

Listing Decisions Series 14-1 - Whether mere relationship rendered Mr. X a connected person (May 2000) (Withdrawn in September 2009)

[This Listing Decision is no longer applicable after the rule amendments in March 2004 to redefine "associate". The relevant rule after the rule amendments is Main Board Rule 14A.11(4)(c).]

| Summary | |
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| Name of Parties | Company A - a listed company Mr. X - a person falling within one of the categories of relative of a director, chief executive or substantial shareholder of a listed company or any of its subsidiaries expressly referred to in Rule 14.03(2)(a)(ii), but who himself was neither a shareholder nor director of Company A or any of its subsidiaries Company B - an associate of Mr. X |
| Subject | Whether mere relationship rendered Mr. X a connected person |
| Listing Rule | Rule 14.03(2)(a)(ii) |
| Decision | Mere relationship rendered Mr. X a connected person |

Summary of Facts

A subsidiary of Company A had made sales to Company B over a certain period of time. The transactions were disclosed as related party transactions in the annual report of Company A.

Rule 14.03(2)(a)(ii) of the Listing Rules provides that, for the purposes of the connected transactions requirements, references to a connected person include:-

"any person cohabiting with a director, chief executive or substantial shareholder of the issuer or any of its subsidiaries as a spouse or any relative of a director, chief executive or substantial shareholder of the issuer or any of its subsidiaries, including:-

1. a child or step-child of the age of 18 or over;
2. a parent or step-parent;
3. a brother, sister, step-brother or step-sister; or
4. a mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law,

whose association with that director, chief executive or substantial shareholder is such that, in the opinion of the Exchange, the proposed transaction should be subject to the [connected transactions requirements]."

Company A submitted that:

- Mr. X was not a connected person under Rule 14.03(2)(a)(ii) on the basis that, in order for a person falling within one of the categories of relative of a director, chief executive or substantial shareholder of a listed company or any of its subsidiaries expressly referred to in Rule 14.03(2)(a)(ii) to be considered a connected person, that person must have an association with that director, chief executive or substantial shareholder beyond the mere relationship.
- In this case, there was no association beyond the mere relationship.
- The transactions were negotiated on an arm's length basis and on normal commercial terms. Company A treated Mr. X in the same way it dealt with other customers. There were no unique preferential terms or prices offered to Mr. X.

Analysis

The Exchange should generally not be required to inquire at length into the finer details of family ties in relation to a director, chief executive or substantial shareholder of a listed company and its subsidiaries. Company A's interpretation of Rule 14.03(2)(a)(ii) that an association with the director, chief executive or substantial shareholder beyond the mere relationship is required in order for that person to be considered a connected person under Rule 14.03(2)(a)(ii) would require the Exchange to conduct such an inquiry.

Decision

Where a person falls within one of the categories of relative of a director, chief executive or substantial shareholder of a listed company or any of its subsidiaries expressly referred to in Rule 14.03(2)(a)(ii), the mere relationship is sufficient to constitute such person a connected person pursuant to that Rule. Accordingly, the transactions between Company A and Company B constituted connected transactions for Company A.