



**(NMS)**

**DEALING RULES**

**FOR**

**EMPLOYEES AND DIRECTORS**

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## **1 INTRODUCTION**

Neptune Marine Services (NMS) employees and directors/Key Management Personnel may have in their possession sensitive commercial information which could materially affect the value of financial products traded on ASX markets.

Even the suggestion of insider trading by an employee or director/Key Management Personnel would do great harm to the employee/director and also to NMS irrespective of whether insider trading actually occurs or is proven. The Corporations Act 2001(Cth) prohibits insider trading in relation to financial products. The provisions are wide ranging and breaches are considered serious offences.

This document:

- (a) provides an outline of the insider trading and other relevant provisions of the Corporations Act;
- (b) sets out the rules relating to dealings by employees and directors/Key Management Personnel in shares issued by NMS;
- (c) sets out the rules relating to dealings by employees and directors in financial products issued over NMS shares by third parties such as warrants, options and futures.

The Dealing Rules are designed to assist in preventing breaches of the insider trading provisions of the Corporations Act. Ultimately it is the responsibility of the employee and director to ensure that none of his or her dealings could constitute insider trading.

## **2 INSIDER TRADING PROHIBITION**

### **2.1 The nature of the Prohibition**

Section 1043A (of Part 7.10, Division 3) of the Corporations Act makes it an offence for person in possession of information that is not generally available but which, if generally available, might materially impact the price or value of a financial product to:

- trade in (i.e. apply for, acquire or dispose of, or enter into an agreement to do any of these things); or
- procure another person to trade in, financial products (collectively referred to as “deal in financial products”).

It is also an offence to “tip” the information to another person with the knowledge that the person could deal in financial products. Accordingly the effect of this section cannot be avoided by simply getting another person to deal on your behalf.

### **2.2 How You Become Aware of the Information is Irrelevant**

It is irrelevant how or in what capacity the person came into possession of the information.

This means that s 1043A will apply to any employee or director who acquires “inside information” in relation to a financial product, no matter in which capacity.

### **2.3 Information Which Might Affect Price Value**

The prohibition referred to in Dealing Rules 2.1 and in 4.4 refers to unpublished information which, if generally available, might materially impact the price or value of financial products.

### **2.4 What Does Information Include?**

“Information” includes matters of supposition or speculation and matters relating to the intentions or likely intentions of a person.

### **2.5 What Information Might Materially Affect Price or Value?**

This means information that a reasonable person would expect to have a material effect on the price or value of financial products. A reasonable person would be taken to expect information to have a material effect on price or value if the information would be likely to influence persons who commonly invest in financial products whether or not to do so.

Examples of this type of information which might affect the price or value of NMS shares include:

- proposed changes in the capital structure, capital returns and buy backs of financial products;
- information relating to NMS's financial results;
- a material acquisition, divestment or realisation of assets;
- proposed dividends and share issues;
- changes to the Board;
- possible events which could have a material impact on profits (negatively or positively) e.g, loss of a major customer;
- proposed changes in the nature of the business of NMS;
- notification to NMS of a substantial shareholding; and
- any information required to be announced to the market pursuant to Listing Rule 3.1.

### **2.6 What does “Unpublished: Mean?**

“Unpublished” for this purpose means that the information is not generally available. Information is generally available if it consists of readily observable matter, or it has been disseminated in a manner likely to bring it to the attention of investors and a reasonable period has elapsed.

ASX publishes information to the market by releasing ASX announcements through the Company Announcements Platform. All announcements by NMS are available on [www.asx.com.au](http://www.asx.com.au) under Market Statistics or the NMS website on [www.neptunems.com](http://www.neptunems.com)

### **3 OTHER RELEVANT CORPORATIONS ACT PROVISIONS**

Key Management Personnel, Officers<sup>1</sup> and employees of NMS are subject to the duties set out in sections 182,183 and 184 of the Corporations Act. Officers of NMS are subject to additional duties outlined in sections 180 and 181 of the Corporations Act.

#### **3.1 No Improper Use of Inside Information (s183 and s184)**

An officer or employee, or former officer or employee must not make improper use of information acquired by virtue of his or her position as such an officer or employee to gain, directly or indirectly, an advantage for himself or herself or for any other person, or to cause detriment to NMS.

#### **3.2 No Gain by Improper Use of Position (s182 and s184)**

An officer or employee must not make improper use of his or her position as such an officer or employee, to gain, directly or indirectly, an advantage for himself or herself or for any other person, or to cause detriment to NMS.

#### **3.3 Care and Diligence (s180)**

An officer must exercise his or her powers and discharge his or her duties with the degree of care and diligence a reasonable person would exercise in the same circumstances.

#### **3.4 Good Faith (s181 and s184)**

An officer must exercise his or her powers and discharge his or her duties in good faith in the best interests of NMS and for a proper purpose. An officer commits an offence if he or she is reckless or is intentionally dishonest and fails to exercise his or her powers and discharge his or her duties in good faith in the best interests of NMS and for a proper purpose.

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<sup>1</sup> Includes a director, secretary or executive officer of NMS. An executive officer/key management personnel is a person concerned in, or taking part in, the management of NMS.

### **4 DEALING IN NMS SHARES**

#### **4.1 No Dealing Permitted During a Non Trading Period**

Subject to Dealing Rules 4.2 to 4.9, employees and directors/key management personnel are permitted to deal in NMS shares throughout the year except during the following periods:

- (a) the commencement of the 5 week period preceding the announcement of:
  - (i) the annual results; and
  - (ii) the half yearly results;

and ending at the end of the day of the announcement; and

- (b) 1 April (inclusive) and ending at the end of the day of the announcement of the results for the quarter ending 31 March; and
- (c) 1 October (inclusive) and ending at the end of the day of the announcement of the results for the quarter ending 30 September.

Each period is referred to as the Non Trading Period. The period where dealing is permitted is called the Trading Period.

#### **4.2 Notice of Non Trading Period**

Notice of the commencement and closure of the Non Trading Period will be sent by email to employees and by email and/or facsimile to directors. Where an employee does not have email access it is the manager's responsibility to inform the employee.

#### **4.3 Requirement to Notify Before Dealing**

An employee must not deal in NMS shares without **first**:

- completing and forwarding a Notification Form to Deal in NMS Shares [Attachment A] with Part A duly completed to the Chairman of the Board, or if the Chairman is unwilling or unable to act, to the Chairman of the NMS Audit & Governance Committee (Chairman); and
- confirming with the Chairman that he or she is prepared to complete Part B of the Notification Form to Deal in NMS Shares.

A director must not deal in NMS shares without **first** consulting and confirming with the Chairman. The Chairman will be taken to be acting on behalf of the NMS Board (except a director seeking approval, if applicable).

#### **4.4 Prohibition in Dealing While in Possession of Relevant Information**

Dealing in NMS shares is subject to the prohibition that an employee or director must not deal in NMS shares:

- at any time when he or she is in possession of unpublished, information which, if generally available, might materially affect the price or value of those NMS shares; and
- on the day the public announcement is made in relation to that matter.

#### **4.5 Prohibition on Active Dealing**

Dealing during a Trading Period is subject to the prohibition that an employee and director must not actively deal in NMS shares with a view to deriving profit related income from that activity. "Actively Deal" for this purpose means to deal in NMS shares in a manner which involves frequent and regular trading activity.

#### **4.6 The Effect of Notification**

Notification of any dealing in NMS shares to the Chairman and the completion of Part B of the "Notification Form to Deal in NMS Shares" does **not** constitute approval by or on behalf of NMS of the relevant dealing.

However, it is the responsibility of the Chairman on receiving Notification Form to Deal in NMS Shares", to consider the circumstances of the employee or director concerned and either to:

- complete Part B of the "Notification Form to Deal In NMS Shares"; or
- direct the employee or director that the relevant dealing ought not be undertaken.

An employee or director must comply with the direction given by the Chairman.

#### **4.7 Special Approval to Deal During the Non Trading Period**

If cogent reasons or circumstances are given by an employee or director for requesting approval, including an assurance that the employee or director does not have price or value sensitive information which is undisclosed to the market as contained in the "Notification Form to Deal In NMS Shares", then approval may be given by the Chairman. The Chairman may request further information and will determine the matter as the Chairman sees fit.

Any such approval must be obtained in advance. It cannot be given after the event.

A dealing for which such special approval is given remains subject to Rules 4.3, 4.4, 4.5 and 4.6.

The Chairman will exercise his or her discretion weighing the reasons or circumstances are given by an employee or director against any perceived detriment to NMS's reputation or other matters the Chairman considers relevant.

#### **4.8 Confirmation of Dealing that has Occurred**

NMS may require an employee to provide confirmation of dealing in NMS financial products by an employee or his/her associate(s).

#### **4.9 Notice of Change to Trading Period or Non Trading Period**

The Non Trading Period, as outlined in Rule 4.1, may be extended or shortened or another Non Trading Period may be introduced at any time by direction of the Board of Directors. Notice of such changes will be specified to employees by email and to directors by email and/or facsimile. Changes to the Non Trading Period or Trading Period are effective immediately upon the giving of such notice. Where an employee does not have email access it is the manager's responsibility to inform the employee.

A dealing during any such change remains subject to Rules 4.3, 4.4, 4.5 and 4.6.



#### **4.10 Director Requirement to Report to the Market. Listing Rule 3.19A**

In accordance with the Agreement between directors and NMS, directors are required to provide details of all changes to their interest in NMS shares registered in the name of the director or held on behalf of the director, directly or indirectly. The details must be provided as soon as reasonably possible after the date of the change and in any event no later than two business days after the change or another time frame agreed with Company Secretary of NMS which allows for compliance with the listing rule obligations.

### **5 PROHIBITION IN DEALING IN FINANCIAL PRODUCTS ISSUED OVER NMS SHARES BY THIRD PARTIES**

Employees and directors are **not** permitted to deal at any time in financial products such as options, warrants, futures or other financial products issued over NMS shares by third parties such as banks and other institutions traded on either ASX markets or any other market. An exception may apply where NMS shares form a component of a listed portfolio or index product.

### **6 RELATED PARTIES AND RELEVANT INTERESTS**

The restrictions on dealings by an employee or director are equally applicable to any dealings:

- (a) by their spouses or de facto spouses;
- (b) by or on behalf of any dependant under 18 years of age; and
- (c) any other dealings in which, for the purposes of the Corporations Act, he or she is or is to be treated as interested<sup>2</sup>. For example, if an employee or director is a trustee of a trust and is also a beneficiary of the trust.

### **7 EMPLOYMENT AND MONITORING OF COMPLIANCE**

To promote understanding of the insider trading prohibition, related Corporations Act provisions, ASX policy and NMS policy, a copy of this document will be distributed to all employees and directors (present and future). The induction procedures for new employees and directors must require that a copy of this document be provided to each new employee and director.

All new employees will be required to provide a completed "Form of Acknowledgment" [Attachment B] to NMS. All new directors will be required to provide this form to Company Secretary.

The Chief Executive Officer will ensure that the insider trading prohibition and related Corporations Act provisions are drawn to the attention of employees and directors by written memorandum, at least once in every 12 month period.

### **8 CONCLUSION**

Compliance with the rules set out in this document is mandatory. Infringement of the insider trading provisions can attract a substantial monetary penalty, imprisonment or both.

Any employee or director who does not comply with the Dealing Rules set out in this document will be considered to have engaged in serious misconduct which may result in the termination of his or her engagement by NMS.

<sup>2</sup>Section 608 of the Corporations Act set out the rules relating to relevant interests. The basic rule is a person has a relevant interest in securities if they are holding, or controlling the voting or disposal, of such securities, including through trusts, company structures and under agreements, with a number of carve outs for nominee holdings and the like. Section 609 of the Corporations Act sets out the situations not giving rising to relevant interests.

## GLOSSARY

<b>ASIC</b>	Australian Securities & Investments Commission (ABN 86 768 265 615)
<b>ASX</b>	Australian Stock Exchange Limited (ABN 98 008 624 691)
<b>De facto spouse</b>	a person who (although not legally married to the first person) is living with the first person on a genuine domestic basis
<b>Director</b>	Means a director of any company in the NMS Group
<b>Employee</b>	full-time, part-time, casuals, consultants, executives, contractors of NMS and its wholly owned subsidiaries
<b>Financial product</b>	Includes: <ul style="list-style-type: none"> <li>• debentures, stocks or bonds issued or proposed to be issued by a government;</li> <li>• shares;</li> <li>• interests in a managed investment scheme;</li> <li>• units;</li> <li>• warrants;</li> <li>• options;</li> <li>• futures; and</li> <li>• any other products that are able to be traded on a financial market.</li> </ul>

**ATTACHMENT A - NOTIFICATION FORM TO DEAL IN ASX SHARES<sup>3</sup>**

**PART A - For completion by Employee/Director**

Name of Employee/Director	
Description of Shares (ie number of shares)	
Sale (S) Purchase (P) Subscription (SUB) Agreement (AGR)	
Proposed Date of Transaction	

I confirm that:

- 1.1 I am not in possession of any unpublished information which, if generally available, might materially affect the price or value of NMS shares; and
- 1.2.1 the transaction in NMS shares above described does not contravene the rules of NMS concerning dealing in NMS Shares.

Signed: .....

Dated: .....

**PART B - For Completion by Chairman**

I confirm that I am not aware of any circumstances pursuant to which the employee named above is or is likely to be in possession of unpublished information which, if generally available, might materially affect the price or value of NMS shares.

Name: .....

Title: .....

Signature: .....

Dated: .....

**The completed form is to be sent to the Company Secretary, for Board Members, and a copy sent to NMS, for employees.**

<sup>3</sup>Signing of form is valid for 2 weeks unless otherwise specified

**ATTACHMENT B - ACKNOWLEDGEMENT BY EMPLOYEE/DIRECTOR**

- 1. I have read and understood the document titled "Dealing Rules for NMS Employees and Directors" (the "Dealing Rules").
- 2. I agree to be bound by and to comply with the Dealing Rules as amended or replaced from time to time.
- 3. I acknowledge and agree that the Dealing Rules comprise terms of my employment.

Signature: .....

Name: .....

Department: .....

Date: .....

**Please send completed copy to Neptune Marine Services**