

**Fortescue Metals Group**

# **Securities Trading Policy**

---

**December 2011**



**TABLE OF CONTENTS**

---

**SCOPE OF THIS POLICY ..... 2**

**OUTLINE OF CORPORATIONS ACT REQUIREMENTS ..... 3**

**EXAMPLES OF "INSIDE INFORMATION" ..... 5**

**COMPANY'S POLICY ON DEALING OF COMPANY SECURITIES ..... 6**

**NO HEDGING OF UNVESTED ENTITLEMENTS ..... 9**

**NOTIFICATION BY DIRECTORS ..... 9**

**CONSEQUENCES OF BREACH ..... 9**

**QUESTIONS / FURTHER INFORMATION ..... 9**

## SCOPE OF THIS POLICY

---

Subject to this policy and to the restrictions on Designated Persons below, employees are permitted to deal in Company securities throughout the year.

Staff are encouraged to be long-term holders of the Company's securities. However, it is important that care is taken in the timing of any acquisition or sale of such securities.

Directors of Fortescue and its subsidiaries, key management personnel and those staff invited to participate in the Executive and Senior Staff Incentive Plan (ESSIP) and their related parties (together "Designated Persons") are permitted to deal in Fortescue securities throughout the year except during the Prohibited Periods identified in this policy.

More generally this policy provides information to all employees, directors, contractors and consultants (together "Persons") as to the insider trading provisions of the Corporations Act 2001 (Cth) ("Corporations Act"). It sets out certain rules relating to the dealings by Persons in Company Securities. Ultimately it is the responsibility of the Person to ensure that none of his or her dealings could constitute insider trading.

1. In this policy, Company Securities includes:
  - (a) any shares in the Company;
  - (b) any other securities issued by the Company such as debentures, debt notes and options;
  - (c) derivatives and other financial products created by the Company or created or issued by third parties in relation to the Company's shares, debentures, options or other securities able to be traded on ASX or another stock exchange; and
  - (d) securities of any other company or entity that may be affected by inside information (such as a joint venture partner of the Company, another party involved in a corporate transaction with the Company or a contractor or shareholder of the Company).
2. To **deal** in Company Securities includes:
  - (a) subscribing for, purchasing or selling Company Securities or entering into an agreement to do any of those things;
  - (b) advising, procuring or encouraging another person (including a family member, friend, associate, colleague, family company or family trust) to trade in Company Securities; and
  - (c) entering into agreements or transactions which operate to limit the economic risk of a person's holdings in Company Securities.

## OUTLINE OF CORPORATIONS ACT REQUIREMENTS

---

3. A person is in possession of "inside information" in relation to the Company in circumstances where:
  - (a) the person possesses information that is not generally available and, if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of the Company Securities; and
  - (b) the person knows, or ought reasonably to know, that the information is not generally available and, if it were generally available, a reasonable person would expect it to have a material effect on the price or value of the Company Securities.
4. A reasonable person would be taken to expect information to have a material effect on the price or value of the Company Securities if the information would, or would be likely to, influence persons who commonly acquire securities in deciding whether or not to deal in the Company Securities in any way. It does not matter how the Designated Person came to have the inside information.
5. Information is "generally available" if it:
  - (a) consists of readily observable matter;
  - (b) has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in any of the classes of securities issued by the Company and since it was made known, a reasonable period for it to be disseminated among those persons has elapsed. That is, information will be "generally available" if it has been released to ASX or published in an annual report or prospectus or similar document and a reasonable period of time has elapsed after the information has been disseminated in one of these ways; or
  - (c) consists of deductions, conclusions or inferences made or drawn from information referred to in paragraph 5(a) of this policy or information made known as mentioned in paragraph 5(b) of this policy, or both.

The financial impact of the information is important, but strategic and other implications can be equally important in determining what amounts to inside information. The definition of "information" is broad enough to include rumours, matters of supposition, intentions of a person (including the Company) and information which is not definite enough to warrant public disclosure.

6. If a person possesses "inside information" in relation to the Company, the person must not:
  - (a) deal in Company Securities in any way; nor
  - (b) directly or indirectly communicate the information, or cause the information to be communicated, to another person if the person knows, or ought reasonably to know, that the other person would, or would be likely to, deal in the Company Securities in any way or procure a third person to deal in the Company Securities in any way.
7. A person may obtain inside information in relation to another company. For example, in the course of negotiating a transaction with the Company, another company might provide confidential information about itself. The prohibition on insider trading is not restricted to information affecting Company Securities. The persons in possession of the inside information must not deal in securities of those other companies.
8. A person who deals in the Company Securities while in possession of "inside information" or communicates that information in the circumstances described in paragraph 6(b) above will be liable to both civil and criminal penalties. The penalties are:
  - (a) in the case of an individual:
    - (i) a criminal penalty of a fine of up to \$220,000 and/or imprisonment for 5 years; and
    - (ii) a civil penalty of up to \$200,000.
  - (b) in the case of a company:
    - (i) a criminal penalty of a fine of up to \$1.1 million; and
    - (ii) a civil penalty of up to \$1 million.
  - (c) unlimited civil liability equivalent to the damages caused.

In both cases, the offender may be ordered to pay compensation to anyone who suffered loss as a result of the insider trading.

Separately, a person who engages in insider trading may be sued by another party or the Company in a civil action for any loss suffered as a result of the insider trading.

## EXAMPLES OF "INSIDE INFORMATION"

---

9. Examples of information which may be considered to be "inside information" include the details relating to the items listed below (this is not an exhaustive list):
- (a) drilling results, mining exploration results, production figures and the like;
  - (b) prospective financial information;
  - (c) unpublished announcements;
  - (d) proposed changes in capital structure, including share issues, rights issues and the redemption of securities;
  - (e) impending mergers, acquisitions, reconstructions, takeovers, etc;
  - (f) significant litigation and disputes;
  - (g) significant changes in operations or proposed changes in the general character or nature of the business of the Company or its subsidiaries;
  - (h) cashflow information;
  - (i) management restructuring or Board changes;
  - (j) an entity proposing to buy, or a security holder proposing to sell, a substantial number of Company Securities;
  - (k) industry issues that may have a material impact on the Company;
  - (l) decisions on significant issues affecting the Company by regulatory bodies in Australia or other relevant jurisdictions (such as ASIC or the ACCC);
  - (m) allegations of any breach of the law or other regulatory requirements by the Company;
  - (n) major or material purchases or sales of assets;
  - (o) proposed or new significant contracts;
  - (p) a proposed dividend or change in dividend policy;
  - (q) an event which could have a material impact (either positively or negatively) on production or profits (for example, disconnection or shut-in of production, a significant safety or environmental incident);
  - (r) any information required to be disclosed to ASX under its continuous disclosure rules; and
  - (s) any possible claim against the Company or other unexpected liability.

## COMPANY'S POLICY ON DEALING OF COMPANY SECURITIES

---

10. **General:** Persons should note the following general principles:
- (a) Persons must comply with the insider trading provisions of the Corporations Act at all times;
  - (b) Persons who possess "inside information" must not deal or procure dealing in Company Securities;
  - (c) Persons must avoid, and be seen to avoid, actual or potential conflict between their personal interest and the interests of the Company and other security holders in a manner which is in breach of the Corporations Act, ASX Listing Rules or other legal obligations; and
  - (d) Persons must not derive personal advantage from information which is not generally available and which has been obtained by reason of their connection with the Company in a manner which is in breach of the Corporations Act, ASX Listing Rules or other legal obligations.
11. **Recommended times for trading:** Subject to the Prohibited Periods referred to in paragraph 12 of this Securities Trading Policy, the recommended times (in terms of avoiding suggestions of insider trading) for any Designated Person to deal in Company Securities are in the period after the:
- (i) holding of the Company's Annual General Meeting or any other meeting of shareholders;
  - (ii) release by the Company of its half yearly results announcement to ASX;
  - (iii) release by the Company of its full year results announcement to ASX;
  - (iv) release of a prospectus or other disclosure document offering securities in the Company;
  - (v) release by the Company of any quarterly report to ASX; or
  - (vi) release by the Company of any information that is not generally available and if it were generally available, a reasonable person would expect it to have a material effect on the price or value of the Company Securities.

**Provided** that at such time the Designated Person is **not** in possession of any inside information relating to the Company or its securities that is not generally available and if it were generally available, a reasonable person would expect it to have a material effect on the price or value of the Company Securities.

12. **Prohibited Periods:** A "Prohibited Period" operates in respect of which Designated Persons must refrain from dealing in Company Securities.

A Prohibited Period consists of the Company's "closed season" (see below), and any other blackout period that the board declares from time to time. The Board may at its discretion declare a blackout period for a specified period, such as where the Company is considering matters which are subject to continuous disclosure exceptions, or prior to the announcement to ASX of a significant matter or event.

A "closed season" is the period from the end of the financial year or half financial year to the time of release of the annual or half year results and the period from the end of the September quarter or March quarter to the time of release of the September or March ASX quarterly reports.

A Designated Person, who is not in possession of inside information in relation to the Company, may be given written clearance to sell or otherwise dispose of (but not purchase) Company securities during the Prohibited Period, where the designated person is in severe financial hardship, is required by law to transfer the securities or where other exceptional circumstances exist. Where clearance is given the designated person must trade within 7 days of receiving clearance.

If a designated person wishes to sell or otherwise dispose of the Company's securities during a Prohibited Period, that person must obtain prior written consent of the chairman (or in the case of the Chairman, prior written consent of the Chair of the Audit Committee). The designated person must declare that he or she is not in possession of price sensitive information relating to the Company's securities which is not generally available to the market and demonstrate to the satisfaction of the Chairman that he or she is in severe financial hardship or that his or her circumstances are otherwise exceptional.

13. **Dealing in Company Securities outside of the Prohibited Periods:** Outside of the Prohibited Periods, Designated Persons may only deal in Company Securities in accordance with the procedures in this paragraph.

**Chairman:** The Chairman must not deal in Company Securities without prior written notification (email is acceptable) to the Chair of the Audit Committee before commencing the transaction and must trade within seven days of this notification. The Chairman must notify the Company Secretary of the Chairman's intention to trade and must subsequently notify the Company Secretary in writing, of any trade that has occurred.

**Directors:** Directors (other than the Chairman) must not deal in Company Securities without prior written notification (email is acceptable) to the Chairman before commencing the transaction and must trade within seven days of this notification. The person intending to trade must also notify the Company Secretary of the person's intention to trade and must subsequently notify the Company Secretary in writing, of any trade that has occurred.

**Other Designated Persons:** Designated Persons other than the Chairman and Directors, must not deal in Company Securities without prior written notification (email is acceptable) to the Company Secretary before commencing the transaction and must trade within seven days of this notification.

14. **Dealings not subject to the provisions of this policy:** Subject to the insider trading provisions of the Corporations Act, directors and employees of the Company may at any time:

- (a) subscribe for securities offered under a disclosure document (e.g. a prospectus);
- (b) acquire the Company's ordinary shares by conversion of securities giving a right of conversion to ordinary shares - but may not deal with any of the shares received upon conversion other than in accordance with this policy and the insider trading provisions;
- (c) acquire the Company Securities under a bonus issue, rights issue or other offer made to all holders of securities of the same class;
- (d) acquire the Company Securities under a dividend reinvestment, or top-up plan, that is available to all holders of securities of the same class;
- (e) acquire the Company Securities under a Company sponsored share plan where such securities are purchased by an independent Trustee and on an agreed period purchase basis;
- (f) acquire, or agree to acquire, options under a Company share option plan;
- (g) acquire, or agree to acquire, rights under a Company performance share plan;
- (h) exercise options acquired under a Company share option plan (but may not sell all or part of the shares received upon exercise of the options other than in accordance with these procedures);
- (i) deal where the beneficial interest in the relevant security does not change;
- (j) accept a takeover offer; and
- (k) invest in a scheme or arrangement (other than a scheme investing only in Company securities) where the assets of the scheme are invested at the discretion of a third party.

## NO HEDGING OF UNVESTED ENTITLEMENTS

---

15. A Designated Person who participate(s) in an the Company's ESSIP (or their closely related parties), must not enter into transactions which would have the effect of hedging or transferring the risk of any fluctuation in the value of:
- (a) any unvested entitlement to Company Securities; or
  - (b) Company Securities which are vested but still subject to a holding lock.

This would include including acquiring derivatives or options in relation to Company Securities.

An unvested entitlement in a Company Securities would include equity rights which are still subject to time and/or performance hurdles.

## NOTIFICATION BY DIRECTORS

---

16. A director is required to notify the Company Secretary if there is any change in the director's relevant interest in securities of the Company or a related body corporate of the Company.
17. The director must notify the Company Secretary in writing of the requisite information for the Company Secretary to make the necessary notifications to ASIC and ASX of the change as required by the Corporations Act and the ASX Listing Rules. The director must provide the Company Secretary with the written notification as soon as possible after the change occurs and, in any event, to allow the Company Secretary to make the necessary notifications within 5 business days after the change occurs.

## CONSEQUENCES OF BREACH

---

18. Breaches of this policy may damage the Company's reputation in the investment community and undermine confidence in the market for Company Securities. Accordingly, breaches will be taken seriously by the Company.

## QUESTIONS / FURTHER INFORMATION

---

19. If you have any questions or need further information on how to comply with this policy, please contact the Company Secretary, **Mark Thomas**.