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**AUGEAN PLC**

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**Policy on managing inside information and creating and maintaining insider lists**

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**WALKER MORRIS LLP**

Kings Court  
12 King Street  
LEEDS  
LS1 2HL  
Tel: 0113 2832500  
Fax: 0113 2459412

## CONTENTS

SECTION	HEADING	PAGE
1	PURPOSE	1
2	WHAT IS INSIDE INFORMATION?	1
3	INSIDER DEALING	3
4	UNLAWFUL DISCLOSURE OF INSIDE INFORMATION	3
5	DISCLOSURE (AND DELAYING DISCLOSURE) OF INSIDE INFORMATION	3
6	CONTROL OF INSIDE INFORMATION	8
7	MARKET SOUNDINGS	9
8	CREATION OF AN INSIDER LIST	13
9	CONTENT OF AN INSIDER LIST	14
10	MAINTAINING / UPDATING AN INSIDER LIST	14
11	AGENTS AND ADVISERS	15
12	INSIDERS' ACKNOWLEDGEMENT OF LEGAL AND REGULATORY DUTIES	15
13	ACCESS TO INSIDER LISTS	16
14	INTERACTION WITH INTERNAL SHARE DEALING CODE	16
	SCHEDULE 1 – DEFINITIONS	17
	SCHEDULE 2 – DECISION TREE	18
	SCHEDULE 3 – WHAT <u>MIGHT</u> CONSTITUTE INSIDE INFORMATION	19

## 1 PURPOSE

- 1.1 Under Regulation (EU) No 596/2014 (the **Market Abuse Regulation** or **MAR**), which came into effect on 3 July 2016, a company that has its securities admitted to AIM (such as the Company) is required to have in place certain systems and procedures regulating the disclosure of Inside Information (as referred to in schedule 1 to this policy)<sup>1</sup>. The Company is also required to draw up a list of its employees working for it under a contract of employment or otherwise performing tasks through which they have access to Inside Information (such as advisers, accountants or credit rating agencies) relating directly or indirectly to the Company, whether on a regular or occasional basis. These lists are generally referred to as "insider lists".
- 1.2 The purpose of this policy is to ensure that the Company has proper procedures and controls in place designed to ensure the confidentiality of price sensitive information<sup>2</sup>, regulate the disclosure of Inside Information and the creation and maintenance of insider lists.

## 2 WHAT IS INSIDE INFORMATION?

Information needs to meet a number of tests before it becomes Inside Information.

### 2.1 The information needs to be "precise"<sup>3</sup>

- 2.1.1 That is, it must indicate circumstances that exist (i.e. there is firm and objective evidence, as opposed to rumours or speculation) or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur<sup>4</sup> (the key issues here being whether it is reasonable to draw this conclusion based on the information available at the time); and be specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of financial instruments or on the price of related derivative financial instruments.
- 2.1.2 If the information concerns a process which occurs in stages, each stage of the process as well as the overall process could be information of a precise nature. For example, with an acquisition or sale process, the fact that the proposed transaction might not, in the end, take place does not mean that each stage in the process is not capable of being precise information in its own right.
- 2.1.3 It is not necessary for a piece of information to be comprehensive to be precise. For example, an approach to a target company about an acquisition could be precise information even if the Company had not determined the price or other terms. Similarly, a piece of information could be considered precise even if it refers to alternatives.

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<sup>1</sup> Article 18(1)(a)

<sup>2</sup> Guidance to AIM Rule 11

<sup>3</sup> Article 7(1)(a)

<sup>4</sup> Article 7(2)

2.1.4 Therefore, for example, the fact that the Company is only considering selling a part of its business or is one of a number of potential purchasers of a business may be Inside Information, notwithstanding the fact that there was uncertainty as to the outcome. The same analysis would apply to the Company if it is issued with proceedings (or issues proceedings), breaches the terms of a material contract that might entitle the counterparty to terminate (or vice versa) or is thought to have breached, or be about to breach, its banking covenants.

## **2.2 The information must not have been "made public"<sup>5</sup>**

2.2.1 If it is common knowledge then it will not be Inside Information. For example if the Company makes an announcement to the market about its intentions.

2.2.2 Information can be publicly available even if it was not disclosed by or on behalf of the Company.

## **2.3 The information must relate, directly or indirectly, to the Company<sup>6</sup>**

## **2.4 The information would be likely to have a significant effect on the price of the Company's traded financial instruments or related derivative financial instruments<sup>7</sup>**

2.4.1 That is, it is information of a kind which a reasonable investor would be likely to use as part of the basis of his investment decisions. The mere **possibility** that a piece of information will have a significant price effect is not thought enough to make a piece of information (assuming the other tests are met) Inside Information but, on the other hand, it is not necessary that there should be a degree of probability close to certainty.

2.4.2 In determining whether a significant effect is likely to occur, we need to consider:<sup>8</sup>

- (a) the anticipated magnitude of the matter or event in question in the context of the Company's activity;
- (b) the relevance of the information as regards the main determinants of the Company's traded financial instruments or related derivative financial instruments;
- (c) the reliability of the source; and

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<sup>5</sup> Article 7(1)(a)

<sup>6</sup> Article 7(1)(a)

<sup>7</sup> Article 7(4)

<sup>8</sup> Recital 1 to the Market Abuse Directive (Directive 200/124/EC). Although the Directive has been replaced by MAR, these considerations will continue to be relevant.

- (d) market variables that affect the Company's traded financial instruments or related derivative financial instruments (for example volume, supply and demand).

2.5 Set out in schedule 2 is a decision tree to assist in determining whether or not information is, or is not, Inside Information.

2.6 Set out in schedule 3 is a non-exhaustive list of what **might** constitute Inside Information.

### 3 **INSIDER DEALING**

3.1 Under MAR, the offence of **insider dealing** arises where a person possesses Inside Information and uses that information by acquiring or disposing of, for its own account or for the account of a third party, directly or indirectly, financial instruments to which that information relates. Recommending that another person engage in insider dealing, or inducing another person to engage in insider dealing, may also be insider dealing. The use of Inside Information by cancelling or amending an order concerning a financial instrument to which the information relates where the order was placed before the person concerned possessed the Inside Information shall also be considered to be insider dealing<sup>9</sup>

3.2 Under Article 9 of MAR, it shall not be deemed from the mere fact that a legal person, such as a company, is or has been in possession of Inside Information, that that person has used that information and thus engaged in insider dealing where they have established, implemented and maintained adequate and effective internal arrangements and procedures to ensure that neither the individual who made the decision to acquire or dispose of financial instruments to which the information relates<sup>10</sup>, nor any other individual who may have had an influence on that decision, was in possession of Inside Information, and they have not encouraged, recommended, induced or otherwise influenced the individual who, on behalf of the legal person, acquired or disposed of the financial instruments to which the information relates<sup>11</sup>.

### 4 **UNLAWFUL DISCLOSURE OF INSIDE INFORMATION**

Under MAR, the offence of **unlawful disclosure of inside information** arises where a person possesses Inside Information and discloses that information to any other person, except where the disclosure is made in the normal exercise of an employment, a profession or duties.

### 5 **DISCLOSURE (AND DELAYING DISCLOSURE) OF INSIDE INFORMATION**

5.1 There are two parallel regimes with which AIM companies must comply in relation to the delayed disclosure of Inside Information. The rules overlap to a very substantial extent but both must be considered as it is not the case that compliance with one regime automatically means compliance with the other.

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<sup>9</sup> Articles 8(1) and 8(2)

<sup>10</sup> Article 9(1)(a)

<sup>11</sup> Article 9(1)(b)

## AIM Rule 11

- 5.2 The first regime is the AIM Rules for Companies, specifically AIM Rule 11 and the accompanying guidance. AIM Rule 11 states that the Company must issue a notification **without delay** of any new developments which are not public knowledge which, if made public, would be likely to lead to a significant movement in the price of its AIM securities. Examples given include: the Company's financial condition; sphere of activity; performance of its business; and/or its expectation of its performance.
- 5.3 The guidance to AIM Rule 11 states that if a breach of confidence has occurred or is likely to occur and, in either case, the matter is such that knowledge of it would be likely to lead to a substantial movement in the price of the Company's securities, it must without delay issue at least a warning notification to the effect that it expects shortly to release information regarding such matter.<sup>12</sup>
- 5.4 The guidance to AIM Rule 11 also states that, unless disclosure is required under the relevant provisions of MAR, the Company may delay notifying information about impending developments or matters in the course of negotiation provided it is kept confidential and may give such information in confidence to:
- 5.4.1 the Company's advisers or advisers of other persons involved in the development or matter in question;
  - 5.4.2 persons with whom the Company is negotiating, or intends to negotiate, any commercial, financial or investment transaction;
  - 5.4.3 employee or union representatives;
  - 5.4.4 government, statutory or regulatory bodies, e.g. the Competition and Markets Authority; and
  - 5.4.5 the Company's lenders.
- The Company must be satisfied that such recipients of information are (i) bound by a duty of confidentiality and (ii) is aware that they must not trade in the Company's securities before the relevant information has been notified.
- 5.5 If the Company has reason to believe that a breach of confidence has occurred, or is likely to occur, and that this is likely to lead to a significant movement in the price of the Company's securities, it must issue a warning notification without delay to the effect that it expects shortly to release information regarding such matter.<sup>13</sup> Where the information has in fact been made public, the Company must issue an RNS announcement without delay.<sup>14</sup>

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<sup>12</sup> Para (d) of guidance to AIM Rule 11

<sup>13</sup> Para (d) of guidance to AIM Rule 11

<sup>14</sup> Para (e) of guidance to AIM Rule 11

- 5.6 The guidance to AIM Rule 11 also requires that the Company must have in place effective procedures and controls designed to ensure the confidentiality of the information and minimise the risk of leak; see clause 6.

## MAR

- 5.7 The second regime that applies is Article 17 of MAR concerning the public disclosure of Inside Information. The Company is obliged under MAR to disclose to the public all Inside Information relating to it as soon as possible. The Company may, on its own responsibility, delay disclosure only if **each** of the following conditions is satisfied<sup>15</sup>:

5.7.1 immediate disclosure is likely to prejudice the legitimate interests of the Company<sup>16</sup>;

5.7.2 delaying disclosure is not likely to mislead the public<sup>17</sup>; and

5.7.3 the Company can ensure the confidentiality of that information<sup>18</sup>.

- 5.8 Pending the release of Inside Information, a person commits market abuse if they disclose the information to someone else **unless** the disclosure is made in the normal exercise of their employment, profession or duties.<sup>19</sup>

- 5.9 To ensure compliance with clauses 5.3 and 5.7, you must speak to the Company secretary and arrange for a suitable confidentiality undertaking to be entered into (which contains a confirmation from the intended recipient that they are aware that they must not trade in the Company's securities until the relevant information is publicly notified).

- 5.10 The following are examples of when disclosure of Inside Information *may* prejudice the legitimate interests of the Company for the purposes of clause 5.7.1:

5.10.1 where the Company is participating in negotiations, such as an M&A transaction,<sup>20</sup> including where the Company is planning to buy or sell a major holding in another entity and disclosure would jeopardise the conclusion of the transaction<sup>21</sup>;

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<sup>15</sup> Article 17(4)

<sup>16</sup> Article 17(4)(a)

<sup>17</sup> Article 17(4)(b)

<sup>18</sup> Article 17(4)(c)

<sup>19</sup> Article 10

<sup>20</sup> Paragraph 73, ESMA guidance

<sup>21</sup> Paragraph 86, ESMA guidance

- 5.10.2 where the financial viability of the Company is in grave and imminent danger, albeit not within the scope of applicable insolvency laws, and disclosure would jeopardise the conclusion of the negotiations aimed at ensuring the Company's long-term financial recovery<sup>22</sup>;
  - 5.10.3 where the Company has developed a product or invention and disclosure would be likely to jeopardise the Company's intellectual property rights<sup>23</sup>; and
  - 5.10.4 where a previously announced transaction is subject to the approval of a public authority and such approval is conditional upon additional requirements and disclosure of those requirements is likely to affect the Company's ability to satisfy those requirements<sup>24</sup>.
- 5.11 Where an unexpected significant event occurs, for example threatened litigation, the Company may need some time in which to investigate in order to clarify the situation. In this situation, the obligation to disclose only arises once the Company has achieved sufficient clarity of the situation to enable a disclosure to be made. Case law under the previous regime, but which is likely to be useful under MAR (i.e. that information has become Inside Information) makes clear that taking time to investigate financial information provided by a subsidiary in order to clarify that information, where there are doubts as to its veracity, is not a valid reason for delaying disclosure<sup>25</sup>.
- 5.12 A delay in disclosure is likely to mislead the public where:
- 5.12.1 the Inside Information is materially different from a previous public announcement of the Company in relation to the same matter<sup>26</sup>;
  - 5.12.2 the Inside Information relates to the fact that the Company's financial objectives are not likely to be met, where those financial objectives have been previously publicly announced<sup>27</sup>; and
  - 5.12.3 Inside Information is in contrast to the market's expectations and such expectations are based on signals that the Company has previously set<sup>28</sup>.

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<sup>22</sup> Recital 50 to MAR

<sup>23</sup> Paragraph 83, ESMA guidance

<sup>24</sup> Paragraph 89, ESMA guidance

<sup>25</sup> Paragraph 67, ESMA guidance

<sup>26</sup> Paragraph 93, ESMA guidance

<sup>27</sup> Paragraph 93, ESMA guidance

<sup>28</sup> Paragraph 93, ESMA guidance

- 5.13 Where the Company delays the public disclosure of Inside Information, as permitted under this clause 5, the persons responsible for that decision shall record the reasons why they consider that the conditions set out in clauses 5.4 and 5.7 are satisfied. The record shall also include the date and time of the decision taken to delay disclosure of the Inside Information and of the person(s) who made that decision<sup>29</sup>. The record shall be updated, as applicable, to reflect the steps taken to assess the continued applicability of the conditions justifying the delayed disclosure. The pro forma document "Record of Reasons for Delaying Disclosure of Inside Information" shall be used for this purpose and is available from the Company Secretary. The record (in so far as it relates to the conditions set out in clause 5.7) shall be provided promptly to the Financial Conduct Authority (**FCA**) upon request.
- 5.14 Where disclosure of Inside Information has been delayed in accordance with this clause 5 and the confidentiality of that information is no longer ensured, the Company must disclose that Inside Information to the public as soon as possible. This includes the situation where a rumour explicitly relates to Inside Information the disclosure of which has been delayed, where the rumour is sufficiently accurate to indicate that the confidentiality of the information is no longer ensured<sup>30</sup>. The Company's obligation under this clause 5.14 should be read alongside its obligation under clause 5.5 in respect of its disclosure obligation under AIM Rule 11.
- 5.15 The Company shall inform the FCA that it has delayed disclosure of Inside Information, as permitted under clause 5.7, immediately after the delayed Inside Information has been publicly disclosed to the market. The pro forma document "Notification of Delayed Disclosure of Inside Information" shall be used for this purpose and is available from the Company Secretary.
- 5.16 Where disclosure of Inside Information has been delayed in accordance with this clause 5, the Company should, notwithstanding the provisions of clauses 5.3 and 0, prepare an announcement that can be made promptly in order to inform the public of an unauthorised disclosure of the Inside Information (irrespective of who makes such unauthorised disclosure).
- 5.17 Where the Company, or someone acting on its behalf or for their own account, discloses any Inside Information to a third party in the normal course of their employment, profession or duties, they must make complete an effective public disclosure of that information, simultaneously in the case of an intentional disclosure and promptly in the case of a non-intentional disclosure, unless the recipient of the Inside Information owes a duty of confidentiality<sup>31</sup>.
- 5.18 Finally, to ensure compliance with MAR, disclosures of Inside Information to the public shall:

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<sup>29</sup> Article 17(4)

<sup>30</sup> Article 17(7)

<sup>31</sup> Article 17(8)

- 5.18.1 not be combined with marketing activities;<sup>32</sup>
- 5.18.2 contain the name, surname and position within the Company of the person making the disclosure;
- 5.18.3 be clearly identified as Inside Information;
- 5.18.4 be maintained on the Company's website for five years and:
  - (a) access to the Inside Information shall be free of charge;
  - (b) the Inside Information shall be maintained in an easily identifiable section of the website; and
  - (c) the date and time of disclosure shall be clearly indicated and the Inside Information disclosed shall be maintained in chronological order.<sup>33</sup>

## **6 CONTROL OF INSIDE INFORMATION<sup>34</sup>**

- 6.1 Generally, when dealing with Inside Information, all officers and employees of the Company must consider the following:
  - 6.1.1 whether sensitive documents should be password protected;
  - 6.1.2 whether sensitive documents should be stored in locked cabinets when not being reviewed;
  - 6.1.3 using project names and code names at all times; and
  - 6.1.4 how to keep the number of people to whom Inside Information is to be disclosed to a minimum.

If there is any doubt about whether any or all of the above should be actioned, please speak to the Company secretary.

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<sup>32</sup> Article 17(1)

<sup>33</sup> Draft Implementing Regulation, Article 3.

<sup>34</sup> Paragraph (e) of the guidance to AIM Rule 11.

## 7 MARKET SOUNDINGS

- 7.1 A "market sounding" (sometimes called "pre-marketing") comprises the communication of information by or on behalf of the Company<sup>35</sup>, before the announcement of a transaction, to one or more potential investors in order to gauge their interest in a possible transaction and the conditions relating to it, such as its potential size or pricing. The disclosure of Inside Information by a person intending to make a takeover bid for the securities of a company or a merger with a company to parties entitled to the securities shall also constitute a market sounding provided<sup>36</sup> the information is necessary to enable the parties entitled to the securities to form an opinion on their willingness to offer their securities is reasonably required for the decision to make the takeover bid or merger.
- 7.2 The conduct of a market sounding shall be deemed to be made in the normal exercise of person's employment, profession or duties, and therefore not an offence of unlawful disclosure of Inside Information (see clause 4), where the person disclosing Inside Information in the course of a market sounding (called the **Disclosing Market Participant**) complies with clauses 7.3 to 7.7<sup>37</sup>.
- 7.3 The DMP must, prior to conducting the market sounding:
- 7.3.1 consider whether the market sounding will involve the disclosure of Inside Information;
- 7.3.2 create a written record documenting the decision reached in clause 7.3.1 and the reasons for arriving at that conclusion<sup>38</sup>. The document "Record of Considerations of DMP prior to Conduct of Market Soundings" shall be used for this purpose. This document is available from the Company Secretary.
- 7.4 The obligations in clause 7.3 shall apply to each disclosure of information made throughout the course of a market sounding and the record referred to in clause 7.3.2 shall be updated accordingly<sup>39</sup>, so that if, for example, two prospective investors are approached during the course of a market sounding, a separate record shall be kept of the decision made under paragraph 7.3 in respect of each prospective investor<sup>40</sup>.
- 7.5 The written record(s) referred to in clause 7.3.2 shall be disclosed to the FCA promptly upon request<sup>41</sup>.

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<sup>35</sup> Article 11(1)

<sup>36</sup> Article 11(2)

<sup>37</sup> Article 11(4)

<sup>38</sup> Article 11(3)

<sup>39</sup> Article 11(3)

<sup>40</sup> Article 11(3)

<sup>41</sup> Article 11(3)

- 7.6 The DMP must, before making the disclosure of Inside Information:
- 7.6.1 obtain the consent of the person receiving the market sounding (the **Recipient**) to receive Inside Information<sup>42</sup>;
  - 7.6.2 inform such Recipient that he or she is prohibited from using the Inside Information, or attempting to use the Inside Information, by acquiring or disposing of, for his own account or for the account of a third party, directly or indirectly, financial instruments relating to that information<sup>43</sup>;
  - 7.6.3 inform such Recipient that he or she is prohibited from using the Inside Information, or attempting to use the Inside Information, by cancelling or amending an order which has already been placed concerning a financial instrument to which the information relates<sup>44</sup>; and
  - 7.6.4 inform such Recipient that he or she, by agreeing to receive the Inside Information, is obliged to keep the Inside Information confidential<sup>45</sup>.

#### **Inside Information to be disclosed**

- 7.7 If possible the DMP will seek written consent under clause 7.6.1 in advance of disclosing the Inside Information. However, it is permissible to obtain the consent required in clause 7.6.1 and to relay the information required by clauses 7.6.2 to 7.6.4 by recorded audio or video telephone call **provided that** the following steps are followed in such a call:
- 7.7.1 the DMP states that the communication takes place for the purposes of a market sounding;
  - 7.7.2 the DMP states that the conversation is recorded and the consent of the Recipient will be recorded;
  - 7.7.3 the DMP requests a confirmation from the Recipient that, to the extent that the recipient organisation has designated a specific person to receive the market sounding, the Recipient is such designated person;
  - 7.7.4 the DMP states that, if the Recipient agrees to receive the market sounding, that person will receive information that the DMP considers to be Inside Information and that the Recipient must, pursuant to Article 11(7) of MAR, assess for themselves whether he or she is in possession of Inside Information or when he or she ceases to be in possession of Inside Information;

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<sup>42</sup> Article 11(5)(a)

<sup>43</sup> Article 11(5)(b)

<sup>44</sup> Article 11(5)(c)

<sup>45</sup> Article 11(5)(d)

- 7.7.5 the DMP states, where possible, an estimation of when the information will cease to be Inside Information, the factors that may alter that estimation and, in any case, information about the manner in which the Recipient will be informed of any change in such an estimation;
  - 7.7.6 the DMP informs the Recipient that he or she is prohibited from using the Inside Information, or attempting to use the Inside Information, by acquiring or disposing of, for his own account or for the account of a third party, directly or indirectly, financial instruments relating to that information<sup>46</sup>;
  - 7.7.7 the DMP informs the Recipient that he or she is prohibited from using the Inside Information, or attempting to use the Inside Information, by cancelling or amending an order which has already been placed concerning a financial instrument to which the information relates<sup>47</sup>;
  - 7.7.8 the DMP informs the Recipient that he or she, by agreeing to receive the Inside Information, is obliged to keep the Inside Information confidential<sup>48</sup>;
  - 7.7.9 the DMP requests the consent of the Recipient to receive Inside Information; and
  - 7.7.10 where the consent required under clauses 7.6.1 and 7.7.9 is given, the DMP discloses the information required to be disclosed for the conduct of the market sounding, with the information considered by the DMP to be Inside Information identified as such.<sup>49</sup>
- 7.8 The DMP shall make and maintain a record of all information given to the Recipient, including the information given in clauses 7.6 and 7.7, and the identity of the persons to whom such information was disclosed and the date and time of such disclosure. Such record shall be in the prescribed form (available through the Company secretary). The record shall be provided to the FCA promptly upon request<sup>50</sup>.
- 7.9 If a market sounding has been conducted on a non-recorded line, a copy of the record referred to in clause 7.8 shall be forwarded to the Recipient with a request for confirmation that the minute accurately reflects the manner in which the market sounding was conducted. If confirmation is not received from the Recipient within 14 days the contents of the record shall be deemed to have been accepted. If the contents are disputed the DMP shall notify the Company secretary forthwith.

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<sup>46</sup> Article 11(5)(b)

<sup>47</sup> Article 11(5)(c)

<sup>48</sup> Article 11(5)(d)

<sup>49</sup> Paragraph 95, ESMA guidance.

<sup>50</sup> Article 11(5)

- 7.10 Where information that has been disclosed in the course of a market sounding ceases to be Inside Information according to the assessment of the DMP, the DMP shall inform the recipient accordingly, as soon as possible. The DMP shall maintain a record of the information, in the prescribed form, available through the Company secretary, given in accordance with this clause 7.10 and provide it to the FCA promptly upon request<sup>51</sup>.

#### **No Inside Information to be disclosed**

- 7.11 Where the DMP considers that that a market sounding will not require the disclosure to the market sounding recipient of any Inside Information (a **non-Inside Recipient**), the information disclosed to the non-Inside Recipient shall be limited to:
- 7.11.1 a statement clarifying that the communication is taking place for the purposes of a market sounding;
  - 7.11.2 a statement indicating that the conversation is recorded and the consent of the non-Inside Recipient to be recorded;
  - 7.11.3 a request for confirmation from the Recipient that, to the extent that the recipient organisation has designated a specific person to receive the market sounding, the non-Inside Recipient is such designated person;
  - 7.11.4 a statement clarifying that, if the non-Inside Recipient agrees to receive the market sounding, that person will receive information that the DMP considers not to be Inside Information and that the non-Inside Recipient must, pursuant to Article 11(7) of MAR, assess for themselves whether he or she is in possession of Inside Information or when he or she ceases to be in possession of Inside Information;
  - 7.11.5 a request for consent and the consent of the non-Inside Recipient to proceed with the market sounding;
  - 7.11.6 where the consent required under clause 7.11.5 is given, the information being disclosed for the purposes of the market sounding.<sup>52</sup>
- 7.12 The DMP shall make and maintain a record of all information given to the non-Inside Recipient, including the information given in clause 7.11 and the identity of the non-Inside Recipient and the date and time of such disclosure. Such record shall be in the prescribed form (available through the Company secretary). The record shall be provided to the FCA promptly upon request.<sup>53</sup>

#### **Sounding lists**

- 7.13 In relation to each market sounding conducted, the DMP shall draw up a list containing the following information:

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<sup>51</sup> Article 11(6)

<sup>52</sup> Paragraph 96 ESMA guidance

<sup>53</sup> Article 11(5)

- 7.13.1 the names of all persons to whom information has been disclosed in the course of the market sounding;
  - 7.13.2 the date and time of each communication of information which has taken place in the course of or following the market sounding;
  - 7.13.3 the contact details of the potential investors used for the purposes of the market sounding.<sup>54</sup>
- 7.14 The DMP shall draw up a list of any potential investors that have informed them that they do not wish to receive market soundings, in relation to either all potential transactions or particular types of potential transactions. The DMP shall refrain from communicating information for the purposes of market soundings to such potential investors.<sup>55</sup>

### **Maintenance of records**

- 7.15 The DMP shall maintain the records referred to in this clause 7 for at least five years<sup>56</sup>.

## **8 CREATION OF AN INSIDER LIST**

- 8.1 The MAR is concerned with the management of Inside Information.
- 8.2 It is therefore imperative that the Company has proper procedures in place to identify persons who have access to Inside Information. The Company is obliged to do this by keeping and maintaining "insider lists".
- 8.3 The Company's insider list (the **Insider List**) will comprise two separate lists:
- 8.3.1 a list of people with access to Inside Information on an **ongoing** basis (this will include the persons who have regular or continuous access to Inside Information); and
  - 8.3.2 a list of people who in the course of deals or other specific projects or as a result of specific events have access to Inside Information relating to, and for the duration of, a specific deal/matter<sup>57</sup>.
- 8.4 The [Disclosure Committee][Company secretary and the Finance Director] will be responsible (with external advice where appropriate) for:
- 8.4.1 determining how and when information becomes Inside Information;
  - 8.4.2 deciding who can be given access to Inside Information either generally or in specific cases; and

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<sup>54</sup> Paragraph 98 ESMA guidance

<sup>55</sup> Paragraph 99 ESMA guidance

<sup>56</sup> Article 11(8)

<sup>57</sup> ESMA guidance (Annex XIII)

8.4.3 maintaining and updating the Insider List (see clause 10).

## **9 CONTENT OF AN INSIDER LIST**

9.1 The Insider List must contain the following information:

9.1.1 the identity of any person having access to Inside Information<sup>58</sup>;

9.1.2 the reason for including that person in the Insider List<sup>59</sup>;

9.1.3 the date and time at which that person obtained access to Inside Information<sup>60</sup>;  
and

9.1.4 the date on which the Insider List was last drawn up<sup>61</sup>.

9.2 The Company's Insider Lists shall be in the format prescribed by MAR.<sup>62</sup>

## **10 MAINTAINING / UPDATING AN INSIDER LIST**

10.1 The Insider List should be reviewed regularly and must show:

10.1.1 where there is a change in the reason for including a person already on the Insider List<sup>63</sup>;

10.1.2 where there is a new person who has access to Inside Information and needs, therefore, to be added to the Insider List; and<sup>64</sup>

10.1.3 where a person ceases to have access to Inside Information<sup>65</sup>.

10.2 Each update to the Insider List must specify the date and time when the change triggering the update occurred<sup>66</sup>.

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<sup>58</sup> Article 18(3)(a)

<sup>59</sup> Article 18(3)(b)

<sup>60</sup> Article 18(3)(c)

<sup>61</sup> Article 18(3)(d)

<sup>62</sup> Article 260

<sup>63</sup> Article 18(4)(a)

<sup>64</sup> Article 18(4)(b)

<sup>65</sup> Article 18(4)(c)

<sup>66</sup> Article 18(4)

- 10.3 Each time the Insider List is updated, a new version of the Insider List must be saved in order to preserve the audit trail. The reason for this is because the FCA may ask who was on the Insider List at, or between, certain dates.
- 10.4 All Insider Lists must be kept for not less than five years from when drawn up or last updated (whichever is later)<sup>67</sup>.

## 11 AGENTS AND ADVISERS

- 11.1 To enable it to comply with its obligations under MAR, the Company shall ensure (by pro forma contractual arrangements or otherwise) shall ensure (by pro forma contractual arrangements or otherwise) that it has effective arrangements in place so that its advisers or agents or other persons performing tasks through which they have access to Inside Information (including credit rating agencies):
- 11.1.1 keep their own lists of all individuals working for them with access to Inside information about the Company;
  - 11.1.2 are obliged to provide such lists to the Company as soon as possible on request;
  - 11.1.3 are obliged to keep such lists for at least five years; and
  - 11.1.4 take the necessary measures to ensure everyone on the insider list acknowledges the legal and regulatory duties entailed and is aware of the sanctions attaching to misuse or improper circulation of inside information about the Company.<sup>68</sup>
- 11.2 The Company secretary will ensure that such arrangements are in place whenever external agents or advisers are instructed on matters which may give rise to Inside Information.

## 12 INSIDERS' ACKNOWLEDGEMENT OF LEGAL AND REGULATORY DUTIES

- 12.1 All persons who are named on the Insider List must be made aware of, and acknowledge in writing, the legal and regulatory duties entailed and the sanctions applicable to insider dealing and unlawful disclosure of Inside Information<sup>69</sup>.
- 12.2 The Company secretary will send as soon as reasonably practicable after a person is entered on the Insider List for the first time (and in any event within [three] business days of such date, a copy of a memorandum containing the information required by clause 12.1 (the **Insider List memorandum**) to all persons whose names are on the Insider List.

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<sup>67</sup> Article 18(5)

<sup>68</sup> Article 18

<sup>69</sup> Article 18(2)

- 12.3 Each person named on the Insider List must sign and date the Insider List memorandum, and return it to the Company secretary as soon as possible. [Failure to do so may amount to a serious breach of that person's employment/service agreement].

### **13 ACCESS TO INSIDER LISTS**

- 13.1 Internal access to Insider Lists is strictly limited to the directors and the Company secretary and, on a case-by-case basis, their secretaries/personal assistants.
- 13.2 A copy of the Insider List must be provided to the FCA as soon as possible on request.

### **14 INTERACTION WITH INTERNAL SHARE DEALING CODE**

- 14.1 Those persons who are named on the Insider List will be treated by the Company as being persons discharging managerial responsibilities (**PDMRs**) and shall be subject to the Company's internal share dealing rules.
- 14.2 A copy of the rules (or a note informing relevant employees that they are subject to the rules and giving details of where the rules can be accessed) will be provided to all persons on the Insider List from time to time.

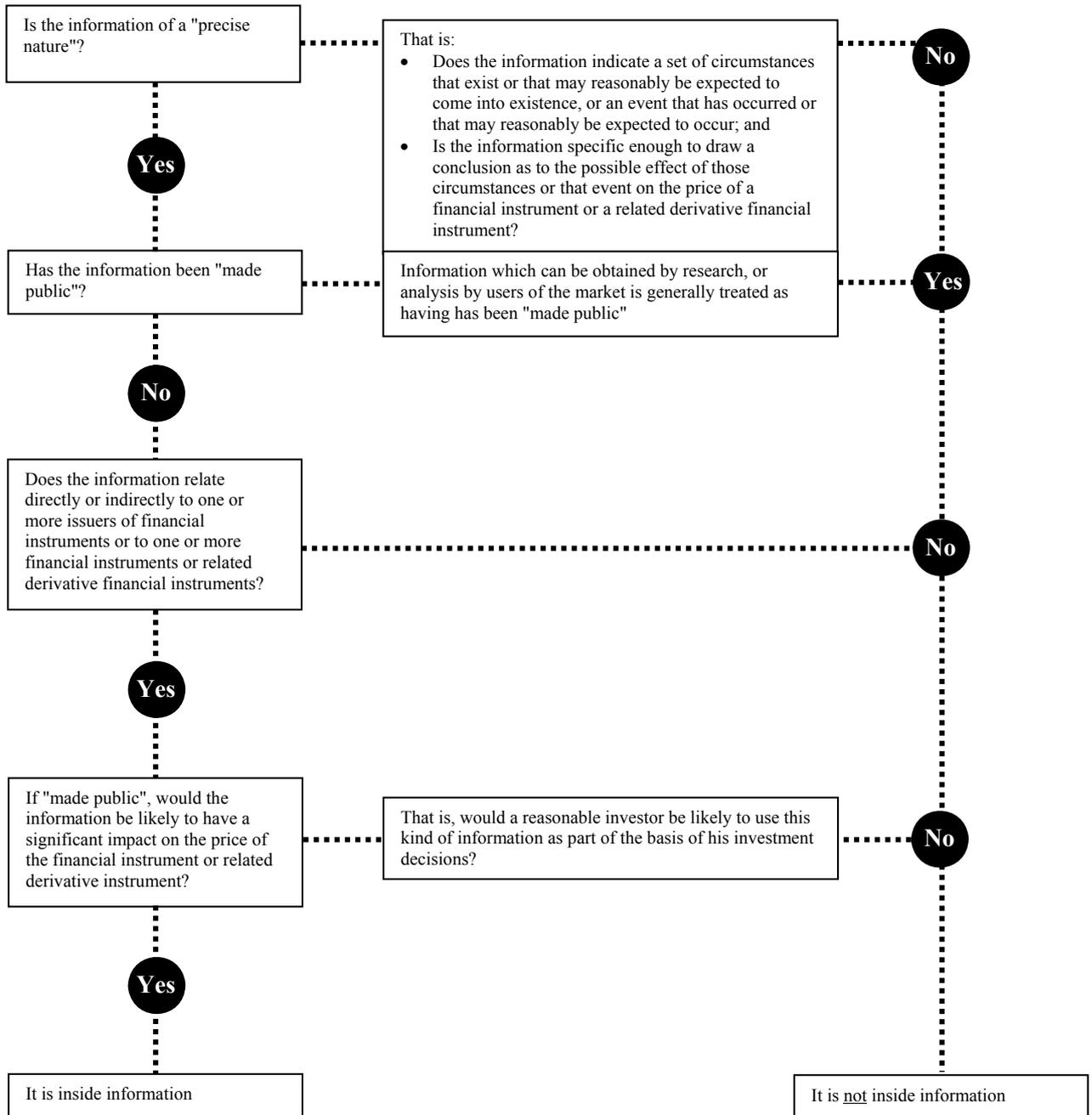
## SCHEDULE 1 – DEFINITIONS

<b>Inside Information</b>	<p>has the meaning given in Article 7 of MAR, which, broadly, is:</p> <p>(1a) in relation to financial instruments<sup>70</sup> is information of a precise nature [(see (2) below)], which has not been made public, relating, directly or indirectly, to one or more issuers or to one or more financial instruments, and which, if it were made public, would be likely to have a significant effect on the price [see (4) below] of those financial instruments or on the price of related derivative financial instruments.</p> <p>(2) information is <b>precise</b> if it:</p> <ul style="list-style-type: none"><li>• indicates circumstances that exist or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur; and</li><li>• is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of the financial instruments or related instruments; and</li></ul> <p>(3) ...</p> <p>(4) information would be <b>likely to have a significant effect on price</b> if and only if it is information of that kind which a reasonable investor would be likely to use as part of the basis of his investment decisions.</p>
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<sup>70</sup> This includes shares.

## SCHEDULE 2 – DECISION TREE



## **SCHEDULE 3 – WHAT MIGHT CONSTITUTE INSIDE INFORMATION**

### **1 Information directly concerning the Company**

- 1.1 Changes in control and control agreements.
- 1.2 Changes in management and supervisory boards.
- 1.3 Changes in auditors or any other information related to the auditors' activity.
- 1.4 Operations involving the capital or the issue of debt securities or warrants to buy or subscribe securities.
- 1.5 Decisions to increase or decrease share capital.
- 1.6 Mergers, splits and spin-offs.
- 1.7 Purchase or disposal of equity interests or other major assets or branches of corporate activity.
- 1.8 Restructurings or reorganisations that have an effect on the Company's assets and liabilities, financial position or profits and losses.
- 1.9 Decisions concerning buy-back programmes or transactions in other listed financial instruments.
- 1.10 Changes in the class rights of the Company's own listed shares.
- 1.11 Filing of petitions in bankruptcy or the issuing of orders for bankruptcy proceedings.
- 1.12 Legal disputes.
- 1.13 Revocation or cancellation of credit lines by one or more lenders.
- 1.14 Dissolution or verification of a cause of dissolution.
- 1.15 Changes in asset value.
- 1.16 Insolvency of relevant debtors.
- 1.17 Reduction of real properties' values.
- 1.18 Physical destruction of uninsured goods.
- 1.19 New licences, patents, registered trade marks.
- 1.20 Decrease or increase in value of financial instruments in portfolio.
- 1.21 Decrease in value of patents or rights or intangible assets due to market innovation.
- 1.22 Innovative products or processes.
- 1.23 Serious product liability or environmental damages cases.
- 1.24 Changes in expected earnings or losses.

- 1.25 Relevant orders received from customers, their cancellation or important changes.
- 1.26 Withdrawal from or entering into new core business areas.
- 1.27 Ex-dividend date, dividend payment date and amount of the dividend; changes in dividend policy payment.
- 1.28 A significant acquisition or disposal of assets or shares in another company or merger or joint venture
- 1.29 Any takeover offer, in which the Company is involved either as offeror or as the target of the offer.
- 1.30 A sale to or purchase of assets from a director or substantial shareholder of the Company.
- 1.31 Major developments in the Company's sphere of activity or changes in the nature of its business.
- 1.32 Changes in the Company's capital structure, for example a rights issue or other offer of shares.
- 1.33 Changes in the numbers of shares held by major shareholders or directors.
- 1.34 Purchase by the Company of its own shares.

## **2 Information relating indirectly to the Company or financial instruments**

- 2.1 Data and statistics published by public institutions disseminating statistics.
- 2.2 The upcoming publication of rating agencies' reports, research, recommendations or suggestions concerning the value of listed financial instruments.
- 2.3 Government decisions concerning taxation, industry regulation, or debt management.
- 2.4 Regulated and unregulated markets' decisions concerning rules governing the markets.
- 2.5 Competition and market authorities' decisions concerning listed companies.
- 2.6 Relevant orders by government bodies, regional or local authorities or other public organisations.
- 2.7 A change in trading mode (e.g. information relating to knowledge that Company's financial instruments will be traded in another market segment, such as a change from continuous trading to auction trading) or a change of market maker or dealing conditions.