

Ass case study

Business



EMCEE Limited should disclose to the ASS that it is currently having private discussions with OIC Ltd about a possible merger. I do not think that it is required to disclose.

Context ere ASS has issued Guidance Note 8 – Continuous Disclosure regime and indicated in Rule 3.1 that listed companies must immediately notify ASS of any information which may have a material effect on the price or value of the entity's shares or affect investment decisions, and information in which shareholders, investors and ASS have legitimate interest.

This regime also has statutory backing in Section 674, 675 and 577 of Corporations Act. The objectives of this regime are to provide timely information and fair access to information for market participants. When considering whether a disclosure is required or not, the companies need to identify whether the information to have a material effect on the price or value of the entity's shares; Decide whether the information would affect investment decisions; Consider whether the ASS and shareholders have a legitimate interest. If the companies find that the answer to all these questions is "Yes" then they need to further consider

Neither 1 .

A reasonable person would not expect the information to be disclosed; 2. ere information is confidential 3. One or more of the following applies It would be a breach of law to disclose ere information includes an incomplete proposal ere information is insufficiently definite ere information is for internal management purpose ere information is a trade secret If the answer to all these three questions is "no" then a disclosure is not required to be made.

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Argument In this case, this potential merger would probably have a material effect on the price or value of the entity's shares and affect investment decisions.

Additionally, the ASS and shareholders have a legitimate interest in this information.

However, the discussions are private discussions at this stage which would be defined as incomplete proposal and also this information is confidential. Therefore, it is likely that a reasonable person would not expect the information to be disclosed. Conclusion As indicated above, I do not think that at this point EMCEE Limited is required to disclose to ASS because the information here meets both the requirements for disclosure and the exemption criteria. However, once this proposal is complete a disclosure is required to be made.