

Securities Lawyer 101

Short Swing Profits Q & A



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The "Short Swing Profit" rules were created to prevent insiders, who have greater access to material company information, from taking advantage of information for the purpose of making short-term profits from trading an issuer's securities. This Securities Lawyer 101 Q & A addresses the most common questions we receive about short swing profits.

Q. How Does Section 16 ("Section 16") of the Securities Exchange Act of 1934, as amended (the "Exchange Act") impact trading the shares of public companies?

A. [Section 16](#) imposes restrictions (known as "Short Swing Profit Rules") on purchase and sale transactions by corporate "Insiders" of certain publicly traded companies.

Q. Which public companies are subject to the Short Swing Profit Rules?

A. Issuers with a class of securities registered under the Exchange Act are subject to Short Swing Profit Rules.

Q. Who is subject to Section 16's Short Swing Profit Rules under the Exchange Act?

A. Officers, Directors and 10% holders are considered Insiders for purposes of Section 16.

Q. What do the Short Swing Profit Rules of Section 16 prohibit?

A. Section 16 prohibits "short-swing" transactions. Short Swing

transactions are the sale and purchase of a public company's shares within a 6-month period.

Q. What remedies exist for Section 16 violations?

A. If an Insider violates Section 16, he or she must surrender their profits to the company.

Q. Are there exemptions from the Short Swing Profit rules for employee compensation and benefit plans?

A. Employee compensation and benefit plans qualify for an exemption from the Short Swing Profit rules under some circumstances.

Q. What transactions are exempt from liability?

A. Certain transactions may be exempt from Short Swing Profit liability under Section 16. These include:

- When discretionary trading transactions if the transfer or distribution election is made at least six months after the time of

the last election in the opposite direction;

- Grants, awards, and other acquisitions of securities from the company,
- Dispositions of shares to the company,
- Tax-conditioned plans, and
- In addition, the exercise of in-the-money stock options where the fair market value of the shares on the date of exercise exceeds the option exercise price.

Q. Are Insiders required to report their purchases and sales with the Securities & Exchange Commission (the “SEC”)?

A. Yes. Insiders are required to publicly report their holdings and purchase and sale transactions with the SEC. Officers, directors and 5% owners must file reports on Schedule 13(g) or 13(d) and officers, directors and 10% holders must file reports on Forms 3, Form 4 and Form 5. More information about these reports can be found [here](#).

For further information about Short Swing Profits, please contact [Brenda Hamilton](#), Securities Attorney at 101 Plaza Real South, Suite 202 North, Boca Raton, FL, (561) 416-8956, or by email at info@securitieslawyer101.com. This securities law Q & A is provided as a general or informational service to clients and friends of [Hamilton & Associates Law Group, P.A.](#) and should not be construed as, and does not constitute legal advice on any specific matter, nor does this message create an attorney-client relationship. Please note that prior results discussed herein do not guarantee similar outcomes.
