

HOW CONFIDENT ARE YOU OF YOUR INSIDER TRADING COMPLIANCE PROGRAM AND REPORTING?

> SEC SECTION 16 FILING REQUIREMENTS

WHITE PAPER

Recent SEC enforcement actions suggest you should take a second look.

Your compliance program needs to be practical, enforceable, manageable and most importantly, one that keeps your organization and its insiders on the right side of the law.

- ✓ Benchmark your program against industry best practices
- ✓ Ensure Insiders are properly trained on the program
- ✓ Review your Insiders list periodically, to ensure that it is complete and accurate
- ✓ Ensure appropriate controls, monitoring and reporting exists for any awards, trades or changes in ownership
- ✓ Print out full year statements for each Insider to review and sign off
- ✓ Implement a best-of-breed Section 16 filing solution from a vendor you can trust

In late 2014, the U.S. Securities and Exchange Commission ("SEC") announced several actions against corporate directors and officers for failing to promptly report transactions relating to their holdings in a timely manner. The penalties ranged from \$25,000 to \$150,000 per person.

The accompanying messaging from the SEC speaks to the beginning of a heightened level of enforcement, and that public companies and their insiders would be well-served to take their Section 16(a) reporting obligations more seriously.

Director of the SEC's Division of Enforcement, Andrew J. Ceresney, stated in a September 10, 2014 press release⁽¹⁾ that "...inadvertence is no defense to filing violations, and we will vigorously police these sorts of violations through streamlined actions." Andrew M. Calamari, Director of the SEC's New York Regional Office, added, "The reporting requirements in the federal securities laws are not mere suggestions, they are legal obligations that must be obeyed. Those who fail to do so run the risk of facing an SEC enforcement action."

Given this heightened level of scrutiny, the following suggestions may help Issuers stay on top of their insider trading compliance program and reporting:

Review and benchmark your Insider (and Beneficial holder) compliance program.

Through industry and peer associations, such as the Society of Corporate Secretaries and Governance Professionals, many practice experts have shared their Insider compliance programs on the secure repositories. Reviewing this information, and participating in appropriate online forums is a great way to benchmark and have active discussions about trends or specific elements concerning your organization. Your compliance program needs to be practical, enforceable, manageable and most importantly, one that keeps your organization and its insiders on the right side of the law.

Ensure Insiders receive proper training about the program and formally attest to their adherence and compliance with it.

Consider an annual certification of compliance by each of your insiders.

Establish a formal review to ensure that your Insiders list is complete and accurate.

Your list should include everyone who is defined as an Insider pursuant to applicable securities laws, including 10% beneficial owners, directors, certain officers and - often missed - persons who have no formally applicable title but who perform significant policy-making functions or have access to material non-public information in the ordinary course of their duties. Look to your entity management solution to deliver automated notifications of new appointments and resignations of directors and applicable officers.

(1) <http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370542904678#:v1dcl2d0y70>



About the Author

Andrew Moore has been at the forefront of international governance and

compliance technology markets for over fifteen years. Previously at Datacare Software Group and now President of Computershare's Governance Services division, Andrew has had a significant influence on the evolution of subsidiary governance, including entity management software and board portals in North America and Europe.

Andrew led the launch of the first European Windows-based entity management solution in 1994 and introduced the first web-based equivalent in the US in 2001. He helped establish board portals as a de facto technology with the launch of BoardWorks in 2007. He has overseen Computershare's Section 16 Manager solution since 2010. Andrew is a regular contributor to industry publications and events and is an active member of the SCSCGP in the US and the CSCS in Canada.

As head of Computershare Governance Services (CGS), Andrew heads up the international teams responsible for maintaining the governance technology solutions for over eight hundred global companies. Andrew is based out of Computershare's Toronto, Canada offices.

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Ensure appropriate controls, monitoring and reporting exists for any awards, trades or changes in ownership.

Best practice is to establish clearly defined and communicated trading windows and to insist on pre-clearance on all trades by Section 16 Insiders (as defined in applicable securities laws). It is critical to your success that any process flows all the way through to the attorney or employee responsible for the preparation and filing of the forms.

On or around your financial year-end, print out full year statements for each Insider to review and sign off.

(Your Section 16 filing tool should provide these reports as standard.) This is important so that any missed filings can be addressed with a Form 5 filing, which must be submitted within 45 days of your fiscal year end. This information then needs to flow through to the company's annual report and proxy statement - remembering that any missed transactions need to be clearly reported on the proxy statement.

Implement a best-of-breed Section 16 filing solution.

Given the short 48-hour window for filing a Form 4, your solution should be:

- 1) quick and easy to use,
- 2) always available (both in and out of the office) and,
- 3) supported by a vendor you can trust.

If you have a large number of Insiders or lots of reportable transactions a year, look for a solution that addresses these needs specifically.

Publicly traded companies and their officers and directors can ill afford to violate SEC guidelines, especially in light of recent SEC enforcement actions. That said, by reviewing your program against industry best practices and implementing appropriate internal processes, reporting issuers can feel more confident about the state of their insider trading compliance programs.

Computershare offers companies a comprehensive tool for the easy generation, management and electronic transmission of Forms 3, 4 and 5 to the SEC. Computershare Governance Services' Section 16 Manager helps aid compliance, reduce risk, lower costs and save time. For more information or to request a demo, please visit www.cgs.computershare.com

ABOUT COMPUTERSHARE GOVERNANCE SERVICES

Computershare Governance Services (CGS) is the leading global supplier of web based entity management, board portal and subsidiary governance solutions. Clients use our software to assist them with the administration, governance and compliance of over 250,000 legal entities across more than 160 jurisdictions. Leading companies from all market segments look to our team of governance specialists for proactive ways to stay compliant and minimize risk in an ever increasing regulatory environment.

CGS is part of Computershare (ASX:CPU), a global market leader in transfer agency and share registration, employee equity plans, proxy solicitation and stakeholder communications. We also specialize in corporate trust, mortgage, bankruptcy, class action, utility and tax voucher administration, and a range of other diversified financial and governance services.

Founded in 1978, Computershare is renowned for its expertise in high integrity data management, high volume transaction processing and reconciliations, payments and stakeholder engagement. Many of the world's leading organizations use us to streamline and maximize the value of relationships with their investors, employees, creditors and customers.

Computershare is represented in all major financial markets and has over 15,000 employees worldwide. For more information, visit www.cgs.computershare.com