



The Investor Relations Society

Policy Paper 7:

Transparency Directive: Consultation on implementation of major shareholding notification provisions.



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Policy Paper 7: Transparency Directive

Attention Capital Markets and Governance Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

June 15th 2005

Dear Sirs

Re: Transparency Directive: Consultation on implementation of major shareholding notification provisions.

The Investor Relations Society (IRS) would like to thank HM Treasury for the opportunity to comment on the above paper. This letter expresses the views of the members of the IRS.

About The Investor Relations Society

The Investor Relations Society is the UK's professional body for investor relations practitioners. Formed in 1980, it has over 600 members drawn both from the UK and overseas, including the majority of the FTSE 100 and much of the FTSE 250. Members' disciplines include finance, treasury, corporate affairs, company secretariat as well as investor relations.

The Society's primary objectives are to:

- Promote good relations between listed companies, their shareholders and potential investors.
- Provide education and training.
- Support high ethical and professional standards in the practice of investor relations.
- Increase awareness of investor relations techniques and best practice.
- Represent the views of members to regulatory bodies, the investment community and government.
- Carry out research and publish information.
- Provide a forum for members to exchange views and share experiences.

Q1 Do you agree with the proposal that the principal obligation of disclosure should be changed from the current 'interest in shares' under the Companies Act 1985 to control of exercisable voting rights under the Directive?

Yes - given that this is the Directive definition, any other definition would create duplicate obligations.

Q2 Do you agree with the proposal to remove non-traded public limited companies from the scope of the disclosure regime?

Yes.

Q3 Do you agree with the proposal to give the FSA powers to make issuers admitted to trading on non-regulated markets in the UK (and those with qualifying holdings in those issuers), subject to the regime where appropriate for market transparency reasons?

Yes.

Q4 Do you agree with the proposal to repeal the current criminal sanctions for breach of notification obligations and give the FSA powers to deal with breaches of notification obligations equivalent to those it has to deal with breaches of rules under FSMA?

No. Whilst the FSA could be given such powers, the real teeth of these provisions are the existence of criminal sanctions which compel compliance. As a practical example, the position in the United States could be considered, where although there are significant notification obligations, there is anecdotal evidence to the effect that notification is frequently made late if at all. The absence of criminal sanctions is likely to be a key contributor to this situation.

Similar considerations apply to the legal position of the current s212 CA1985, which gives issuers the right to require information about the interests in shares held. This right is supported by the Companies Act 1985/9 (s216) and consequently UK issuers are in a better position to know who their shareholders are to engage in meaningful dialogue than issuers in most other jurisdictions worldwide. This gives important benefits in terms of transparency of ownership, as well as facilitating communication between companies and their owners.



Q5 Do you agree with the proposal to maintain the scope of the current Companies Act regime and give the FSA equivalent powers to require disclosures in respect of holdings of financial instruments?

Yes - this has become increasingly important in the light of the increase in securities lending activity, and should therefore not be limited to takeover-related activity.

Q6 Do you have any comments on the likely costs of implementation of the major shareholdings notification provisions of the Directive?

We do not believe that these are significantly greater than under the existing regime.

Q7 Do you have any comments on the impact on competition of implementation of the major shareholdings notification provisions of the Directive?

We do not believe that this is significantly different from the existing regime.

Q8 Do you have any comments on the impact on small business of implementation of the major shareholdings notification provisions of the Directive?

We do not believe that these are significantly greater than under the existing regime.

Yours sincerely

Mark Hynes

Member of The Investor Relations Society Board