



SEC Seeks Input on IFRS Work Plan

The SEC recently requested public comments on three of the six topics related to its work plan to consider incorporating IFRS into the financial reporting system for U.S. public companies.¹ The work plan is designed to help the SEC determine whether, and if so, how and when, IFRS should be incorporated.

The SEC is seeking input about investors' understanding of IFRS, its implications for public companies' contractual arrangements and corporate governance, and the implications for certain aspects of the regulatory environment including statutory dividend and stock repurchase restrictions, which are issues that focus on how and when to incorporate IFRS into the U.S. financial reporting system. Written comments are due October 17, 2010.

Investors' Understanding of IFRS

Because IFRS differs from U.S. GAAP, the work plan includes steps to help the staff understand what education and training investors will need if IFRS is incorporated into the U.S. financial reporting system. The SEC requested public comments to help it understand:

- U.S. investors' current knowledge of IFRS and their preparedness for using IFRS financial information;
- The extent to which a set of accounting standards (such as U.S. GAAP or IFRS) affects investors' investment decisions;
- How investors educate themselves on changes in accounting standards and how timely that education is; and
- The extent of, logistics for, and estimated time necessary to improve investors' understanding of IFRS.

Contractual Arrangements and Corporate Governance

The work plan said that incorporating IFRS into the U.S. financial reporting system could have a significant effect on a variety of issues including contractual arrangements and corporate governance.

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¹ SEC Release No. 33-9133, Notice of Solicitation of Public Comment on Consideration of Incorporating IFRS Into the Financial Reporting System for U.S. Issuers, August 12, 2010; SEC Release No. 33-9134, Notice of Solicitation of Public Comment on Consideration of Incorporating IFRS Into the Financial Reporting System for U.S. Issuers, August 12, 2010; and SEC Release No. 33-9109, Commission Statement in Support of Convergence and Global Accounting Standards, February 24, 2010, all available at www.sec.gov. For additional discussion on the SEC work plan, see KPMG's Issues In-Depth 2010-1, SEC Staff's Work Plan to Potentially Incorporate IFRS into the U.S. Financial Reporting System Sets Path for Staff's Evaluation, available at www.us.kpmg.com/definingissues.

Contractual Arrangements. Contracts such as debt agreements, lease agreements, and compensation arrangements often either explicitly or implicitly require the use of, or are based on, U.S. GAAP. Depending on how IFRS is incorporated into the U.S. financial reporting system, public companies may need to either renegotiate contracts or prepare two sets of financial information to demonstrate compliance with contractual agreements. Specifically, the SEC requested public comments regarding:

- The types and pervasiveness of contractual arrangements that could be affected by a change to IFRS from U.S. GAAP, and
- Public companies' ability to address changes that might be needed in contractual arrangements including estimated time and cost requirements.

Corporate Governance. Incorporating IFRS into the financial reporting system for U.S. public companies may affect compliance with corporate governance requirements. For example, SEC rules require disclosures about whether a public company has at least one financial expert serving on its audit committee and, if so, the name of the expert and whether the expert is independent of management. The SEC rules also require disclosure of the education and experience through which those attributes were acquired.

Listing rules for many U.S. securities exchanges also have qualification requirements for audit committee members. For example, NYSE and NASDAQ rules require audit committee members to be financially literate and require that there be at least one member who has accounting or related financial management experience. Many board members who currently meet the financial expertise qualifications may not have experience with IFRS because they have been trained in U.S. GAAP. Therefore, compliance with these corporate governance requirements would need to be addressed if IFRS was incorporated into the U.S. financial reporting system. To evaluate the potential impact that IFRS could have on corporate governance, the SEC requested public comments about the:

- Potential effects on corporate governance including the potential impact on the composition of current boards and the need for individuals with financial expertise in IFRS, and
- Possible approaches to address corporate governance concerns and the extent of, logistics for, and estimated time necessary to implement changes.

Regulatory Environment

While the amount, timing, and manner of payment of dividend distributions and stock repurchases are determined by the board of directors, the amount available to be distributed may be restricted by state statute or other legal requirements. To the extent that jurisdictions impose legal standards covering equity transactions on amounts reported in financial statements, incorporating IFRS into the U.S. financial reporting system could affect a public company's ability to undertake certain actions and therefore could affect investors' expectations. To evaluate the potential impact of using IFRS on the regulatory environment, the SEC requested public comments about the:



- Effect of IFRS on legal requirements and permissions, such as a public company's ability to pay dividends or repurchase stock;
- Impact of a change in SEC reporting as it relates to compliance with state statutes; and
- Concerns that constituents have about potential changes.

These requests for public comments are part of the SEC staff's expected activities under the work plan. The SEC staff's first report is expected in October.

The descriptive and summary statements in this newsletter are not intended to be a substitute for cited or potential SEC regulations or statements. Companies filing with the SEC should apply the texts of the relevant laws, regulations, and accounting requirements, consider their particular circumstances, and consult their accounting and legal advisors.

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