



Freshtel Holdings Ltd

Related Party Transactions Policy

1. INTRODUCTION

1.1. Summary of Guidelines

This policy provides a system to ensure that all transactions concerning the operations of Freshtel Holdings Limited and its subsidiaries (Freshtel) comply with the law relating to related party transactions.

The purpose of this policy is to:

- Ensure Freshtel meets its obligations under the Corporations Act 2001 (Cth) (Corporations Act) to refer related party transactions where appropriate to its shareholders unless they fall within the exceptions referred to below; and
- Ensure that all transactions by any company within Freshtel are referred to the Governance Committee to comply with the Corporations Act.

1.2. Application

This policy applies to each company in Freshtel.

All transactions that may be with a related party should be referred in the first instance to the Governance Committee.

2 RELATED PARTY TRANSACTION OBLIGATIONS

2.1 Sources of the Obligations

The source of Freshtel's related party transactions obligations is Chapter 2E of the Corporations Act.

2.2 Roles and Responsibilities of ASIC

ASIC is responsible for enforcing the Corporations Act and administers the regime for related party transactions.

2.3 Corporations Act Obligations

For Freshtel to give a financial benefit to a related party it must:

- a) obtain the approval of its shareholders and give the benefit within 15 months after the approval; or
- b) the giving of the benefit must be an exception to these provisions.
Section 208 of the Corporations Act

2.4 Exceptions to the Corporations Act Obligations

Freshtel will not be required to obtain shareholder approval where:

a) Arm's Length Terms

Shareholder approval is not needed to give financial benefit to a related party where:

- i. the terms of the agreement would be reasonable in the circumstances if the public company and the related entity were dealing at arms length; or
- ii. are less favourable to the related party than if they were dealing at arms length.
Section 210 of the Corporations Act

b) Remuneration of the Officers or Employees

Shareholder approval is not required for the financial benefit where the benefit is the remuneration, payment of expenses or reimbursement of expenses of officers or employees of Freshtel.
Section 211 of the Corporations Act

c) Indemnities, Exemptions, Insurance Policies and Payment of Legal Costs of Officers

Shareholder approval is not required for a financial benefit which is an indemnity, exemption, insurance policy or legal costs of an officer of the company.
Section 212 of the Corporations Act

d) Small Amounts Given to a Director

Shareholder approval is not required for a payment to a director where that amount does not exceed \$2,000.00

Section 213 of the Corporations Act

e) Benefit to a closely held subsidiary

Shareholder approval is not required to give a financial benefit to a closely held subsidiary.

Section 214 of the Corporations Act

The meaning of “closely held subsidiary” is provided for in section 2.7 of this policy.

f) Benefit to Members

Shareholder approval is not required if:

- i. the benefit is given to a shareholder of the company; and
- ii. the benefit does not discriminate unfairly against the other members of the public company.

g) Court Order

Shareholder approval is not required to give a financial benefit under an order of the court.

2.5 Disclosure

Accounting standards require that related party transactions be reported and disclosed in Freshtel’s annual report. *AASB 1017*

2.6 Contravention

If Freshtel does not obtain shareholder approval and it does not fall within the exceptions, it will have committed an offence under section 209 of the Corporations Act. Officers of Freshtel involved in the contravention may have committed an offence if their involvement was dishonest.

2.7 Terminology

a) Related Party

The Corporations Act provides that the following are related parties of Freshtel:

- i. the entity that controls Freshtel
- ii. the directors of Freshtel
- iii. the directors' spouses, children and parents; and
- iv. any entities controlled by Freshtel

b) Financial Benefit

The term "financial benefit" has been given a broad meaning. It includes:

- i. giving a benefit through an interposed entity;
- ii. giving a financial benefit by making an informal agreement, oral agreement or an agreement that has no binding force; and
- iii. giving a financial benefit that does not involve paying money.

The Corporations Act provides the following examples of financial benefits:

- i. giving or providing related party finance or property;
- ii. buying an asset from or selling an asset to a related party;
- iii. leasing an asset from or to a related party;
- iv. supplying services to or receiving services from a related party;
- v. issuing securities or granting an option to a related party; and
- vi. taking up or releasing an option of the related party.
Section 229 of the Corporations Act

3.1 Immediate Reference

If any director or employee of the company believes that a transaction may constitute a related party transaction they should refer that transaction to the Governance Committee.

It is not up to an individual director to decide whether a transaction falls within the exceptions to the requirements for shareholder approval. The transaction must be referred to Governance Committee to make that decision.

The Governance Committee will then decide whether the transaction needs to have shareholder approval or falls within an exception to the requirement for shareholder approval.

4 GOVERNANCE COMMITTEE

4.1 Specific Responsibilities

The responsibilities of the Governance Committee are to:

- a) arrange for presentations to senior management and employees to make them aware of these guidelines and its obligations under the Corporations Act;
- b) review all transactions that have been referred to it and make a recommendation to the Board of Directors whether a transaction requires shareholder approval;
- c) make recommendations as to the appropriate manner to disclose the related party transaction as required by Accounting Standards; and
- d) update this policy as appropriate or otherwise at least every 12 months.

4.2 Reporting to the Board

The Committee will prepare regular reports to Freshtel's Board, which advises the Board of all related party transactions that have been referred to it and the reasons for whether it should be referred to shareholders for approval.

Appendix 1

Procedure

Any director or officer who is aware of the transaction should consider or seek advice on steps 1-5. Steps 6-8 would follow, the information for the necessary documents being obtained by informal consultation.

1. Check whether the Ch 2E Corporations Act applies to the company.
2. Check that the other party to the transaction is a “related party”.
3. Check if the transaction would give a “financial benefit” to the related party
4. Check whether the transaction is permitted by one of the Pt 2E.1 Div 2 exceptions
5. Check whether the contemplated transaction is restricted by either:
 - the company’s constitution; or
 - ss180-184 or the general law directors’ duties.
6. Determine what companies must pass resolutions permitting the transaction
7. Draft notice of general meeting(s) with text of resolution.
8. Draft explanatory statement.
9. Directors’ meeting to consider the matter and to prepare for a general meeting, if necessary.
10. Lodge all material to be sent to members with ASIC.
11. Wait 14 days or until ASIC comments on the proposed resolution.
12. Send out notices of meeting.
13. If desired, seek ASIC authorisation for the interested parties to vote on the issue at the general meeting.
14. Hold general meeting(s) and pass resolution(s).
15. Lodge a Form 205 (Notification of resolution) within 14 days.
16. (Interested parties) Obtain a declaration of compliance if desired.