



**PharmAust**  
LIMITED

# CORPORATE GOVERNANCE MANUAL

JULY 2006

## TABLE OF CONTENTS

1. Statement Of Matters Reserved for the Board
2. Remuneration and Nomination Committee Charter
3. Directors Selection Procedure
4. Code of Conduct for Directors and Key Executives
5. Trading Policy
6. Risk Management Policy and Audit Charter
7. Continuous Disclosure Policy
8. Communications Policy
9. Risk Management Strategy
10. Evaluation of the Board and Directors
11. Remuneration Policy

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**STATEMENT OF MATTERS RESERVED FOR THE BOARD**

This Policy has been adopted by PharmAust Limited to establish and set out the matters reserved for Board consideration.

The Board's primary role is the optimisation of Company performance and protection and enhancement of shareholder value.

The Board is responsible for:

- oversight of the company, including its control and accountability systems;
- appointing and removing the chief executive officer (or equivalent);
- ratifying the appointment and, where appropriate, the removal of the chief financial officer (or equivalent) and the company secretary;
- input into and final approval of management's development of corporate strategy and performance objectives;
- reviewing and ratifying systems of risk management and internal compliance and control, codes of conduct, and legal compliance;
- monitoring senior management's performance and implementation of strategy, and ensuring appropriate resources are available;
- approving and monitoring the progress of major capital expenditure, capital management, and acquisitions and divestitures;
- approving and monitoring financial and other reporting.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**REMUNERATION AND NOMINATION COMMITTEE CHARTER**

**Constitution**

The Remuneration and Nomination Committee has been established by resolution of the Board.

**Membership**

The Remuneration Committee shall be appointed by the Board from among the non-executive Directors of the Company and shall consist of not less than two members with (where possible) the majority being independent Directors.

**Chairman**

The Remuneration Committee shall appoint an independent Director as the Chairman of the Committee.

**Secretary**

The Company Secretary shall be the Secretary of the Remuneration and Nomination Committee.

**Quorum**

A quorum shall be two members.

**Meeting Frequency**

Remuneration Committee meetings will be held not less than once a year to enable the Committee to undertake its role effectively.

**Reporting Procedures**

The Secretary shall circulate the minutes of the meetings of the Remuneration Committee to all members of the Committee for comment and change before being signed by the Chairman of the Committee and circulated to the Board with the Board papers for the next Board meeting. The minutes are to be tabled at the Board meeting following the remuneration committee meeting along with any recommendations of the Remuneration Committee.

**Duties**

The duties of the Remuneration and Nomination Committee are to:

*Remuneration Duties*

1. assist the Board in fulfilling its responsibilities in respect of establishing appropriate remuneration levels and policies including incentive policies for directors and senior executives;

2. assess the market to ensure that senior executives are being rewarded commensurate with their responsibilities;
3. obtain the best possible advice in establishing salary levels;
4. set policies for senior executives' remuneration;
5. review the salary levels of senior executives and make recommendations to the Board on any proposed increases;
6. propose, for full Board approval, the terms and conditions of employment for the MD;
7. review the Company's recruitment, retention and termination policies and procedures for senior management;
8. review and make recommendations to the Board on the Company's incentive schemes;
9. review and make recommendations to the Board on the Company's superannuation arrangements; and
10. *Nomination Duties*
11. Developing and regularly reviewing a policy on Board structure.
12. Developing criteria for Board membership.
13. Identifying and screening specific candidates for nomination.
14. Ensuring there is an appropriate induction and orientation program in place.
15. Making recommendations to the Board for committee membership.
16. Ensuring there is an appropriate Board succession plan in place.
17. Ensuring the performance of the Board and its members is regularly reviewed.
18. Developing with Directors an appropriate training and development program.
19. Overseeing management's succession planning including the MD and his/her direct reports.
20. Assisting the Chairman in advising Directors about their performance and possible retirement.
21. Reviewing the policy in respect of tenure, remuneration and retirement of Directors.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**DIRECTOR SELECTION PROCEDURE**

**Purpose**

To ensure that there are defined procedures for the selection and appointment of new directors to the PharmAust Limited Board.

**Procedure**

It is recognised by the Board of PharmAust Limited that a formal and transparent procedure for the selection and appointment of new directors to the Board helps promote understanding and confidence in that process.

**1. Board Composition**

The Board's Charter requires that the Board comprise a majority of non-executive directors with a broad range of expertise, skills and experience. Particular candidates may also be considered where they hold particular experience in the various activities conducted by PharmAust Limited.

**2. Identification of potential Board candidates**

The Board and each of the individual directors are expected to be continually on the look out for candidates who they consider may be valuable members of the Board. At various times the Board may also determine that there is a specific requirement for a director with a particular skill set, and at this time external consultants may be engaged to identify potential candidates.

**3. Selection**

Once a potential candidate has been identified that candidate would be expected to provide a copy of their Resume detailing their skills and experience. The Board, generally as part of a Board meeting, would interview the candidate and also explain details of PharmAust Limited, its operations, policies and expectations. The Board, as a whole, shall consider the appointment and this is subject to the directors' voting arrangements set out in the Company's Constitution.

**4. Appointment to the Board**

Once the Board decides to appoint a new director, that director would be expected to sign the Terms and Conditions for appointment of non-executive directors and the director's 'Consent to Act' form. The Director would also be provided with access to the Company's Corporate Governance Statement and other relevant policies and procedures. Following this an announcement would be made to the ASX containing various details concerning the directors' skills and experience and the reason for the appointment of the Board. Appropriate details would also be provided to the ASX concerning the directors' shareholdings in PharmAust Limited.

**Responsibility**

The Chairman is ultimately responsible for compliance with this procedure, however it would be expected that all directors comply with this procedure.

**Review of Director Selection Procedure**

This Procedure will be formally reviewed by the Board each year.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**CODE OF CONDUCT FOR DIRECTORS**  
**AND KEY EXECUTIVES**

**Introduction**

This Code of Conduct has been adopted by PharmAust Limited to set the standards of ethical behaviour required of directors and key executives (being officers and employees who have the opportunity to materially influence the integrity, strategy and operation of the business and its financial performance) and encourage the observance of those standards.

**Other Codes and Policies**

This Code should be read in conjunction with other Codes and Policies being in particular the Trading Policy and the Continuous Disclosure Policy.

**Code of Conduct**

The Board has adopted the Australian Institute of Company Directors ("**AICD**") Code of Conduct.

The AICD Code of Conduct prescribes the following standards for directors:

1. A director must act honestly, in good faith and in the best interests of the Company as a whole.
2. A director has a duty to use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office.
3. A director must use the powers of office for a proper purpose, in the best interests of the company as a whole.
4. A director must recognise that the primary responsibility is to the company's shareholders as a whole but should, where appropriate, have regard for the interests of all stakeholders of the company.
5. A director must not make improper use of information acquired as a director.
6. A director must not take improper advantage of the position of director.
7. A director must not allow personal interests, or the interests of any associated person, to conflict with the interests of the company.



8. A director has an obligation to be independent in judgment and actions and to take all reasonable steps to be satisfied as to the soundness of all decisions taken by the board of directors.
9. Confidential information received by a director in the course of the exercise of directorial duties remains the property of the company from which it was obtained and it is improper to disclose it, or allow it to be disclosed, unless that disclosure has been authorised by that company, or the person from whom the information is provided, or is required by law.
10. A director should not engage in conduct likely to bring discredit upon the company.
11. A director has an obligation, at all times, to comply with the spirit as well as the letter of the law and with the principles of this Code.

The Board will review compliance with this Code at least once every 12 months.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**TRADING POLICY**

This Policy has been adopted by PharmAust Limited to establish and set out the Company's policy for trading in securities by its officers and employees.

**Introduction**

The Company's officers and employees may have in their possession sensitive commercial information which could materially affect the value of the securities of the Company, entities that it may invest in from time to time or any of the Company's major shareholders. The *Corporations Act 2001* (Cth) ("Act") prohibits "insider trading" in relation to securities. The provisions are wide ranging and breaches are serious offences.

This Policy:

- provides an outline of the insider trading and other relevant provisions of the Act; and
- sets out the rules relating to dealings in the securities of such entities by the Company's officers and employees, which are designed to assist preventing breaches of the insider trading provisions of the Act. Ultimately, it is the responsibility of the person to ensure that none of his/her dealings could constitute insider trading.

**1. The Insider Trading Prohibition**

1.1 The nature of the prohibition

Section 1043A of the Act makes it an offence for a person in possession of information that is not generally available, but which if generally available, a reasonable person would expect it to have a material effect on the price or value of a security or relevant financial product to:

- apply for, acquire or dispose of or enter into an agreement to do any of these things; or
- procure another person to apply for, acquire or dispose of or enter into an agreement to do any of these things.

It is also an offence to "tip" the information to another person with the knowledge that the person could deal in securities. Accordingly, the effect of the section cannot be avoided by simply getting another person to trade on your behalf.

## 1.2 How you became 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 any Company director or employee who acquires "inside information" in relation to a security or relevant financial product, no matter in which capacity, will be caught by Section 1043A and prohibited from trading in that security or relevant financial product.

## 2. The Relevant Corporations act Provisions

Officers of a company (which expression is defined to include a director, secretary or executive officer of the company) and, in some instances, employees are subject to the duties set out in Part 2D.1 of the Act. Relevantly these include the duties set out below:

### 2.1 No improper use of inside information

An officer or employee, or a 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 the company.

### 2.2 No gain by improper use of position

An officer or employee of a company 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 the company.

## 3. The Share Trading Rules of the Company

In these rules, reference to "Securities" include shares, units in trusts, debentures, prescribed interests, any other financial products that are able to be traded on a financial market and rights or options to subscribe for such securities in the Company and in entities in which the Company has an investment from time to time.

### 3.1 Trading permitted following due notice

Subject to Rules 3.2, 3.3 and 3.4, no officer or employee or entity controlled by them is allowed to trade the Securities without prior notification to the Managing Director in the case of employees and to the Chairman in the case of directors (if the Chairman wishes to trade he must notify the Managing Director). Trading is only permitted for 2 weeks following this notification and confirmation of any trading must be provided to the Managing Director or the Chairman (as the case may be).

### 3.2 Closure of trading facility

The trading facility may be closed at any time by direction of the Chairman or a majority of directors.

### 3.3 Prohibition on dealing while in possession of relevant information

Dealing in the Securities is subject to the prohibition that a Company officer or employee must not deal in Securities:

- at any time when he or she is in possession of unpublished information, which if generally available, might materially effect the price or value of those Securities; or
- for a period of 2 days following the making of a public announcement in relation to that matter.

If, after you have placed an order to buy or sell the Securities:

- you come into possession of relevant information that might materially effect the price or value of the Securities; and
- your order has not been filled, you must cancel that order.

### 3.4 Prohibition on active dealing in the Securities

Dealing in the Securities is subject to the prohibition that a Company officer or employee must not engage in the business of actively dealing in the Securities. "**Actively dealing**" means to deal in the Securities in a manner which involves frequent and regular trading.

## 4. Information Which Might Affect Price or Value

The prohibition referred to in Rule 3.3 refers to unpublished information or information which is not otherwise in the public domain which, if generally available, might materially affect the price or value of the Securities.

### 4.1 What does "information" include?

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

### 4.2 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 the Securities including information material to the value of the Company. 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 securities in deciding whether or not to do so.

Examples of this type of information are:

- proposed changes in the capital structure, capital returns and buybacks of securities;
- a material acquisition, divestment or realisation of assets;
- proposed dividends and share issues;
- changes to the board;
- changes to the book or market values of investments;
- possible events which could have a material impact on profits (adversely or positively) eg, equity accounted loss of an associated entity.
- proposed changes in the nature of the business;
- notification of a change in substantial shareholding; and
- any information required to be notified to ASX pursuant to Listing Rule 3.1 (the continuous disclosure requirement).

4.3 What does "unpublished" mean?

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

## **5. Appointment and Monitoring of Compliance**

To promote an understanding of the insider trading prohibition and related Corporations Act provisions, a copy of this Policy will be provided to all the Company officers and employees (present or future) of the Company.

At least once every 12 months, the Company will review compliance with this Policy.

The share trading restrictions contained in this Policy are embodied in the letter of appointment of new directors as forming part of the terms of appointment.

## **6. Conclusion**

Compliance with the rules set out in this Policy is very important. Infringement of the insider trading provisions can attract a substantial monetary penalty, imprisonment or both. Failure to comply with the rules could have a damaging impact on the perception of the Company within the investment community. Any Company officer or employee who does not comply with the rules set out in this Policy will be considered to have engaged in serious misconduct which may result in the termination of their engagement with the Company.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**RISK MANAGEMENT POLICY AND AUDIT CHARTER**

This Policy has been adopted by PharmAust Limited to establish and set out the Company's risk management and audit charter.

**Risk Management and Audit Committee Purpose**

The primary purpose of the Risk Management and Audit Committee function of the Board is:

- ensuring the Company adopts, maintains and applies appropriate accounting and financial reporting processes and procedures;
- facilitating the independence of the external audit process and addressing issues arising from the audit process; and
- ensuring the Company maintains effective risk management and internal control systems.

**Membership and Meetings**

The Full Board fills the role of Risk Management and Audit Committee. Risk Management and Audit Committee business is included on Full Board Agenda's and dealt with at those meetings.

**Responsibilities**

The responsibilities of the Risk Management and Audit Committee shall include, but are not limited to the following:

**1. Financial Reporting**

- Reviewing financial statements and other financial information distributed externally;
- Monitoring the procedures in place to ensure the Company is in compliance with the
- Corporations Act, Stock Exchange Listing Rulings and other legislative and reporting requirements;
- Reviewing related party transactions and considering the adequacy of disclosure of those transactions in the financial statements; and
- Reviewing reports on the Company's superannuation plan and compliance with relevant laws and regulations.

## **2. Risk Management and Internal Control**

- Monitoring risk assessment and the internal controls instituted;
- Reviewing risk management practices;
- Monitoring the establishment of an appropriate internal control framework, including information systems and considering enhancements;
- Reviewing external audit reports and, where major deficiencies or breakdowns in controls or procedures have been identified, monitoring remedial action taken by management to ensure such action is appropriate and prompt;
- Reviewing reports on any major defalcations, frauds and thefts from the Company;
- Reviewing reports on the adequacy of insurance coverage; and
- Reviewing transfer pricing arrangements.

## **3. External Auditors**

- Reviewing the nomination and performance of the external auditors;
- Liaising with the external auditors and ensuring the annual and half-year statutory audits and reviews are conducted in an effective manner;
- Approving audit fees;
- Reviewing matters relating to auditor independence; and
- Ensuring the rotation of the audit partner every 5 years.

## **4. Internal Audit**

- Reviewing the internal audit plan for adequacy; and
- Reviewing internal audit reports.

## **5. Corporate Governance Compliance**

- Ensuring that a corporate Codes of Conduct are established and periodically reviewed;
- Reviewing policies on sensitive issues or practices such as environmental issues;

- Reviewing policies to avoid conflicts of interest and reviewing past or proposed transactions between the Company and members of management and Company Directors; and
- Reviewing the Risk Management and Audit Committee Charter.



**PHARMAUST LIMITED**  
**ACN 094 006 023**

**CONTINUOUS DISCLOSURE POLICY**

This Policy has been adopted by PharmAust Limited to establish and set out the Company's policy for continuous disclosure by its directors and employees.

**1. Introduction**

The continuous disclosure provisions of the *Corporations Act 2001* (Cth) ("**Act**") and ASX Listing Rules ("**Listing Rules**") mean that criminal and civil liabilities could be imposed on the Company and its officers if information is not released immediately after it becomes known.

This Policy deals with:

- (a) the key obligations of the Company;
- (b) the type of information that needs to be disclosed;
- (c) the procedures for internal notification and external disclosure;
- (d) the roles and responsibilities of officers in the disclosure context;
- (e) the procedures for promoting understanding of compliance with disclosure requirements; and
- (f) the procedures for monitoring compliance.

**2. Key Obligations of the Company to Notify**

2.1 Officers and employees of the Company:

Are you aware of any information about the Company that might influence someone in deciding to buy or sell the Company's securities?

If so, immediately notify the Chairman (or in the Chairman's absence, the Managing Director) of the Company.

2.2 Chairman of the Company

The Chairman will process and promptly review such information in consultation with the Board of the Company (where reasonably practicable) and any other appropriate personnel and may take legal advice. When required, an announcement to ASX will be prepared and released.

### **3. The Company's Obligations**

Listing Rule 3.1 requires "immediate" disclosure of any information concerning the Company or its associated entities which the Company or its associated entities is or becomes aware and which a reasonable person would expect to have a "material effect" on the price or value of securities in the Company. Section 674 of the Act reinforces Listing Rule 3.1.

The requirement to disclose this information does not apply if, and only if, each of the following conditions is and remains satisfied:

- a reasonable person would not expect the information to be disclosed; and
- the information is confidential and ASX has not formed the view that the information has ceased to be confidential; and
- one or more of the following conditions apply:
  - it would be a breach of a law to disclose the information;
  - the information concerns an incomplete proposal or negotiation (for example, a negotiation to enter into a new contract);
  - the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
  - the information is generated for the internal management purposes of the Company; or
  - the information is a trade secret.

Attached to this Policy is a copy of the ASX Guidance Note 8 in respect of Listing Rule 3.1 which explains the ASX approach to this Listing Rule.

### **4. How does the Company Become Aware of Information?**

The Company will be deemed to have become aware of information where a director or executive officer has, or ought reasonably to have, come into possession of the information in the course of the performance of his/her duties as a director or executive officer of the Company.

As the Listing Rule fixes the Company with the knowledge of a director or executive officer, it is very important to follow the notification procedures set out later in this Policy. Because there is an obligation to disclose information that a director or officer "ought reasonably" to have come into possession of, the notification procedures in this Policy are designed to ensure that all potentially relevant information regarding the Company or an associated entity of it, is brought to the attention of the Company.

An executive officer is a person concerned in, or taking part in, the management of the Company.

## **5. Materiality**

The Company must disclose information if a reasonable person would expect that information to have a material effect on the price or value of the securities of the Company. A reasonable person is taken to expect information to have such an effect if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell, those securities.

Neither the Listing Rules nor the Act defines when information will be taken to have such an effect. In practice, usually a monetary test is adopted using thresholds from the accounting standards relevant to preparation of financial statements. However, other concepts of materiality are also adopted in addition to a monetary threshold. For example:

- whether a matter will significantly damage the Company's image or reputation;
- whether a matter will significantly affect the Company's ability to carry on business in the ordinary course;
- whether the matter involves a breach of any law or regulation.

Information may include information necessary to prevent or correct a false market.

## **6. The Type of Information That Needs to be Disclosed**

It is not possible to exhaustively list the information, which must be disclosed. The following examples are provided to give an idea about information that might require disclosure. If there is any doubt about the importance of information which comes to light, there should be immediate notification to the Chairman so that advice can be given and a formal decision can be made as to whether or not to release the information.

Examples of information that might need to be disclosed include the following:

- a new contract that the Company had entered into or variation to an existing contract;
- any event which could affect the Company's assets, earnings or profitability such as:
  - litigation being commenced by or against the Company (e.g. because of an alleged breach of contract etc.);
  - industrial action being threatened or commenced;
  - significant unbudgeted capital expenditure commitments arising;  
or
  - proposed changes in the nature of the business of the Company;  
or

- any other information regarding the Company that may be material to the share price or the value of shares and/or other securities of the Company such as:
  - proposed changes to the Board or senior management; or
  - proposed changes to the capital structure of the Company; or
  - a matter that may significantly damage the Company's image or reputation.

For other examples refer to the checklist in the Schedule to this Policy.

## **7. The Continuous Disclosure Officer**

The Board of the Company have appointed the Managing Director (as the Company's) Continuous Disclosure Officer. The Managing Director will appoint a deputy to act as the Continuous Disclosure Officer in the event of his absence. The Continuous Disclosure Officer is primarily responsible for ensuring that the Company complies with its disclosure obligations and is primarily responsible for deciding what information will be disclosed. In consultation with the Board (where reasonably practicable) and any other appropriate personnel, a decision will be made by the Continuous Disclosure Officer about whether or not to disclose the information or take any necessary steps to protect its confidentiality.

## **8. Obligations to Notify the Managing Director**

Where any information comes to light about the Company which may need to be released, the person concerned is obliged to bring that information to the attention of the Managing Director with all possible expediency.

The procedure for notification is set out in the Schedule. The Schedule also contains a checklist for the Company officers and employees designed to assist in determining whether information may need to be released.

Until a decision as to whether or not to disclose information has been made, the Company officers and employees must treat the information as strictly confidential.

## **9. Decision Not to Disclose Information**

If a decision is made not to disclose information, the reasons for withholding that information will be documented at the time the decision is made, signed by the Continuous Disclosure Officer of the Company, dated and retained.

## **10. Confidential Information**

In determining whether any information that comes to light about the Company needs to be released, it will be necessary to determine whether the conditions permitting non-disclosure which are mentioned in section 3 above apply. In particular, a determination may need to be made as to whether the information is confidential. If a determination is made that the information is confidential, then the Managing Director of the Company will ensure that anyone who has a copy of the information is aware that it is confidential.

## **11. Relationship With Media and Public**

The Company must disclose information needed to prevent a false market. Accordingly it may be necessary for the Company to correct a rumour or to respond to speculation, including media speculation, regarding the Company. The ASX may apply Listing Rule 3.1B in this regard.

Relevant information must be provided to ASX under Listing Rule 3.1 and released to the market before it is provided to the media (even on an embargoed basis).

Care must be taken not to make comments to the media or others which could result in rumours or speculation about the Company. Staff must comply with the media relations policy of the Company. That policy limits media contact to the Managing Director of the Company. Other officers and executives may only confer with the media in relation to a particular matter concerning the Company if they have obtained the prior express approval of the Managing Director or his delegate for the purpose of giving such approval.

## **12. Employment and Monitoring Compliance**

To promote an understanding of the continuous disclosure obligations imposed on the Company by the Act and the Listing Rules, a copy of this guide will be provided to all officers and employees (present or future) of the Company and to all agents of the Company who may from time to time be in the possession of undisclosed information that may be material to the price or value of the Company's securities.

At least once in every 12 month period, the Board will review the Company's compliance with this Policy. From time to time, and if considered necessary, the Board may update this Policy (and distribute an updated copy to all directors, officers, employees and relevant agents of the Company) to reflect changes in the Company's business operations and changes in the Act and the Listing Rules.

The induction procedures for new staff must require that a copy of this Policy be provided to each new employee. It is the responsibility of the Managing Director to ensure that all staff and consultants have received this Policy and understand its requirements.

## **13. Share Trading by Officers**

Any officer or employee of the Company proposing to trade in the Company's shares must comply with the Company's Trading Policy.

#### **14. Audit**

The Company's Board will annually audit the Company's adherence to the procedures set out in this Policy.

#### **15. Reporting and Correcting Mistaken Non-disclosure**

Any officer or employee of the Company who becomes aware that relevant information has not been notified and disclosed in accordance with the preceding provisions, should immediately telephone the Chairman so that appropriate action can be taken. It is far better to correct mistaken non-disclosure and lodge an announcement late than to continue to ignore the omission and fail to comply with Listing Rule 3.1.

#### **16. Analyst Briefings**

Announcements will be made prior to any analyst briefings where the analyst briefings by the Company will involve any material information not known to the market. The Managing Director will have responsibility for such announcements.

#### **17. Conclusion**

Compliance with this policy is very important. Failure to comply could lead to civil or criminal liabilities for the Company and its officers and could have a damaging impact on the perception of the Company within the investment community. Any officer, employee or agent of the Company who willfully or negligently causes a failure to comply by the Company will be considered to have engaged in serious misconduct which may result in the termination of their engagement by the Company.

All officers, employees and agents are encouraged to actively consider the need for disclosure. Do you have information likely to influence a person to buy or sell the Company's securities? If so, notify the Managing Director as soon as possible. It is far better to consider and, where appropriate, reject the need for disclosure rather than make what could be a false assumption that information does not need to be disclosed.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**SCHEDULE**  
**NOTIFICATION CHECKLIST**

You are aware of information concerning the Company which you think might influence someone to buy or sell the Company's securities. Use this checklist to help you determine whether the information may require disclosure under Listing Rule 3.1. Remember, if in doubt, always notify and discuss your concerns with the Chairman of the Company.

**1. Is the Information likely to influence someone in buying or selling the Company's securities?**

Is the information likely to have a material effect on the price or value of the shares of the Company? Would the information be likely to influence people who commonly invest in securities in deciding whether or not to subscribe for, buy or sell the Company's shares?

*For example:*

- 1. does the information relate to any change in the value of the Company's investment in the Company?*
- 2. is the information about a material acquisition or sale by, the Company?*
- 3. is the information about a significant "milestone" achievement for the Company?*
- 4. are you about to commit the Company to a strategic alliance, or business relationship, or new initiatives?*
- 5. has someone threatened to sue the Company?*
- 6. have you instructed a corporate solicitor to initiate legal action against a Company customer or supplier or any other party?*
- 7. may the information significantly damage the Company's image or reputation?*

If so the information might be material and you should immediately notify the Chairman.

## 2. Are the conditions for non-disclosure satisfied?

Are **each** of the following 3 conditions satisfied:

Would a reasonable person not expect the information to be disclosed?

**AND**

Is the information confidential and remains confidential? Are all of the persons who, to your knowledge, are in possession of the information, bound by an obligation of confidentiality? Has there been any media speculation concerning the information?

**AND**

Does one or more of the following apply:

- it would be a breach of a law to disclose the information;
- the information relates to an incomplete proposal or negotiation;
- the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
- the information is generated for the internal management purposes of the Company;
- the information is a trade secret?

Ultimately, it is not for you to determine whether these conditions are satisfied. Having determined that:

- the information has been received in the course of your duties for the Company; and
- the information is likely to influence someone to buy or sell the Company securities,
- you must disclose the information to the *Managing Director*.



**PHARMAUST LIMITED**  
**ACN 094 006 023**

**NOTIFICATION PROCEDURE**

Where information comes to light about the Company that may need to be disclosed, the following procedure must be followed:

- Step 1:** *Telephone or otherwise immediately communicate with the Chairman of the Company (or in his absence, the Deputy Compliance Officer) and inform the Chairman of all material circumstances concerning the information and endeavour to confirm such matters in writing.*
- Step 2:** *The Chairman in consultation with the Board (where reasonably practicable) and any other appropriate personnel will consider the information and whether disclosure is required.*
- Step 3:** *When applicable, the Managing Director prepares an announcement.*
- Step 4:** *The announcement is sent to ASX by the Company Secretary of the Company.*
- Step 5:** *The Company Secretary retains a copy of the announcement in the Announcements Register.*

*All steps must be completed promptly.*

## Guidance Note 8

**Issued:** June 2005

### Key topics

1. Continuous Disclosure
2. ASIC *Better disclosure to investors* guidance principles

### Listing Rules

1. Listing rules 3.1 & 3.1A
2. Listing rule 3.1B
3. Listing rule 15.7
4. Listing rules 18.7 & 18.7A
5. Listing rule 19.2

### Cross-reference

1. Chapter 3 Listing Rules
2. Chapter 15 Listing Rules
3. Guidance Note 14 - Company Announcements Platform
4. Guidance Note 17 - Trading Halts
5. Guidance Note 20 - ASX Online

### Guidance Note History

- Re-printed: 1/7/2000  
(with an issue date of 16/11/98)
- Re-issued: September 2001  
(Revised)
- March 2002
- January 2003  
(Revised with introduction of Enhanced Disclosure rule amendments)
- June 2005  
(Revised to include Corporations Act amendments)

## Continuous Disclosure: Listing Rule 3.1

### Introduction

1. This Guidance Note is published to assist listed entities to comply with their obligations under listing rule 3.1 of Australian Stock Exchange Limited (ASX).
2. The Australian Securities & Investments Commission (ASIC) *Better disclosure to investors* guidance principles are also contained in this Guidance Note. ASX endorses those guidance principles and has included commentary on each guidance principle to give listed entities a practical guide to meeting their disclosure obligations.
3. This Guidance Note also outlines ASX and market expectations in relation to best disclosure practice by ASX listed entities. Some working examples of the operation of the continuous disclosure framework are included as an attachment at the end of the Guidance Note.
4. An open and pragmatic working relationship between ASX and listed entities is vital to the integrity of the continuous disclosure framework. ASX encourages listed entities to work closely with it to promote investor confidence and facilitate broad access to market information of the highest quality.
5. Consideration of continuous disclosure issues generally takes place in a market context, in 'real time', and as a result is intensely time critical. This means that the window for consultation is very limited and in the absence of a trading halt or suspension, it is not possible to engage in detailed legal argument and protracted negotiation with a listed entity and its advisers.

## **Background**

6. Listing rule 3.1 is a particularly important listing rule and is regarded as central to the orderly conduct and integrity of the ASX market. It is the cornerstone of ASX's continuous disclosure framework and is based on the following principle.

*Timely disclosure must be made of information which may affect +security values or influence investment decisions, and information in which +security holders, investors and ASX have a legitimate interest* (refer Introduction to the listing manual).

7. The rule is given legislative support by section 674 of the Corporations Act which imposes statutory liability for its breach in certain circumstances. Liability is extended under section 674(2A) to a person who is involved in a listed entity's breach (subject to a due diligence defence under section 674(2B)). ASIC and ASX are parties to a Memorandum of Understanding under which ASX takes primary responsibility for monitoring and enforcing compliance with the disclosure requirements of the Listing Rules. ASIC has primary responsibility for enforcing section 674. Where ASX believes that there has been a serious contravention or a possible contravention of the Listing Rules or the Corporations Act, ASX may refer a matter to ASIC for further investigation. ASIC may pursue a variety of remedies in such cases, including possible civil or criminal action, by referral to the Director of Public Prosecutions.
8. For less serious alleged breaches of the continuous disclosure obligations, ASIC may issue the entity with an infringement notice under section 1317DAC. In determining whether to issue an infringement notice to an entity for an alleged breach of section 674(2), ASIC must have regard to these and any other guidelines issued by ASX that relate to an entity's continuous disclosure obligations, so that an entity's compliance with this Guidance Note will be relevant to any decision by ASIC whether or not to issue an infringement notice. The entity may satisfy the infringement notice within the compliance period by paying the specified penalty and disclosing to the market or lodging a document with ASIC about any specific information referred to in the notice. There is no obligation on an entity to comply with an infringement notice, but if the notice is not withdrawn by ASIC following representations from the entity, then ASIC may pursue remedies including possible civil action in respect of the alleged breach. ASIC released a guide in May 2004 titled "*Continuous disclosure obligations: infringement notices*" which can be obtained from the ASIC website at [www.asic.gov.au](http://www.asic.gov.au).
9. The rule applies to all listed entities except ASX Foreign Exempt entities. ASX Debt Listings must comply in relation to their debt securities. Entities should ensure that they are familiar with the rule and make their own judgements when considering how to comply with it. In the administration of listing rule 3.1 and related rules ASX will give weight to judgements that are logically and honestly made.
10. Disclosure is made to ASX by sending the information in a form suitable for release to ASX's Company Announcements Platform (CAP) by fax or electronic means. From 1 July 2003, it was mandatory for entities to give information to ASX by electronic means. The information is released to the market through dissemination to a range of data vendors and via ASX's public website [www.asx.com.au](http://www.asx.com.au). The full text of announcements is made available on the ASX website in real time and at no

charge to the user (refer Guidance Note 14 - Company Announcements Platform and Guidance Note 20 - ASX Online).

### **Continuous disclosure – best practice**

11. Listing rule 3.1 expresses broad principles that cannot be defined with absolute clarity. The rule must be complied with in the ‘spirit’ of continuous disclosure. Listing rule 19.2 makes it clear that the Listing Rules should not be interpreted in a restrictive or legalistic fashion. Listing rule 19.2 states:

*An entity must comply with the listing rules as interpreted:*

- *in accordance with their spirit, intention and purpose;*
  - *by looking beyond form to substance; and*
  - *in a way that best promotes the principles on which the listing rules are based.*
12. The integrity of the market is enhanced if continuous disclosure is carried out in the ‘spirit’ of the listing rule. The principles on which the Listing Rules are based encompass the interests of listed entities, maintenance of investor protection and the need to protect the reputation of the market. By virtue of being publicly listed on the ASX market and having access to the capital that the market provides, an entity has a duty not just to its shareholders, but to investors and the market generally. An entity must give equal weight to all three elements when complying with its obligations under listing rule 3.1. The interests of a listed entity should not take precedence over the interests of the market, and more specifically the interests of a fully informed market.
13. ASX acknowledges that it is important to strike an appropriate balance between encouraging timely disclosure of material information and preventing premature disclosure of incomplete or indefinite matters. Premature disclosure may result in a false market and in some cases unduly prejudice an entity’s commercial interests. The purpose of the rule is to elicit disclosure of the highest quality which is of benefit to the market.
14. It is important to emphasise the primacy of listing rule 3.1. The continuous disclosure obligation can only be properly discharged by the listed entity, which is in the best position to assess the elements of that rule in the context of its obligations to the market and the information that is known to the entity.

### **Listing Rules 3.1, 3.1A & 3.1B**

15. Listing rules 3.1, 3.1A and 3.1B state:

*3.1 Once an entity is or becomes <sup>+</sup>aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity’s <sup>+</sup>securities, the entity must immediately tell ASX that information.*

*3.1A Listing rule 3.1 does not apply to particular information while all of the following are satisfied.*

3.1A.1 *A reasonable person would not expect the information to be disclosed.*

3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential.*

3.1A.3 *One or more of the following applies.*

- *It would be a breach of a law to disclose the information.*
- *The information concerns an incomplete proposal or negotiation.*
- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure.*
- *The information is generated for the internal management purposes of the entity.*
- *The information is a trade secret.*

3.1B *If ASX considers that there is or is likely to be a false market in an entity's securities, and asks the entity to give it information to correct or prevent a false market, the entity must give ASX the information needed to correct or prevent the false market.*

#### **Definition of 'aware'**

16. 'Aware' is defined in listing rule 19.12 which states:

*An entity becomes aware of information if a director or executive officer (in the case of a trust, a director or executive officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as a director or executive officer of that entity.*

17. The definition is based on section 1042G of the Corporations Act. However, it is narrower in that the test is limited to directors and executive officers and does not extend to employees generally. An executive officer is a person concerned in, or taking part in, the management of the entity. Compliance with listing rule 3.1 is the responsibility of the entity.

18. Once a director or executive officer becomes aware of information, he or she must immediately consider whether that information should be given to ASX. An entity cannot delay giving information to ASX pending formal sign-off or adoption by the board, for example.

19. Because of the way the Listing Rules treat an entity as becoming aware of information, the entity should consider appropriate systems to identify material information and decide about disclosure of that information, refer ASIC *Better disclosure to investors* guidance principles.

### **Obligation to disclose**

20. The language of the obligation to disclose under listing rule 3.1 is similar to the language used in section 674 of the Corporations Act. An entity must disclose information if a reasonable person would expect that information to have a material effect on the price or value of the securities. A reasonable person is taken to expect information to have a material effect on the price or value of securities if it would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell the securities, refer section 677.

21. In *Flavel v Roget*, O'Loughlin J said:

*Much will depend upon the identity of the particular company; what one company should advise the Stock Exchange might not have to be advised by a second company; what should be advised by a company at one stage in its career might not have to be advised at another stage of its career because of changed circumstances.* (1990) 1 ACSR 595, 602-3.

### **Disclosure must be made to ASX first – Rule 15.7**

22. An entity must not disclose information that is for release to the market to anyone until it has given the information to ASX, and has received an acknowledgement from ASX that the information has been released to the market, refer listing rule 15.7 and Guidance Note 14 – Company Announcements Platform. This includes the release of information to the media, even on an embargoed basis. ASX does not recognise embargoes. Releasing information to any other party that has not been first provided to ASX will amount to a breach of listing rules 3.1 and 15.7.

23. Rule 15.7 is designed to ensure the efficiency and integrity of the process of release of market information by making the Company Announcements Platform the central collection point for market sensitive information. Risk of insider trading activity and unequal access to information is therefore significantly reduced, as ASX acts as the initial conduit through which information is widely disseminated.

24. Listing rule 15.7 provides for entities with a foreign listing to comply with the rule by releasing information in that market and simultaneously send information to ASX when the Company Announcements Office is closed. However ASX recognises that many listed entities have significant business operations in other jurisdictions that are not listed in those jurisdictions. This sometimes presents difficult timing issues in relation to release of information that are not always assisted by a strict interpretation of listing rule 15.7. In such cases, ASX will assist the entity to manage information release using processes which do not undermine the policy basis of the rule.

25. If the entity becomes aware that material information has become generally available or is available to a sector of the market, and that information has not been given to ASX, the entity should immediately give the information to ASX in a form suitable for release to the market. *The fact that information is generally or selectively available is not an excuse for failing to disclose it under listing rule 3.1.*

### **Information relevant to entity**

26. Listing rule 3.1 is not limited to information from a particular source. Sometimes information from other sources (e.g. a joint venture partner or an unlisted entity in which the entity has an interest, a decision by a government body) may impact on an entity. If that information is likely to have a material impact, the entity must disclose that information immediately it becomes aware of it.
27. An entity is not required to disclose exogenous general information, such as the gold price in the case of a gold mining entity. However, if the information has a particular effect on the entity (e.g. a lower gold price means that a gold mining entity can no longer economically operate a mine) that effect may be required to be disclosed.

### **Exception to Listing Rule 3.1**

#### **General**

28. Listing rule 3.1A sets out an exception from the requirement to make immediate disclosure. The intention of the exception is to protect the legitimate commercial interests of listed entities in those circumstances where market integrity is not adversely affected. The exception operates by providing that where all elements are satisfied, the primary obligation in listing rule 3.1 does not apply to the particular information. In this way, it allows an entity to delay disclosure of that information. To rely on the exception, an entity must satisfy *all* of the three requirements set out in listing rules 3.1A.1, 3.1A.2 and 3.1A.3. The exception only operates while all of the three requirements are satisfied. If one or more of the requirements ceases to be satisfied, the exception no longer applies and the entity must disclose the information immediately.
29. There may be circumstances where the three requirements of rule 3.1A appear to be satisfied, but ASX considers there is or is likely to be a false market in the entity's securities under rule 3.1B. If ASX does consider that to be the case, it will tell the entity immediately. Depending on the particular circumstances, ASX will ask the entity to disclose the information or part of it, or to make a clarifying statement to the market, refer paragraph 47.
30. The exception recognises that premature announcements may jeopardise the legitimate commercial interests of a company and its shareholders. However, the exception only operates for as long as the integrity of the market is not undermined by circumstances such as the inadvertent or selective release of information. This may result for example, in the market trading on an uninformed basis.

#### **Listing Rule 3.1A.1 – the reasonable person**

31. The first requirement of the exception is that a reasonable person would not expect the information to be disclosed. A reasonable person would not expect information to be disclosed if the result would be unreasonably prejudicial to the entity.

32. If listing rules 3.1A.2 and 3.1A.3 are satisfied but a reasonable person would expect the information to be disclosed (for example, where there is a material variation in financial results from the previous corresponding period or previous announcements), the exception is not available and the entity must disclose the information.
33. ASX will balance the needs of the market and the interests of the entity, bearing in mind the principle on which the listing rule is based, when considering if this requirement is satisfied. The use of the word 'reasonable' indicates an objective test. However, as market practices and expectations evolve what is considered reasonable will also change.

**Listing Rule 3.1A.2 - confidential**

34. The second requirement of the exception is that the information is confidential, and ASX has not formed the view that confidentiality is lost. It would be usual practice for ASX to consult with the entity about any disclosure concerns relating to confidentiality. If ASX forms that view that confidentiality has been lost, it will tell the entity immediately. 'Confidential' in this context has the sense of 'secret'. It means that the information is in the possession of only those who will not trade in the entity's securities and there is control over the use of the information. If it is clear that the information is no longer confidential or ASX has formed that view, listing rule 3.1A.2 is no longer satisfied and the exception no longer applies. This is the case even if the entity has entered into confidentiality arrangements and/or the information has come from a source other than the entity.
35. Loss of confidentiality may be indicated by otherwise unexplained changes to the price of the entity's securities, or by reference to the information in the media or analysts' reports. ASX will take all the circumstances of each case into consideration in deciding whether it considers that confidentiality has been lost. It would be more likely to consider that confidentiality has been lost where references to the entity or its proposals are significant and credible and the details are reasonably specific.
36. ASX will also take into account the extent to which confidentiality has been lost. If a proposed transaction is revealed, ASX may ask the entity only to confirm to the market that negotiations are taking place, and not require disclosure of details of the transaction which remain confidential.
37. ASX accepts that confidentiality is not lost simply because information is given to an entity's advisers, a person with whom the entity is negotiating, or regulatory authorities, if it is to be given on a basis that restricts its use to the stated purpose. However, any release of the information from any source, however inadvertent, will mean that listing rule 3.1A.2 is no longer satisfied.
38. Entities should ensure that employees having access to information that is not public are made aware of its confidential status, and the importance of maintaining that status.



39. It is important to note that there may be instances where even though confidentiality has not been lost, the surrounding circumstances are such that, in the absence of a response by the entity, there would be a false market in the entity's securities. In those circumstances, ASX would require the entity to respond but only to the extent needed to correct or prevent the false market, refer paragraph 47.
40. There may be circumstances where confidentiality has been lost in which the entity is not able to make immediate disclosure. In those cases, the entity can apply for a trading halt until disclosure can be made. ASX encourages entities to consider this option, refer paragraphs 52 to 54.

**Listing Rule 3.1A.3 – certain categories**

41. The third requirement of the exception is that the information is of the type in one of the following categories. If it is not, or if it loses that character, then the requirement is not satisfied.
- It would be a breach of a law to disclose the information.
  - The information concerns an incomplete proposal or negotiation.
  - The information comprises matters of supposition or is insufficiently definite to warrant disclosure.
  - The information is generated for the internal management purposes of the entity.
  - The information is a trade secret.

**False Market – listing rule 3.1B**

42. Listing rule 3.1B states that if ASX considers that there is or is likely to be a false market in an entity's securities, the entity must give ASX the information that it asks for to correct or prevent the false market. It would be ASX's usual practice to consult with the entity about any concern that a false market may exist before taking any action under the rule.
43. If ASX forms the view that there is a false market, it will tell the entity immediately. An entity must disclose information needed to correct or prevent a false market because it would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell the securities.
44. A false market could arise in a number of circumstances. An entity may have information that it has not yet disclosed because the exception under rule 3.1A applies. Comment about the information or part of it might then be made through the media or other sources. However, when the comment is inaccurate or only partly accurate, even though confidentiality has not been lost, the inaccurate or partly accurate comment might result in a false market in the entity's securities. In such an instance the entity will be required to clarify the position.

45. A false market may also arise where the entity does not have disclosable information, and comment is made about the entity that is completely inaccurate, and the entity does not clarify the position. In such a case, ASX will ask the entity to do so.
46. ASX will take all the circumstances of each case into consideration in deciding whether there is or is likely to be a false market in the entity's securities. In many instances ASX may not be in a position to consider if a false market exists until it has had the opportunity to discuss the issue with the entity and gain a full understanding of the background of the matter at hand. It would be more likely to consider that a false market exists where comment about the entity or its proposals is significant and credible and the details are reasonably specific or the market moves in a way that appears to be referable to such comment.
47. The extent of the information ASX asks for under rule 3.1B will also depend on the circumstances in each case. The disclosure that will be required by ASX to correct or prevent a false market is information that is appropriate in the particular circumstances. ASX may ask the entity only to confirm to the market that the comment is accurate, or advise the market that it is inaccurate, refer Example C.

#### **Listing rules 18.7 & 18.7A**

48. Listing rule 3.1 is supported by listing rules 18.7 and 18.7A. Listing rule 18.7 states that an entity must give ASX any information, document or explanation that ASX asks for to enable it to be satisfied that the entity is, and has been, complying with the Listing Rules. Listing Rule 18.7A provides that correspondence between ASX and an entity may be released to the market. An exchange of correspondence will be released by ASX where ASX has reserved the right to do so and considers it is necessary for an informed market.

#### **Form and content generally**

49. Information to be disclosed should be in a form that is suitable for release to the market. The information contained in a market release or announcement should be factual and relevant and expressed in an objective and clear manner. The use of emotive or intemperate language should be avoided. CAP should not be used for promotional purposes or as a forum for subjective debates (e.g. with journalists where an entity takes issue with opinions expressed in the media, or between the target and offeror in a hostile takeover). Announcements must be balanced and truthful.
50. The use of imprecise and confusing language such as "double digit" or "single digit" growth should be avoided as it does not allow investors to assess and value the information for the purpose of making an investment decision.
51. Announcements can only be given to ASX for release to the market by the listed entity. Announcements which purport to be material information for the purposes of listing rule 3.1 cannot be given to ASX by individual directors, shareholders or other third parties.

**Preliminary announcements, trading halts and suspension**

52. Although an entity relying on the exception may delay giving detailed disclosure, it may be possible for it to provide some information, provided that information does not mislead the market (e.g. the fact that negotiations are taking place may be able to be disclosed, if not the details of the negotiation).
53. If an entity is not able to make a preliminary announcement, or is concerned that such an announcement is not sufficient to properly inform the market, the entity can ask ASX for a trading halt for up to two trading days, refer ASX Guidance Note 16 - Trading Halts. Similarly, an entity may consider asking ASX to suspend trading in its securities. ASX expects and encourages entities to consider these possibilities.
54. Entities should view the trading halt mechanism as a tool of good disclosure policy, to be used in the interests of a fully informed, fair and transparent market. A trading halt can also be an appropriate way of managing an unexplained price and/or volume change until an announcement can be made. Trading halts have been specifically designed to protect listed entities from premature disclosure in cases where a more detailed announcement is imminent.

**Market speculation**

55. ASX does not expect an entity to respond to all comments made in the media, or all market speculation. However when the market moves in a way that appears to be referable to the comment or speculation, and the entity has not already made a statement in response, ASX would be likely to ask the entity for information or clarification to ensure that the market remains properly informed, or correct or prevent a false market in the entity's securities, refer paragraph 47. Similar principles may apply in relation to speculation posted on forums such as internet bulletin boards or 'chat room' sites.
56. Generally, in determining whether an announcement is required, ASX will examine the context in which the media comment or speculation occurs, the details and materiality of the information and the likely reaction of the market or the entity's share price to the information. ASX will also take into account previous relevant announcements by the entity and previous relevant media commentary. Where the media comment expresses the view or supposition of analysts or market commentators about a likely strategy or transaction and there is no apparent movement in the share price or volume, it is not likely that ASX will form the view that an announcement is required. Where the media comment appears to be reporting in specific detail a material change in strategy or that a material transaction is to occur, the source of the comment appears referable to those involved, and there is an apparent or likely movement in the share price or volume, ASX is likely to take the view that an announcement would be required.
57. ASX does not generally require the disclosure of trade secrets, internal management documents or incomplete negotiations that an entity is entitled not to disclose. But it is ASX policy that, whatever the information, and however much it might otherwise have been reasonable not to disclose it, the information should be released to the whole market once it becomes known to any part of the market. In

any event, the exception from listing rule 3.1 no longer applies, as the information is no longer confidential.

58. Entities are encouraged to develop procedures for responding to rumours and speculation in the media and other forums, refer ASIC *Better disclosure to investors* guidance principles and ASX Commentary.

### **Analysts' reports**

59. Analysts can play an important role in providing information to the market. However an entity must ensure that only public information is given when answering an analyst's questions or reviewing an analyst's draft report. It is inappropriate for a question to be answered, or draft report corrected, if doing so involves providing material information that is not public. One consequence is that the exception from disclosure ceases to operate, as the information is no longer confidential. When analysts visit the entity care should be taken to ensure that they do not obtain material information that is not public, refer ASIC *Better disclosure to investors* guidance principles.
60. In some circumstances, for example where an entity's business is complex and/or comprised of many different divisions, it is possible that analysts may draw on out of date data, or misread or misinterpret historical information. In such cases it is appropriate for an entity to clarify historical information and correct any factual errors in analysts' assumptions which are significant to the extent that they may mislead the market, provided any clarification is confined to drawing the analyst's attention to information that has already been made available to the market.
61. The continuous disclosure framework is founded on the principle that all investors have equal and timely access to material information which is relevant to the taking of investment decisions. Accordingly, no investor, analyst or journalist should receive a selective release of material information.
62. As a matter of best practice, ASX encourages broad dissemination of information to investors to complement official release of that information to the market. In this context it is not appropriate for entities to 'blacklist' or exclude analysts with the purpose of minimising or eliminating reasonable opportunities for qualified analysts to ask relevant questions of the entity in relation to publicly available information. Similarly, it is inappropriate for entities to extend more favourable treatment and access to a select group of analysts.

### **Dual Listing – overseas exchanges**

63. Entities also listed on one or more overseas exchanges should note that, generally, information must be given to ASX no later than the time that it is given to the overseas market. However, it may be given to another exchange first if ASX is closed and that other exchange's listing rules require its disclosure immediately. In that case, the information must be given to ASX with advice that it has been released, refer listing rule 15.7. Additional information that might be necessary (e.g. exchange rates) should be included with the original release.

64. In certain circumstances an entity may be planning to make a significant announcement where timing and geographical issues are critical to the orderly release of the information. ASX encourages entities to liaise with ASX at the earliest opportunity in order to put appropriate procedures in place in such cases.
65. Listing rule 3.1 requires an entity to give ASX any material information which it gives to an overseas stock exchange. This is likely to include any financial documents that an entity lodges with an overseas exchange or other regulator which is available to the public, for example a quarterly report including profit and loss figures, which would contain material information. The information given to ASX must be in English.

### **Relationship between continuous disclosure & “structured” disclosure**

66. “Structured” disclosure by listed entities is required in a number of circumstances. This type of disclosure falls into a number of categories, for example:
- The Listing Rules require regular periodic financial reports.
  - The Corporations Act requires certain Australian entities to prepare half-yearly and annual reports and accounts.
  - Entities may also issue prospectuses, offer information statements, target’s statements and bidder’s statements.
67. In the course of preparing these forms of disclosure, entities may become aware of material information previously unknown to them, or information which was previously insufficiently definite to warrant disclosure may become more precise. Entities should be mindful that material information which requires disclosure under listing rule 3.1 may emerge during the preparation of structured disclosure, and that an entity cannot defer releasing this information until the structured disclosure document is finalised.
68. While release of a structured disclosure document which contains the material information may satisfy the requirement to disclose the information in the strictest sense, it is clearly within the spirit of the Listing Rules for an entity to make specific disclosure immediately the entity becomes aware of the information in a separate announcement, in order to bring it to the attention of the market.
69. Separate disclosure of the information *will be required* if the structured disclosure document is not ready for release when disclosure of the information must be made under listing rule 3.1.

### **Periodic disclosure – financial reports – quarterly, half year, preliminary final and change of balance date reports**

70. Where structured disclosure is of financial information, for example the quarterly, half year or preliminary final reports required by the Listing Rules, information that emerges in the preparation of a report may be relevant to the achievement of projections or indications of profit or revenue, or of business plans previously released to the market.

71. Entities must bear in mind that any periodic disclosure obligations run parallel with and are in addition to the continuous disclosure obligation under listing rule 3.1. *Compliance with periodic disclosure requirements does not extinguish an entity's obligation under listing rule 3.1.* Similarly, compliance with continuous disclosure does not of itself entail a requirement to provide forecasts or report on a quarterly basis. Entities should consider whether they have adequately addressed any consequential effects financial information may have on profits or business plans, and whether this is information that should be disclosed under listing rule 3.1. If it is, it must be disclosed immediately, refer Example B.
72. Where periodic disclosure is in the form of Appendices 4B (which will not apply to periods ending on or after 30 June 2003), 4C or 5B, which make limited provision for accompanying narration, entities are encouraged to provide additional information in narrative form to assist the market to more fully understand the report. Although such information is not strictly required, it is an aspect of good disclosure practice to provide information which places the report in context and makes it more readily understandable to the market. Entities should note that Appendices 4D, 4E and 4F, which apply to periods ending on or after 30 June 2003, expressly require a brief explanation of the financial figures in the reports and Appendix 4E also requires a commentary on the results.
73. Entities should also be aware of listing rules 4.3D and 4.5A, which require an entity to tell ASX immediately of circumstances materially affecting information contained in a preliminary final report and in any event no later than when it gives ASX its statutory full year accounts. These listing rules emphasise the primacy of continuous disclosure over periodic disclosure. If information is material, it must be disclosed immediately and cannot be withheld until a specified reporting date.

#### **Disclosure about oil and gas exploration**

74. If test results or progress in drilling programs are information that a reasonable person would expect to have a material effect on the price or value of the securities of the entity concerned, listing rule 3.1 requires that it be disclosed. It is unlikely that all the prerequisites to the exception to listing rule 3.1 would be met in relation to oil and gas exploration results, especially those in listing rule 3.1A.3, refer paragraph 41.
75. ASX expects entities to adopt a regime of structured disclosure at regular intervals for each drilling program following disclosure of information about progress in that program under listing rule 3.1. Entities should apply that regime consistently. Historically, reporting on a weekly basis has been required. This may continue to be appropriate, but the interval an entity adopts should be one that means, in the circumstances of the entity, useful information is provided on a regular basis.
76. Information that is likely to be relevant in regular structured disclosure includes each of the following.
- The name of the well.
  - The permit in which the well is located.
  - The well's position in the permit with respect to previous wells, known oil or gas fields, or towns.

- The depth of the well.
- Progress since the last disclosure.
- Details of any indications of hydrocarbons and fluids observed while drilling.
- The entity's beneficial percentage interest in the well.
- The time to which progress is reported.

### ***Better disclosure to investors* - ASIC Guidance Principles**

77. In August 2000 ASIC and ASX joined forces to provide listed entities with principles designed to improve their disclosure of material information. The principles were released by ASIC under the name "*Better disclosure for investors*" and are reproduced here with the permission of ASIC. They suggest practical steps to achieve the following objectives.

- Management of disclosure obligations under listing rule 3.1, and minimisation of the risk of breaching the Corporations Act.
- Ensuring that the widest audience of investors have access to information given to ASX for market release.

78. The *Better disclosure for investors* guidance principles (the guidance principles) are not mandatory. They are intended to provide assistance to entities seeking to establish practices and procedures to ensure compliance with listing rules 3.1 and 15.7. The preamble to the guidance principles states:

*These guidance principles suggest practical steps that a listed company can take to ensure that it meets both the letter and the spirit of the continuous disclosure requirements in the Corporations Act and the stock exchange listing rules. The principles are intended to assist company directors and executives to manage their disclosure obligations and minimise the risk of breaching the law. The principles also aim to ensure that the widest audience of investors have access to company information released under the continuous disclosure rules. The objective of these principles is to outline what ASIC considers to be good disclosure practice, not to impose regulatory requirements.*

*ASIC encourages companies to adopt the measures suggested below, but they should be implemented flexibly and sensibly to fit the situation of individual companies. Each listed company needs to exercise its own judgement and develop a disclosure regime that meets legal requirements and its own needs and circumstances.*

79. Listing rules 3.1 and 15.7 require only that an entity give ASX information for release to the market. They do not impose a requirement for the entity to take any further steps to achieve wider dissemination of the information to investors. However, it is clearly within the spirit of the Listing Rules for an entity to provide investors with timely and direct access to information given to ASX. ASIC and ASX encourage entities to adopt practices which will result in wider dissemination of information once it has been given to ASX in accordance with listing rules 3.1 and 15.7. The guidance principles are also intended to provide assistance to entities in relation to this aspect of good disclosure practice.

80. The ASIC guidance principles are set out below in boxed italics, with ASX commentary in plain text following each guidance principle. The guidance principles can also be obtained from the ASIC website at [www.asic.gov.au](http://www.asic.gov.au).

*Preventing selective disclosure*

*Establishing policies and procedures for better disclosure*

1. *Establish written policies and procedures on information disclosure. Focus on continuous disclosure and improving access to information for all investors.*

**ASX Commentary**

81. Having written policies and procedures provides a good framework for compliance with disclosure obligations under the Listing Rules. However, it is important that policies and procedures are applied and followed, and not just used as “window-dressing”. An entity must look to the substance of the obligation, not the form.

*Using current technology*

2. *Use current technology to give investors better access to your information. In particular, post price sensitive information on your company’s website as soon as it is disclosed to the market.*

**ASX Commentary**

82. ASX recommends that as minimum best practice listed entities place all relevant announcements and other information, including analysts’ briefings, on an entity’s website, or retain a third party to do so. The information should be placed on the website only after the entity has given the information to ASX and received the usual acknowledgement that the announcement has been released, refer ASIC guidance principle 6.
83. Entities may also wish to consider other methods of disseminating information to the market as not all investors have access to every form of media. Alternatives include faxstream and email to media outlets, e.g. news-wire services; press releases; media conferences; video or teleconferences; and mail-outs to securityholders. The key element is equity of access to information, which is best achieved by dissemination across the widest practicable range.



*Developing disclosure procedures*

*Overseeing and co-ordinating disclosure*

3. *Nominate a senior officer to have responsibility for:*
- *making sure that your company complies with continuous disclosure requirements;*
  - *overseeing and co-ordinating disclosure of information to the stock exchange, analysts, brokers, shareholders, the media and the public; and*
  - *educating directors and staff on the company's disclosure policies and procedures and raising awareness of the principles underlying continuous disclosure.*

*In smaller companies, this person is likely to be the company secretary.*

**ASX Commentary**

84. Listing rules 1.1 condition 12 and 12.6 require that an entity will appoint an officer with the appropriate degree of seniority and authority to be responsible for communications with ASX in relation to its obligations under the Listing Rules, including its obligations under rule 3.1. More than one person may be nominated for the purpose of the rule, but ASX expects that at least one person will be available to ASX at any given time.
85. In many cases the appropriate person to manage disclosure matters will be the company secretary, however this is a matter for the listed entity, taking into account the structure of that entity. For example, where an entity outsources its company secretarial functions, it may be that the appropriate person is someone more closely involved in the entity's operations.

*Authorising company spokespersons*

4. *Keep to a minimum the number of directors and staff authorised to speak on your company's behalf. Make sure that these persons know they can clarify information that the company has released publicly through the stock exchange, but they should avoid commenting on price sensitive matters. The senior officer responsible for disclosure should outline the company's disclosure history to these persons before they brief anyone outside the company. This will safeguard against inadvertent disclosure of price sensitive information.*

### **ASX Commentary**

86. Control of price sensitive information within an organisation is an important part of managing an entity's obligations under rule 3.1. If information becomes known to the market, the element of confidentiality is no longer satisfied, and the exception from rule 3.1 no longer applies, refer paragraphs 34 to 40.

#### *Monitoring disclosures*

5. *The senior officer responsible for disclosure should be aware of information disclosures in advance, including information to be presented at private briefings. This will minimise the risk of breaching the continuous disclosure requirements.*

### **ASX Commentary**

87. The relevant officer should either be involved with the day to day management of the entity and have a high degree of familiarity across the breadth of its operations, or have ready access to senior management who have responsibility for day to day management of the entity. This will assist to ensure that the officer is kept informed of any planned disclosures, including activities such as analysts' briefings and press conferences.

#### *Releasing company information*

6. *Price sensitive information must be publicly released through the stock exchange before disclosing it to analysts or others outside the company. Further dissemination to investors is desirable following release through the stock exchange. Posting information on your company's website immediately after the stock exchange confirms an announcement has been made is one method of making it accessible to the widest audience. Investor information should be posted in a separate area of your website from promotional material about the company or its products.*

### **ASX Commentary**

88. Release of information to ASX should be viewed as the first step in the dissemination of information to all sectors of the market. In practice, some investors will receive and respond to information more quickly than others. It is essential that information be distributed as widely as possible.

7. *Develop procedures for responding to market rumours, leaks and inadvertent disclosures. Even if leaked or inadvertently disclosed information is not price sensitive, give investors equal access by posting it on the company website.*

**ASX Commentary**

89. Where information is no longer confidential, the exception to listing rule 3.1 no longer applies and an entity should consider whether the information should be disseminated to the market more generally. If the information is material, the entity should then take steps to release the information to ASX as soon as possible. If there is market rumour or speculation, ASX may contact the entity to require it to respond to that speculation, in order to ensure that the market is trading on a fully informed basis, refer paragraphs 42 to 47.

*Briefing analysts*

*Reviewing discussions*

8. *Have a procedure for reviewing briefings and discussions with analysts afterward to check whether any price sensitive information has been inadvertently disclosed. If so, give investors access to it by announcing it immediately through the stock exchange, then posting it on the company website. Slides and presentations used in briefings should be given to the stock exchange for immediate release to the market and posted on the company website.*

**ASX Commentary**

90. If material information that is not public is disclosed selectively, it must be released to the market at large immediately. This is because the entity no longer has control of that information. An entity may be queried by ASX in such circumstances, as an unexplained price or volume change may indicate that a sector of the market is in possession of price sensitive information.
91. It is not appropriate for an entity to release analysts' reports over CAP, as this may imply endorsement of the report or raise the question of selective disclosure.

9. *Be particularly careful when dealing with analysts' questions that raise issues outside the intended scope of discussion. Some useful ground rules are:*
- *only discuss information that has been publicly released through the stock exchange;*
  - *if a question can only be answered by disclosing price sensitive information, decline to answer or take it on notice. Then announce the information through the stock exchange before responding.*

#### **ASX Commentary**

92. A listed entity may be able to answer an analyst's question in general terms while not giving detailed disclosure, and so continue to meet the requirements of the exception. For example, the fact of a bid in a tendering process may be publicly known and therefore confirmed, but not the details of the bid or the tender process. However, the entity must have released that information to ASX before disclosing it to any other party.

#### *Responding on financial projections and reports*

10. *Confine your comments on market analysts' financial projections to errors in factual information and underlying assumptions. Seek to avoid any response which may suggest that the company's, or the market's current projections are incorrect. The way to manage earnings expectations is by using the continuous disclosure regime to establish a range within which earnings are likely to fall. Publicly announce any change in expectations before commenting to anyone outside the company.*

#### **ASX Commentary**

93. Listing rule 3.1 provides examples of information that, if material, would require disclosure. One of those examples is a change in the entity's previously released financial forecast or expectation. As a general policy, a variation in excess of 10% to 15% may be considered material, and should be announced by the entity as soon as the entity becomes aware of the variation. If the entity has not made a forecast, a similar variation from the previous corresponding period will need to be disclosed. In certain circumstances a smaller variation will be disclosable.

94. Similarly, a larger variation may not necessarily be disclosable provided it is not material. In making such disclosure, the entity must provide some details, however qualified, of the extent of the variation. For example a statement by an entity may indicate that, based on internal management accounts, its expected net profit or EBIT will be an approximate amount (e.g. approximately \$6m) or alternatively within a stated range (e.g. between \$5m and \$7m). Alternatively the entity may indicate an approximate percentage movement (e.g. “up [or down] by 25%”). ASX accepts that this information may not be precise and may be changed or amended on completion of the final accounts. ASX discourages entities from using terms such as “single digit” and “double digit” when disclosing financial forecasts or profit variations as they are considered to be insufficiently precise and potentially misleading to investors in assessing the impact of information and making investment decisions.
95. In some cases, it may be appropriate for a listed entity to disclose material variations from analysts’ consensus forecasts and expectations. This may occur where previous results do not provide the most relevant reference point or the market is moving in such a way as to indicate that there is a false market in an entity’s securities. Officers of listed entities should refrain from publicly commenting they are “happy” or “comfortable” with analysts’ consensus forecasts or a range of analysts’ forecasts. If an entity makes comments of this nature, ASX will be likely to ask the entity to immediately release to the Company Announcements Office an expected profit of an approximate amount or an amount within a stated range.

## ATTACHMENT

### ASX Working Examples Operation of Listing Rule 3.1

*The following examples illustrate general principles only and should not be regarded as having any effect on the operation of the rule. Commentary is confined to a listed entity's obligations under the Listing Rules. For simplicity, X Ltd is a listed entity and the transactions referred to in each example should be regarded as having a material effect on the price or value of the entity's securities. The effect may be material in either a quantitative or strategic sense.*

#### Example A

X Ltd is giving consideration to acquiring a business that will complement its existing operations.

1. X Ltd has identified 3 businesses, A, B and C, that may be suitable. It has made contact with A and B but discussions with both are at a very preliminary stage.

Disclosure would not usually be required.

2. X Ltd has entered into negotiations with B. Due diligence is under way. A number of alternative ways in which the acquisition might proceed are being explored but X Ltd has made no firm decision whether or not to proceed. A respected and widely read business column, "Close Call", contains speculation that X Ltd and B have been in discussions and are about to merge and that this will have a positive impact on the financial results of X Ltd.

Disclosure of the fact negotiations are taking place would be required. While the proposal is clearly one that is incomplete, it is apparent that the negotiations have not remained confidential and X Ltd would be expected to confirm to the market that it is in discussions with B, but that no decision has been made whether or not to proceed.

3. X Ltd and B are close to reaching agreement, but have yet to resolve one outstanding aspect of the transaction. It is expected that this could take up to 24 hours. The following day, The Financial News publishes an article stating that X Ltd is about to make a significant acquisition and comments on the effect of the proposal.

Disclosure would be required. While the proposal is still one that is incomplete, it is clear that the negotiations have not remained confidential. In the circumstances that entry into the agreement is imminent, it would be appropriate for X Ltd to apply for a trading halt, pending the release of an announcement.

4. The negotiations between X Ltd and B reach a stalemate and the parties determine that the proposed acquisition will not proceed. Discussions have been terminated. The securities of X Ltd are still in a trading halt.

Disclosure would be required. An announcement of the fact that the negotiations with B have collapsed would be required to lift the trading halt that is currently in place, given the market expectation that agreement was about to be reached.

5. X Ltd has completed negotiations with C to purchase its business. The terms of the agreement between X Ltd and C are finalised and the agreement is executed. At C's insistence the finalised agreement contains confidentiality provisions under which the terms of the acquisition cannot be disclosed.

Disclosure of the main terms of the finalised agreement would be required. The confidentiality provisions of the agreement do not override the disclosure obligation of X Ltd. In this instance disclosure of the following would be required.

- Details about C's business, including the type of business, length of operation, financial history, numbers of staff and details of directors or owners.
- The total consideration paid.
- Whether the consideration is to be cash or securities of X Ltd, or funded by debt.
- If the consideration is funded or partly funded by the issue of shares, the number of shares to be issued and the price at which they are issued.
- The expected impact on revenues and profit.

X Ltd must immediately disclose the main terms of any agreement that it has entered into that is material under listing rule 3.1.

## **Example B**

1. On reviewing management accounts part way through a half year period, X Ltd becomes aware that actual revenues and profits for the period will vary from one or more of the following to a material extent.
  - The financial results for the previous corresponding period
  - Forecast projections contained in any prospectus
  - Projections and indications previously provided to the market in relation to the half-year period

Disclosure would be required. In making such disclosure, the entity must provide some details, however qualified, of the extent of the variation. For example a statement by an entity may indicate that based on internal management accounts, its expected net profit or EBIT will be an approximate amount (e.g. approximately \$10m) or alternatively within a stated range (e.g. between \$9m to \$11m). Alternatively, the entity may indicate an approximate percentage movement (e.g. “up [or down] by 25% on the previous corresponding period”). ASX accepts that this information may not be precise and may be changed or amended on completion of the final accounts.

ASX does not require entities to make forecasts. The disclosure required would be limited to information known to the company - for example, close to or following the end of the reporting period.

2. On reviewing management accounts part way through a half year period, X Ltd becomes aware that it will incur a large trading loss for the half year. Due to projected revenues from contracts expected to be completed in the second half year, X Ltd still expects to achieve full year results broadly in line with that of the previous full year.

Disclosure would be required. As the half year result differs materially from the previous corresponding period, the market would not be expecting that result and must be immediately informed. X Ltd should confirm to the market that despite this result it still expects to achieve full year results broadly in line with that of the previous full year.

3. During the second half of its financial year, and due to unforeseen circumstances, X Ltd becomes aware that settlement of key contracts will be delayed. The revenues expected from these contracts will now be received in the next accounting period. As a result X Ltd will not achieve its expected full year result and the variation is expected to be material.

Disclosure would be required.



**Guidance Note 8**  
**Continuous Disclosure**

4. It is two weeks prior to the due date for lodgement of a preliminary final report. While the trading results for X Ltd are broadly in line with the previous corresponding period, year end adjustments and write downs will result in a significant reduction in the company's result.

**Immediate disclosure would be required. It is not appropriate for X Ltd to delay the release of this information until the time of lodgement of the preliminary final report.**

**Example C**

1. X Ltd now proposes to acquire D Ltd, a listed entity in the same industry. Although the acquisition has been contemplated by the board of X Ltd for some time no formal approach has previously been made. X Ltd and D Ltd have just begun confidential negotiations with a view to X Ltd effecting a "friendly" takeover of D Ltd. Information about the negotiations is strictly limited to the parties and their advisors. Coincidentally a small item appears in the Financial News speculating about rationalisation in the industry, and mentioning both X Ltd and D Ltd among others, as potential targets.

**ASX would normally not require a response. The comment appears to be speculative and based on generally known circumstances about the industry and industry analysis of that information rather than the specific circumstances of X Ltd.**

2. Discussions between X Ltd and D Ltd proceed as before but are significantly advanced. Only one significant issue remains unresolved. After a few days of intense discussions it becomes apparent that neither party will concede and the proposal is abandoned. A day or so later, two of D Ltd's advisers are in a lift discussing the failed proposal. Only part of their conversation is overheard by a senior reporter with the Financial News, and on the following day, that paper features an article about a proposed deal between the parties under the headline "X Ltd to make bid for D Ltd".

**Both entities should confirm to the market that following negotiations there is no intention to proceed with a bid. In the absence of any clarification from the entities, the inaccurate media comment would be likely to create a false market in the securities of both entities, as investors would not know whether the comment is accurate or not.**

3. After a number of months and a change in circumstances relating to the “road-block” issue, the discussions between X Ltd and D Ltd are resumed. After working late one night, two of X Ltd’s advisers go to Lyon’s Bar and over several drinks discuss a number of key details of the negotiations. They are overheard by a freelance analyst and author of a popular securities newsletter available by subscription only. Early the next morning, the analyst prepares a report on X Ltd which includes details of the negotiations and circulates the report to his subscribers by e-mail. Both X Ltd and D Ltd are alerted to the existence of the report by enquiries from shareholders. The price of X Ltd’s securities decreases by 5% and the price of D Ltd’s securities increases by 10% immediately the market opens.

ASX would require both entities to disclose the fact that negotiations are taking place. Such disclosure would be required as the negotiations are no longer secret and their existence has been disseminated to a sector of the market. It is irrelevant who disclosed the details of the negotiations or how dissemination occurred. Details of the terms of the proposed takeover need not be revealed until they are finalised.

It would be appropriate for both entities to request a trading halt pending the release of announcements by the entities.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**COMMUNICATIONS POLICY**

This Policy has been adopted by PharmAust Limited to establish and set out the Company's policy for communicating with shareholders and stakeholders.

**Reports to Shareholders**

The Annual Report is distributed to all Shareholders.

The Board ensures that the Annual Report includes relevant information about the operations of the Company during the year, changes in the state of affairs of the Company and details of future developments, in addition to the other disclosures required by the Corporations Act 2001.

The Half-Yearly Report contains summarised financial information and a review of the operations of the Company during the period. The Half-Yearly Report prepared in accordance with the requirements of Accounting Standards and the Corporations Act 2001 are lodged with the Australian Securities & Investments Commission and the Australian Stock Exchange. The Half-Yearly Report can be accessed by Shareholders via the ASX Company Announcements Platform, the ASIC database or by contacting the Company.

Other Reports including Company Updates are prepared as required and distributed to Shareholders.

**ASX and ASIC Disclosures**

The Company adheres to its Continuous Disclosure Policy to ensure the ASX Company Announcements platform is fully informed of all relevant items.

The Company adheres to all relevant legislative and good governance requirements to ensure its periodic disclosure and ASIC disclosures are timely and accurate.

**Annual General Meetings**

The Board encourages participation of Shareholders at the Annual General Meeting to ensure a high level of accountability and identification with the Company's strategy and goals. In preparing for general meetings of the Company, the Company will draft the notice of meeting and related explanatory information so that they provide all of the information that is relevant to shareholders in making decisions on matters to be voted on by them at the meeting. This information will be presented clearly and concisely so that it is easy to understand and not ambiguous.

The Company will use general meetings as a tool to effectively communicate with shareholders and allow shareholders a reasonable opportunity to ask questions of the Board of Directors and to otherwise participate in the meeting.

The external auditor of the Company will be asked to attend each annual general meeting and to be available to answer shareholder questions about the conduct of the audit and the preparation and content of the auditor's report.

Important issues are presented to the shareholders as single resolutions. The shareholders are also responsible for voting on the appointment of directors.

### **Company Website**

The Company is committed to maintaining a Company website with general information about the Company and its operations and information specifically targeted at keeping the Company's shareholders informed about the Company.

In particular, where appropriate, after confirmation of receipt by the ASX, the following will be posted to the Company website:

- relevant announcements made to the market via the ASX;
- media releases;
- investment updates;
- company presentations and media briefings;
- copies of press releases and announcements for the preceding three years; and
- copies of annual and half yearly reports including financial statements for the preceding three years.

The Company's website is [www.pharmaust.com](http://www.pharmaust.com)

### **Other Information**

While the Company aims to provide sufficient information to shareholders about the Company and its activities, it understands that shareholders may have specific questions and require additional information. To ensure that shareholders can obtain all relevant information to assist them in exercising their rights as shareholders, the Company has made available a telephone number and email addresses of all the Company directors (via the website) for shareholders to make their enquiries.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**RISK MANAGEMENT STRATEGY**

**Identification of Risk**

The Board is responsible for the oversight of the Group's risk management and control framework. Responsibility for control and risk management is delegated to the appropriate level of management within the Company with the Managing Director and Chief Financial Officer having ultimate responsibility to the Board for the risk management and control framework. The primary objectives of the risk management system at the Company are to ensure:

- all major sources of potential opportunity for and harm to the Company (both existing and potential) are identified, analysed and treated appropriately;
- business decisions throughout the Company appropriately balance the risk and reward trade off;
- regulatory compliance and integrity in reporting is achieved; and
- senior management, the Board and investors understand the risk profile of the Company.

In line with these objectives the risk management system covers:

- Operations risk;
- Financial reporting; and
- Compliance / regulations
- system/IT process risk

Arrangements put in place by the Board to monitor risk management include:

- regular reporting to the Board in respect of operations and the financial position of the Company;
- circulate minutes of and relevant Committees to the Board and the Chairman of each respective committee and provide a report to the Board on an annual basis.

**Integrity of Financial Reporting**

Commencing in the year ending 30 June 2006, the Company's Managing Director and Chief Financial Officer (or equivalent) report in writing to the Board that:

- the consolidated financial statements of the Company and its controlled entities for each half and full year present a true and fair view, in all material aspects, of the Company's financial condition and operational results and are in accordance with accounting standards;
- the above statement is founded on a sound system of risk management and internal compliance and control which implements the policies adopted by the Board; and
- the Company's risk management and internal compliance and control framework is operating efficiently and effectively in all material respects.

### **Role of Auditor**

The Company's practice is to invite the auditor to attend the annual general meeting and be available to answer shareholder questions about the conduct of the audit and the preparation and content of the auditor's report.

### **Review of Risk Management Policy**

The Company Reviews the Risk Management Strategy and Procedures on a regular basis.

### **Responsibilities**

#### **Managing Director**

The Managing Director is accountable to the Board, for ensuring that the risk management system is implemented and maintained in accord with the Risk Management Policy. Assignment of responsibilities in relation to risk management is the prerogative of the Managing Director.

The Managing Director is accountable for the implementation of the Risk Policy and for maintaining a programme of risk reassessment. The Managing Director also provides advice to the relevant Senior Executives on risk management matters relevant to their responsibilities. At appropriate intervals, the Managing Director shall determine the adequacy and effectiveness of the Company's system of internal accounting and operating controls and determine if the business unit/function are managing risks, in accordance with management instruction, policies and procedures, in a manner consistent with Company objectives.

#### **Senior Executives**

Senior Executives are accountable for strategic risk management within areas under their control including the dissemination of the risk management process to operational managers. Collectively the Senior Executive is responsible for:

- The formal identification of strategic risks that impact upon Nova's business;
- Allocation of priorities;

- The development of strategic risk management plans;
- The Senior Executive review progress against agreed risk management plans.

### **Review**

This Policy will be formally reviewed by the Board each year.

**PHARMAUST LIMITED**  
**ACN 094 006 023**

**EVALUATION OF THE BOARD AND DIRECTORS**

**Evaluation of Performance of the Board**

The Chairman leading the Full Board takes responsibility for ensuring that the Board's performance is evaluated on an annual basis. The evaluation of the Board performance involves a self assessment and external review by an appropriate person of the objectives of the Board at the start of each period and assessing the outcomes at the end of each period.

**Evaluation of Performance of Individual Directors**

The Chairman leading the Full Board itself takes responsibility for ensuring that the performance of individual directors is evaluated on an annual basis. The evaluation of the director's performance involves discussion of the objectives of the Board and the specific director's role in achieving those objectives at the start of each period and assessing the outcomes at the end of each period.



**PHARMAUST LIMITED**  
**ACN 094 006 023**

**REMUNERATION POLICY**

This Policy has been adopted by PharmAust Limited to establish and set out the Company's policy remunerating directors and executives.

**Goals**

The goals of the remuneration packages of directors and executives of PharmAust Limited are to align director and executive objectives with shareholder and business objectives

The remuneration packages will be designed to be appropriate and effective in their ability to attract and retain the best executives and directors to run and manage the economic entity, as well as create goal congruence between directors, executives and shareholders.

**Structure**

All executives will receive a base salary (which is based on factors such as length of service and experience) and superannuation if applicable. Some executives may receive fringe benefits.

Options and performance incentives may be included to facilitate goal congruence between directors/executives with that of the business and shareholders.

**Review**

Executive packages are reviewed periodically by reference to the economic entity's performance, executive performance and comparable information from industry sectors and other listed companies in similar industries.

The performance of executives is measured against criteria agreed regularly with each executive and is based on factors including the forecast growth of the economic entity's profits and shareholders' value.

**Non-Executive Directors**

The Policy is to remunerate non-executive directors at market rates for comparable companies for time, commitment and responsibilities. The Board (excluding the relevant director) determines payments to the non-executive directors and reviews their remuneration regularly, based on market practice, duties and accountability. Independent external advice is sought when required. The maximum aggregate amount of fees that can be paid to non-executive directors is subject to approval by shareholders at the Annual General Meeting. Fees for non-executive directors are not linked to the performance of the economic entity.