

Financial Reporting Update

March/April 2007

KPMG LLP (UK)

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Disclosure of directors' interests in shares

Directors' reports of unlisted companies approved on or after 6 April 2007 no longer require disclosure of directors' interests in the share capital of the company, or of a holding company, subsidiary or fellow subsidiary of the company. This applies regardless of the company's financial reporting period.

Before 6 April 2007, the requirement to disclose directors' interests in shares arose from Schedule 7 to the Companies Act 1985 (paragraphs 2 to 2B), which required disclosure of directors' interests as shown in the register of directors' interests. Section 325 of the Companies Act 1985 required the company to maintain a register of such interests for the purpose of section 324, which required directors to notify the company of changes in their interests in the shares of the company, or of a holding company, subsidiary or fellow subsidiary of the company (subject to certain exemptions). Sections 323 to 329 and paragraphs 2 to 2B of Schedule 7 have been repealed with effect from 6 April 2007. Thus, from that date the company is not required to maintain a register of directors' interests.

For listed companies, a requirement to disclose the beneficial and non-beneficial interests of each director that have been notified to the company under the Companies Act 1985 has always been required under Listing Rule 9.8.6 R (1). Whilst paragraphs 2 to 2B of Schedule 7 of the Act have been repealed for directors' reports approved on or after 6 April 2007, Listing Rule 9.8.6 R (1) has not been deleted, although it would appear to have been rendered ineffective going forward. It is not clear whether the Financial Services Authority (FSA) will remove the requirement altogether or reinstate it in a form independent of the Companies Act 1985. The basic requirement of Listing Rule 9.8.6 R (1) is to notify interests as at the end of the financial year and hence would seem to still be applicable for financial years ending before 6 April 2007. Therefore, a listed company with, say, a March 2007 year end was required to be notified at its balance sheet date and hence is required to disclose directors' interests in its year end accounts.



Disclosure and Transparency Rules

EC Directive 2004/109/EC, the Transparency Directive, aims to harmonise across Europe the transparency requirements in relation to information about issuers of certain publicly-traded securities. In the UK, in order to implement the directive the Financial Services Authority (FSA) has issued the transparency rules and combined them with its disclosure rules so as to form the new Disclosure and Transparency Rules (DTR) and has replaced some of the ongoing requirements of the Listing Rules (LR). This article considers the principal changes to the periodic reporting requirements for UK incorporated companies with certain types of securities admitted to trading on a relevant UK market and regulated by the FSA.

The changes apply for financial years commencing on or after 20 January 2007. The requirements for annual, half-yearly and the new 'interim management statements' will differ according to the types of securities a company may have in issue and traded on an EU-regulated market.

Companies with either shares or debt securities (shares and debt securities are specifically defined in the DTR) admitted to trading that are required to prepare their consolidated financial statements in accordance with EU-adopted IFRSs are also required to prepare half-yearly condensed financial statements in accordance with IAS 34 *Interim Financial Reporting*. The disclosure requirements of IAS 34 are somewhat more extensive than previous requirements contained within the Listing Rules and guidance within the Accounting Standards Board's (ASB) Statement, Interim Reports¹.

Companies with shares admitted to trading are also required to produce interim management statements. An interim management statement must be prepared during both the first and second six-month periods of the financial year and must be published between ten weeks after the beginning and six weeks before the end of the relevant six-month period. The statement will cover the period from the beginning of the relevant six-month period to the date of publication. For example, a company which has a 31 March 2008 year end must publish its first interim management statement on or after 10 June but before 20 August 2007 and its second statement on or after 10 December 2007 but before 19 February 2008. If a company is already required to produce full quarterly reports, e.g., a company with a primary listing on the SEC, or it volunteers to do so, the quarterly report is taken as meeting the interim management statements' requirement.

The DTR sets out the high level content requirements of interim management statements but does not specify precise details. In December 2006 the FSA published a special edition of its newsletter, *List!*, in which it provided guidance

¹ In February 2007, the ASB issued an exposure draft of its Statement *Half Yearly Financial Reports*, which proposes updates to its Interim Reports Statement following implementation of the EU Transparency Directive in the UK via the FSA's DTR.

as to what it considered would not be required and, in particular, commented that it would not expect issuers to apply the conventions currently required for annual and interim reporting.

The full DTR is available at:

http://fsahandbook.info/FSA/handbook/LI/2006/2006_70.pdf

The December 2006 edition of List! is available at:

http://www.fsa.gov.uk/pubs/ukla/list_dec06.pdf

The requirement in the Listing Rules for companies to produce preliminary announcements has been removed since the DTR requires that annual reports must be published within four months of the end of the financial year. Companies are of course still permitted to publish preliminary announcements; if they do so then the familiar rules about their content continue to apply. However, the content requirements for preliminary announcements refer directly to those for a half yearly report and hence, in our view, companies that are required to produce half yearly reports in accordance with IAS 34 will be required to provide similar disclosures in their preliminary announcements.

Takeovers Directive

The Takeovers Directive (2004/25/EC) was adopted on 21 April 2004 for implementation into member states' national laws by 20 May 2006. It provides for minimum EU rules regarding the takeovers of companies with shares traded on a regulated market. One of the effects of the Takeovers Directive is the introduction of additional disclosures into the directors' reports of such companies.

These new requirements will apply in the directors' reports of companies (to which Schedule 7 of the Companies Act 1985 applies) with securities traded on a regulated market for financial years beginning on or after 20 May 2006 and have been brought into Schedule 7 to the Companies Act 1985 by section 992 of the Companies Act 2006 (which came into force on 6 April 2007). A summary of the disclosure requirements is given below:

- the structure of the company's capital and, for each class of shares, the rights and obligations attaching to that class and the percentage of total share capital that it represents;
- any restrictions on the transfer of securities of the company;
- disclosure of significant direct and indirect holdings in the company;
- the identity of each person who holds securities with special control rights and a description of those rights;
- where shares have been issued under employee share schemes and the control rights are not exercised directly by the employees, disclosure of how those rights are exercisable;
- any restrictions on voting rights;
- any agreements between shareholders which are known to the company and may result in restrictions on the transfer of securities and/or voting rights;
- the rules governing the appointment and replacement of directors and the amendment of the articles of association;
- the powers of directors, and in particular the power to issue or buy back shares;

- any significant agreements to which the company is a party and which take effect, alter or terminate upon a change of control of the company following a takeover bid, and the effects of such agreements;
- any agreements between the company and its directors or employees providing for compensation if they resign or are made redundant without valid reason or if their employment ceases because of a takeover bid.

These disclosure requirements are expected to survive the eventual repeal of the Companies Act 1985 and re-appear in regulations made under section 416 of the Companies Act 2006 regarding matters that must be disclosed in the directors' report.

Erratum

Please note that the article on the amendment to FRS 17 in the November/December 2006 *Update* included an error with respect to the effective date for the amendment. The amendment is effective for accounting periods *beginning* on or after 6 April 2007 and not ending on or after 6 April 2007, as previously stated.



IFRS newsletters

KPMG IFRG Limited has published the following since the January 2007 *Update*, which are available on our Web site at www.kpmg.co.uk:

- *IFRS in Brief*, March 2007 – a summary of the February 2007 meeting of the IASB
- *IFRS Briefing Sheet*, Issue 62 – Exposure Draft of an IFRS for Small and Medium-sized Entities (SMEs IFRS)
- *IFRS Briefing Sheet*, Issue 63 – Exposure Draft of Proposed Amendments to IAS 24 Related Party Disclosures – State-controlled Entities and the Definition of a Related Party.
- *IFRS Briefing Sheet*, Issue 63 – Due Process Handbook for the IFRIC

If you would like further information on any of the matters discussed in this *Update*, please talk to your usual contact at KPMG LLP (UK) or call any of our offices. Earlier Updates are available on our Web site, at www.kpmg.co.uk.

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