

UKLA Technical Note

Transactions by persons discharging managerial responsibilities and their connected persons

Ref: UKLA / TN / 540.2

DTR 3

Scope of DTR 3

DTR 3 obliges persons discharging managerial responsibilities (PDMRs) and their connected persons to notify an issuer of all dealings conducted on their own account in its shares and other instruments. The issuer is then required to notify a Regulatory Information Service of this information. The introduction in DTR 1 makes it clear that DTR 3 applies to issuers incorporated in the UK whose financial instruments are admitted to trading on a regulated market. DTR 3 also applies to non-EEA issuers whose home state is the UK. Essentially, this latter category would consist of non-EEA issuers, with shares admitted to trading in the UK where the UK has been chosen as the home member state.

DTR 3.1.8R extends the scope of DTR 3 to cover issuers that have financial instruments admitted to trading in the UK, but that do not fall within the categories outlined above. Issuers falling into this category could be:

- an EEA incorporated issuer (non-UK) which has shares admitted to trading in its home member state and also in the UK
- a non-EEA issuer with shares admitted on its domestic market, the UK and another EEA jurisdiction where the other EEA jurisdiction has been chosen as the home member state

This rule aims to ensure that information equivalent to that which the issuer is required to disclose in the country of its primary listing, or in the jurisdiction of its home member state, is also made available in the UK. We do not require such an issuer to publish more information in the UK than it does in its country of primary listing/home member state.

Who are PDMRs?

In deciding who is a PDMR, companies should look at the definition set out in section 96B(1) of FSMA. Companies should look beyond any job title to consider the substance of the role. Clearly, those with the power to make managerial decisions that affect the future development and business prospects of the issuer, such as board members, are PDMRs. On the other hand, those that offer analysis or information to enable others to ultimately make a managerial decision may not be PDMRs, even where they give informed recommendations.

Where the classification is not clear-cut, companies must consider how much influence or responsibility a person has in managerial decision making. For example, company secretaries who only deal with administration, and general counsel who offer their company legal advice only are usually not classified as PDMRs.

How many PDMRs should a company have?

It is impossible to indicate how many PDMRs there should be across the wide range of listed companies. Some companies will not have any PDMRs outside of the board. Companies should consider the functions and responsibilities of employees in relation to the definition of PDMR.

Who is a PDMR when decisions are taken collectively?

Where a person or persons are involved in a collective decision it is important to consider the substance of their role when assessing if they are a PDMR. If a managerial decision that affects issuers' future development and business prospects is ratified by board members, non-board members that recommended the action may nevertheless still be PDMRs. However, in cases where the decision is clearly made by the board members and not senior management, a non-board member is unlikely to be a PDMR.

Notification requirement

DTR 3.1.2R requires PDMRs and their connected persons to notify an issuer of transactions conducted on their own account in shares of the issuer, or derivatives or any other financial instrument relating to those shares. We have received several queries asking what is meant by 'on own account'. The following paragraphs set out our views on this issue and we hope this will help issuers interpret this rule. We expect most transactions of the following types would require notification under DTR 3.1.2R:

- acquisitions of shares
- disposals of shares
- acceptance of awards
- accepting or receiving an option or gifts from the issuer or a third party and the exercise of options by a PDMR
- the placing of a spread bet related to the share price of an issuer

Transactions unlikely to be considered 'on own account' could be transactions for which the PDMR has not given any instruction, consent or otherwise had any control over. An example would be the automatic vesting of an option. Similarly, in the case of an employee share scheme administered by an employee benefit trust (EBT) in which PDMRs are participants, dealings by an EBT for the benefit of all participants would not require notification by PDMRs under DTR 3.1.2R. Only when the EBT's transaction is in line with the instruction of a PDMR – for example, an instruction to liquidate their interest on leaving the scheme – would a transaction require notification.

It is impossible to set out a definitive 'on own account' test that would be applicable to all transactions that a PDMR may conduct. Each transaction by a PDMR ought to be considered on its own facts to assess if it was conducted 'on own account'.

PDMRs cannot delegate the responsibility to notify

PDMRs sometimes enter into arrangements with third parties in which the third-party agrees to make the required notification to the issuer on the PDMR's behalf. Our view is that, notwithstanding any such delegation, the PDMR is responsible for satisfying the requirement and remains liable if the notification is not made. DTR 3.1.2R is expressed in absolute terms, i.e. it does not say that PDMRs have to take reasonable steps to ensure notification happens, it says PDMRs 'must notify'.