

Regulatory Update – February 2009

Regulation.

An FSA discussion paper has proposed a general short selling disclosure requirement for all UK listed stocks. The proposals follow a comprehensive review of short selling undertaken since the FSA introduced its temporary ban in September 2008.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/023.shtml>

FSA imposed sanctions on 2 companies for delayed disclosure.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/015.shtml>

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/011.shtml>

The Financial Services Authority (FSA) has clarified its disclosure requirements for directors who grant security over their shareholdings.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/005.shtml>

In France, the task of storing regulatory information was entrusted to the directorate responsible for the Official Journals (DJO). On 6 January 2009, disclosures by companies listed on Euronext were made available to the public free of charge through a dedicated portal. <http://www.info-financiere.fr/search.php>

European Commission Launches Review of the EU Prospectus Directive
On January 9, the European Commission launched a consultation on the application of the EU Prospectus Directive (2003/71/EC). Following discussions with the Committee of European Securities Regulators and the European Securities Markets Expert Group, the Commission considers that some aspects of the Prospectus Directive (which has been in force since July 2005) now merit a review and has put forward proposals in the consultation to improve and simplify the Directive.

http://ec.europa.eu/internal_market/consultations/docs/2009/prospectus/background_en.pdf

AMF reminds Alternext-listed companies of their periodic disclosure requirements. http://www.amf-france.org/documents/general/8703_1.pdf

Listed companies have responded very positively to recommendations on compensation disclosure. As at 7 January 2009, 94% of the most highly capitalised French companies on the Paris stock market appear to have adopted the AFEP/MEDEF recommendations on executive compensation disclosure. http://www.amf-france.org/documents/general/8666_1.pdf

The UK BERR consultation on the implementation of the European Commission's Shareholders' Rights Directive. General meetings on 14 days' notice after 3 August 2009. Responses:
http://www.napf.co.uk/DocumentArchive/Press%20Releases/01_2009/20090130_30-01-2009%20-%20NAPF%20Supports%20Government%20Consultation%20On%20Strengthening%20Shareholders%27%20Rights.pdf

Best practice/ new research.

The BVCA, in association with Ernst & Young, has published its first annual report on the performance of the largest UK companies owned by private equity firms as recommended by the Walker Guidelines for Disclosure and Transparency in Private Equity. It shows that companies succeed under private equity ownership. <http://www.bvca.co.uk/>

NYSE Euronext Inc is upbeat that initial public offerings will recover in the second half of the year and long-term prospects are bullish, Chief Executive Duncan Niederauer said.
<http://www.reuters.com/article/mergersNews/idUSLU1590320090130?feedType=RSS&feedName=mergersNews>

New ACCA Guide sets out the corporate governance and risk management principles and aims.
http://www.accaglobal.com/pubs/publicinterest/activities/library/governance/cg_pubs/tp-cga.pdf

The ABI has changed its guidelines as part of its commitment to speed up the rights issue process. Companies will now be able to issue new shares worth up to two-thirds of their existing capital without holding an extraordinary shareholder meeting. The previous limit was one-third of shares. The purpose of the change is to make it easier for companies to launch issues at a discount.

<http://www.abi.org.uk/Newsreleases/viewNewsRelease.asp?nrid=17120>

ACCA is currently publishing a series of briefing papers for its members on accounting disciplines and how they are converging with sustainability, how this convergence is relevant to the accounting profession and importantly, the role of the accountant.

<http://www.accaglobal.com/databases/pressandpolicy/global/3179052>

What's different about M&A in this downturn? M&A may be more resilient in this downturn than in previous ones, but it will be a different kind of M&A. McKinsey research.

http://www.mckinseyquarterly.com/Corporate_Finance/M_A/Whats_different_about_M_and_A_in_this_downturn_2287

Institute issues advice on transparent financial reporting. The ICAEW is launching its new Financial Reporting Faculty at a time when the need for businesses to present financial information that reflects economic reality has never been greater.

http://www.icaew.com/index.cfm/route/163329/icaew_ga/en/Home/Press_and_policy/Press_releases/Institute_issues_advice_on_transparent_financial_reporting

North American news

The SEC staff review every issuer's disclosures, including financial statements, at least once every three years. The SEC staff's comments and registrants' responses are posted on the SEC's Web site and provide valuable insight into areas of SEC staff focus. Deloitte research.

http://www.deloitte.com/dtt/cda/doc/content/us_assur_SEC_Comment_Letters_on_Domestic_Registrants.pdf

On January 16, the Securities and Exchange Commission released its 21st Century Disclosure Initiative Staff Report. The staff focused on four guiding principles in proposing an interactive data-based approach to disclosure: Disclosure information and other data should be submitted and stored in an interactive format. The Commission should consider establishing a data warehouse. The Commission should consider providing multiple submission methods for disclosures. The Commission should consider providing multiple dissemination methods for disclosures.

<http://www.sec.gov/spotlight/disclosureinitiative/report.pdf>

The Expert Panel on Securities Regulation submitted its report, including a draft Securities Act, to the Government of Canada. The central recommendation is the establishment of a single securities regulator administering a single securities act for Canada.

<http://www.expertpanel.ca/eng/news/2009-01-12.001.php>

New York Stock Exchange annual regulatory letter announces significant regulatory changes, including in disclosure

http://www.nyse.com/pdfs/FINAL_Annual%20domestic%20letter_2009_1_30_09.pdf