the issuer is attached to the ICSA specimen share dealing code. In practice many issuers are asking for the notification to be given within one business day of the transaction so that they can publish their own announcement through an RIS (see <i>What notifications must issuers make?</i>). The notification to the FCA must be made using the template form available on the FCA's website. Many issuers are offering to help with the FCA notification provided the PDMR or PCA asks the issuer for help within one business day of the transaction.</p>
<p>What notifications must issuers make?</p>	<p>Issuers are required (separate from the PDMRs' and PCAs' obligations) to make public promptly (and in any event within 3 business days of the transaction) any notification received from PDMRs or PCAs. A notification by a PDMR or PCA to the FCA does not satisfy the issuer's obligation to publically disclose any PDMR or PCA transactions. This public disclosure should be made by the issuer publishing an announcement through an RIS, and the announcement will typically follow the same format as the notification from the PDMR / PCA to the issuer.</p>

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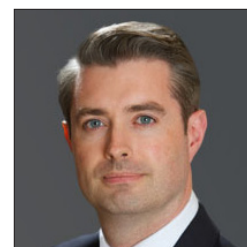


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