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Corporate governance policy – securities trading – directors

Company

Axiom Mining Limited
ARBN 119 698 770

Contact

Tim Woodforde

Partner

Deacons

Telephone: +61 (0)9330-8303

Email: tim.woodforde@deacons.com.au

Website: www.deacons.com.au

Our ref: 2577542

Corporate governance policy – securities trading – directors

1. Introduction

- 1.1 This policy imposes constraints on directors of the Company dealing in securities of the Company. It also imposes disclosure requirements on directors.
- 1.2 This policy was adopted by the board of directors of the Company (**Board**) on 7 August 2006.

2. Application

- 2.1 This policy applies only to directors of the Company. Senior executives who are not directors and other staff of the Company and its subsidiaries will be subject to separate policies in relation to trading in securities.

3. Objectives

- 3.1 The objectives of this policy are to:
 - (1) minimise the risk of directors of the Company contravening the laws against insider trading;
 - (2) ensure that the Company is able to meet its reporting obligations under the ASX Listing Rules; and
 - (3) increase transparency with respect to trading in securities of the Company by its directors.
- 3.2 In order to achieve these objectives, directors should treat this policy as binding on them in the absence of any specific exemption by the Board.

4. Dealing in securities – legal and other considerations

- 4.1 Sections 1042B to 1043O of the *Corporations Act 2001* prohibit persons who are in possession of price sensitive information that is not generally available to the public in relation to particular securities from:

- (1) dealing in the securities; or
 - (2) communicating the information to others who might deal in the securities.
- 4.2 The central test of what constitutes price sensitive information is contained in section 1042A. Section 1042A provides that insider trading and continuous disclosure rules apply to inside information that is not generally available to the public and which a reasonable person would expect to have a material affect on the price or value of securities in the Company (**price sensitive information**). Such price sensitive information extends to include matters of supposition and matters relating to the intentions or likely intentions of a person.
- 4.3 Directors of the Company will from time to time be in a situation where they are in possession of price sensitive information that is not generally available to the public. Examples are the period prior to release of annual or half-yearly results to the Australian Stock Exchange (**ASX**) and the period during which a major transaction is being negotiated.
- 4.4 The risk of contravention of insider trading laws in relation to information concerning public companies was substantially reduced in 1994 with the introduction of the continuous disclosure regime. Under that regime, public companies are required to disclose all price sensitive information immediately to the ASX, except in limited circumstances. The tests for what constitutes price sensitive information under the insider trading laws and under the continuous disclosure requirements are effectively identical. As a consequence, at least in theory, there is no risk of directors contravening insider trading laws as all relevant information will already have been disclosed.
- 4.5 There are a number of limitations and qualifications to the above, including:
- (1) where the ASX Listing Rules and the *Corporations Act 2001* permit companies to refrain from disclosing certain information, for example in the situation where an acquisition is being negotiated and remains confidential;
 - (2) where information may be known to a particular director but not yet by the Company as a whole (ie the Board);
 - (3) where the Company may have not yet complied with its continuous disclosure obligations in relation to a particular event or circumstance – there will always be some element of delay in doing so; and
 - (4) where directors will generally have a better feel for the performance of the Company than the public.

In these situations there is still a potential for contravention. There is also a potential for the appearance of a contravention even if there has been no actual contravention. This appearance of contravention could reflect badly on the Company as well as on the director concerned.

- 4.6 Another circumstance that must be guarded against is where one or more directors become aware of an event or circumstance while the remaining directors remain unaware. In such a circumstance it is important that no director deals in securities because:
- (1) there is a risk that the directors will be found guilty of insider trading even if they had no intention of committing a contravention; and
 - (2) of the potential for such circumstances to reflect badly on the Company.
- 4.7 For these reasons, the advice of the Chairperson should be sought prior to any dealings taking place, and steps should be taken to ensure that the Chairperson is appraised of all relevant considerations by the Continuous Disclosure Manager appointed under ASX Listing Rule 1.1, condition 12.

5. Policy – dealing in securities

- 5.1 Directors should not deal in securities of the Company unless:
- (1) they have satisfied themselves that they are not in possession of any price sensitive information that is not generally available to the public;
 - (2) they have advised the Chairperson of their intention to do so;
 - (3) the Chairperson has made appropriate enquiries of other directors; and
 - (4) the Chairperson has indicated that there is no impediment to them doing so.
- 5.2 The Chairperson will generally allow directors to deal in securities of the Company as a matter of course (unless there is in existence price sensitive information that has not been disclosed because of an ASX Listing Rule exception) in the following periods:
- (1) within the period of 1 month after the release of annual or half-yearly results; and
 - (2) within the period of 1 month after the issue of a prospectus.

Directors should wait at least 24 hours after the relevant release so that the market has had time to absorb the information.

- 5.3 The periods mentioned in paragraph 5.2 are not the only times in which directors may deal in securities, and the approval of the Chairperson may be sought to deal in securities outside those times. It would be unusual for the Chairperson to grant approval in the period of 1 month prior to the release of such results or the issue of a prospectus. In such circumstances the Chairperson will only give his or her approval after making appropriate enquiries.
- 5.4 Directors must not at any time engage in short-term trading in securities of the Company.
- 5.5 Directors must not communicate price sensitive information to a person who may deal in securities of the Company. In addition, a director should not recommend or otherwise suggest to any person (including a spouse, relative, friend, trustee of a family trust or directors of a family company) the buying or selling of securities in the Company.
- 5.6 Directors must ensure that external advisers who may receive price sensitive information are bound by confidentiality agreements or other enforceable confidentiality obligations.
- 5.7 The above principles also apply to the following:
- (1) trading in financial products issued or created over the Company's securities and associated products; and
 - (2) entering into transactions in associated products which operate to limit the economic risk of security holdings in the Company.

6. Notification of dealings in securities – legal and other considerations

- 6.1 ASX Listing Rules 3.19A and 3.19B require the Company to notify the ASX of dealings in securities by directors within 5 business days. Three appendixes are included in the Listing Rules for the purpose of this notification, being 3X Initial Director's Interest Notice, 3Y Change of Director's Interest Notice and 3Z Final Director's Interest Notice.
- 6.2 Section 205G of the *Corporations Act 2001* requires a director of a listed company to notify the ASX within 14 days of acquiring or disposing of a relevant interest in any securities of the Company. This is an obligation of the director and not the Company. There is no prescribed form for such notifications, however the notice must specify the number of securities involved and the circumstances giving rise to the relevant interest in the securities. ASIC have granted relief from the requirements of section 205G where notifications are made by the Company under Listing Rules 3.19A and 3.19B.

7. Policy – notification of dealing in securities

- 7.1 Directors must notify the Company secretary immediately on acquiring or disposing of a relevant interest in any securities in the Company.
- 7.2 Directors are required to enter into an agreement with the Company under which they are obliged to notify changes in interests in shares and other relevant matters.

8. Explanation of terms

- 8.1 For the purposes of this policy:
- (1) **deal in securities** means buy or sell shares, options or other securities in the Company, or enter into transactions in relation to shares, options or other securities in the Company. It includes procuring another person to do any of these things; and
 - (2) **price sensitive information** has the meaning given in paragraph 4.2.
- 8.2 For the purposes of paragraph 5.1, directors “dealing” includes associates of directors dealing in securities, and it is incumbent on each director to ensure that an associate does not deal in circumstances where the dealing could be attributed to the director concerned.