



## Financial Communication: Framework and Practices

# Financial Communication

This document was prepared by

**The *Observatoire de la Communication Financière***

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**CLIFF**

French Association of Investor Relations

**PricewaterhouseCoopers**

**SFAF**

French Society of Financial Analysts

*with the participation of*

**NYSE Euronext**

Created in 2005, the *Observatoire de la Communication Financière* (OCF) is an association that serves as a forum for the observation of financial communication and promotes exchanges amongst financial market professionals.

This initiative is intended primarily to provide listed companies of all sizes, for the very first time, with a **multidisciplinary perspective** on the main challenges of financial communication and to **promote best practices** in the field.

OCF members base their work on three complementary areas:

- **Observation and analysis of** changes in the financial communication landscape and their impact on listed companies' practices, through research papers and surveys.
- **Confrontation** of issuers' standpoints with market opinion at conferences, and **participation** in open discussions on the subject.
- **Assistance** to listed companies in resolving different types of financial communication issues, through training workshops and the publication of benchmark analysis.

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***Association déclarée Loi 1901***

# Financial Communication: Framework and Practices

The present version is an enhanced version of the initial issue dated April 2008, which takes into account new regulations up to July 2012.

The interactive version of this guide includes, in part 11, examples of press releases illustrating different financial communication situations.

This is a translation of the original French document "*Cadre et Pratiques de Communication Financière*" written primarily for companies listed on Euronext Paris.

*April 2008*

*Last update: July 2012*

# Preface

## Jean-Pierre Jouyet, Chairman of the AMF

Over the past few years and in response to the financial crisis, the AMF has stepped up its supervision and guidance with regard to the quality of information disclosed to investors by issuers and/or various marketing networks. These actions have concerned in particular the marketing of complex financial instruments. Within this context, the AMF has reiterated that high-quality financial communication is that which enables investors to best assess the risk-return tradeoff.

Amid the current financial tensions, this objective of ensuring that issuers disclose their results in a balanced manner has resulted in companies being requested to provide additional information in the context of accurate, true and fair financial communication. In addition, communication principles have been set out twice.

In 2010, the AMF updated its recommendation on the financial communication of listed companies for the publication of their results and noted that while press releases could continue to be concise, they should nevertheless include all significant items from the accounts and relevant comments.

In 2011, the AMF observed that while certain specific financial indicators sometimes need to be incorporated in order for the issuers' business activity to be properly understood, this information could also hinder the interpretation of press releases. We published a position-recommendation stating that such indicators should be presented in relation to financial statements and precedence should be given to comparability over time.

A good balance is achieved when the issuer provides the appropriate amount of information to its investors. This new concept is outlined in the amended Prospectus directives and regulations which come into force in 2012 and which establish "proportioned information schedules" for certain types of issuers, such as SMEs, and for certain types of issues, for example those which maintain pre-emptive purchase rights. These regulations also reiterate that issuers must ensure that their financial communication, in particular concerning issues, is comparable with that of issuers of similar products.

All initiatives that work towards our common objective – particularly those that target financial communication specialists – are welcome, and this latest edition of "Financial Communication: Framework and Practices" is no exception. Its explanations of regulations in force guide professionals in understanding and applying regulatory requirements. It also serves as a reference manual complete with an outline of best practices that professionals can apply to improve the quality of information provided to the markets. This matter is all the more pertinent given an economic climate which demands, more than ever, accurate, true and fair information.

*July 2012*

# Preface

**Eliane Rouyer-Chevalier**  
**Chairwoman of OCF, Chairwoman of CLIFF**  
**(French Association of Investor Relations)**

From financial  
information to  
strategic  
communication

Issuers whose securities are admitted to trading on a regulated market ("listed companies") have long ceased to be satisfied with providing financial markets with disclosures based on past performance. In order to obtain a better comprehension of a company in an increasingly complex international environment, the players in the financial markets must understand its strategy, be convinced that it is the best possible and that it can be executed properly by competent managers. In one word, communication must be, above all, strategic.

Information, therefore, must not consist solely of numbers and ratios, which are merely the consequence and reflection of a well-executed strategy.

The issuer's relations with the market are thus governed by the rhythm of numerous meetings, some of which are scheduled practically a year in advance, such as the presentations of annual, half-yearly and quarterly results and the shareholders' meetings. The terminology adopted recently by the AMF's General Regulations refers to this as periodic information. But financial communication does not, of course, stop there. The issuer confers regularly with the market each time there is a change of scope, or it obtains a major contract, establishes a new alliance or is the subject of any other ad-hoc event that could affect its business and therefore its profitability.

In order to ensure the successful flow of information to the market, the company relies on the principles that provide the foundation of financial communication. These principles include equal treatment and the obligation to inform the public of any fact that, if it were known, would be likely to have an influence on the company's share price, reminding the company at all times of its duty to inform the markets. The company is required to provide an accurate, true and fair view of its financial position.

The regular flow of information between the company and market participants develops a climate of confidence, creating a virtuous circle of transparency, credibility and fluidity.

For the issuer, financial communication therefore plays a strategic role in attracting and increasing the loyalty of the investors that will accompany it in its growth, help it to increase share value, contribute to the indispensable diversification of its shareholder base and participate in enhancing market awareness of the company. Is being “Investor Friendly” labelled not the greatest compliment that can be paid to executive management?

The field of investor relations is quite recent, and has existed in France for only the past twenty years. The term covers a function that has become highly professionalized, under the pressure brought by the markets and the regulators for increased stringency and transparency.

Management now appoints an authorised contact – an experienced man or woman who acts as the issuer’s spokesperson and is the ongoing and daily point of contact with the financial markets. By remaining close to the company’s management, the investor relations function participates in discussions deciding the strategic directions to be taken, and keeps management informed of market opinion. It provides continuous watch over all types of information that could impact the company from a market standpoint. Management now places an increased focus on roadshows and events such as seminars and conferences to meet the institutional investors.

Going from financial information to financial communication means progressing from mere quantitative reporting to a true communication strategy using a wide range of tools. The first of these tools consists of identifying the target audience, including existing shareholders and potential shareholders, who some day, are likely to replace them.

**Climate of confidence**

**New discipline**

**Palette of tools**

In addition to investors, the company must ensure that its messages are also well received by the opinion leaders, financial analysts and brokers: many different targets, with interests that are sometimes conflicting.

The company must then fine tune all of the supporting communication tools that investors expect and are accustomed to. New technologies, the internet, social media, conference calls and video-conferencing may be used to target audiences more extensively, and provide greater responsiveness and speed of dissemination. Whatever the tools or targets (professionals or individual shareholders), the issuer must be careful to ensure that equal treatment is provided. It is true that the typical non-professional investor is now overwhelmed by this massive and high-speed dissemination of real-time information. New technologies do, however, help to comply with the principle of equal treatment of all shareholders. It is up to the talents of the financial communication department to adapt their language so that it remains accessible to the greatest number of participants.

#### Validation process

Regardless of the target, each communication requires the use of stringent internal validation procedures. Timing, form of communication (e.g. press conference, press release, conference call, analysts' meeting, etc.) and choice of participant are all crucial.

#### Regulated information

In recent years, legislation and regulations have increasingly provided guidelines for the financial communication practices of listed companies. This information is said to be "regulated". In addition to the periodic information covered by the texts, the ongoing information requirement affords the company a certain amount of leeway. The company itself decides when and how to communicate information, subject of course to its obligation to comply with the transparency requirements of the market. In the event the latter should not be complied with, the managers would find themselves in a position of breach of duty, and subject to legal action.

The idea to produce this guide was inspired by a desire to create reference points that would be useful to the listed companies and would provide their management with an opportunity to consider what is at stake in their relationship with the markets, and how to make it as effective and transparent as possible.

This guide provides a tool for rapid decision-making in the face of an internal or external event, and is intended to participate in enhancing Paris' reputation as a financial centre.

*April 2008*

**Effectiveness  
and  
transparency**

# Introduction

**Financial communication is a vital component of market transparency and constitutes a key element for investor confidence and the credibility and quality of a financial marketplace as a whole.**

Accordingly, paragraph 24 of the Directive of the European Parliament and of the Council of January 28, 2003 on insider dealing and market manipulation (the “Market Abuse” directive) states that “prompt and fair disclosure of information to the public enhances market integrity, whereas selective disclosure by issuers can lead to a loss of investor confidence in the integrity of financial markets”.

The framework of financial communication by issuers has undergone deep change in recent years, with an increase in the number of requirements and information media and the diversification of the financial public.

The regulation of financial communication is moreover very heterogeneous: some aspects of an issuer’s financial communication are defined by very precise rules, while other aspects are covered by the application of broad principles that may be interpreted under the responsibility of the issuer.

The increased transparency required in the financial markets and the increasing complexity of regulatory constraints, imposing financial information burdens upon issuers – especially due to the multiple and complex nature of legislative texts – have led the largest listed companies to structure their financial communication into specialised departments, whose responsibilities have been broadening incessantly in recent years and whose functions are continually evolving.

Under these conditions, it has become important that every person who participates in the preparation of an issuer’s financial communication has a guide listing market practices.

**This guide “Financial Communication: Framework and Practices” has been designed principally as an informative tool for senior management and the persons in charge of financial communication within listed companies.**

The general idea that preceded the preparation of this guide was to define the level of information that may reasonably be communicated to the market to satisfy its expectations, while at the same time limiting the exposure of the issuer and its executive management to any risk of liability. The primary objective of the guide is therefore to help the senior management of listed companies to make fully-informed decisions with regard to financial communication.

The first part of this guide outlines the general principles of financial communication; the second part presents the framework of financial communication and different circumstances to which it is applied; and the third part discusses financial communication practices.

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## 1

# General Principles of Financial Communication

Despite the diversity of communication situations, it is possible to provide certain general principles applicable to financial information, of which, the most important are described hereafter.

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## Part 1

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## 1 ■ NOTIONS OF PERIODIC INFORMATION, ONGOING INFORMATION AND REGULATED INFORMATION

Financial information is subject to thorough and often complex regulations which distinguish between “periodic information”, “ongoing information” and “regulated information”.

### PERIODIC INFORMATION

Periodic information is provided by companies whose securities are admitted to trading on a regulated market at regular intervals on an annual, half-yearly and quarterly basis. Most notably, this includes the requirement to disclose an annual financial report, a half-yearly report and quarterly financial information under the conditions defined by the AMF's General Regulations<sup>1</sup>, the filing of the issuer's annual management report and annexes at the commercial court registry as specified by the French Commercial Code.

### ONGOING INFORMATION

Ongoing information is information disseminated by any company whose securities are admitted to trading on a regulated market or an organized multilateral trading facility in compliance to the requirement upon them to inform the public without delay of all information likely, should it be made public, to have a material impact on the share price. Ongoing information also includes disclosures related to the crossing of thresholds or share transactions made by an issuer's executives or board members. Ongoing information is an indispensable tool for the market transparency of securities to the degree that transparency can only be effectively ensured if, independently of the periodic information communicated, investors are informed of any significant new event likely to provoke a material change in share price. Requirements imposed upon issuers with respect to ongoing information are primarily the result of articles 223-1 and following of the AMF's General Regulations.

Finally, in addition to periodic and ongoing information, it should be noted that issuers are required to provide the market information through the publication of a prospectus when their securities are offered to the public or admitted to trading on a regulated market and must also respect certain requirements with respect to the regulations concerning M&A's (most notably, the requirement that the offerer and the target company publish information in the form of an offer document).

### REGULATED INFORMATION

Documents and information disseminated with respect to periodic and ongoing information make up “regulated information” for which the dissemination to the public is subject to specific regulations provided for in the AMF's General Regulations.

The content of this regulated information, which is detailed in this guide, will differ depending on whether the issuer's securities are admitted to trading on a regulated market or on an organized multilateral trading facility.

In the first case, regulated information includes the following documents which are listed in article 221-1 of the AMF's General Regulations:

- the annual financial report;
- the half-yearly financial report;

<sup>1</sup>-Articles L. 451-1-1 et seq. of the Monetary and Financial Code of law n°2005-842 of July 26, 2005 for the confidence and modernisation of the economy.

- quarterly financial information;
- for corporations, report on internal control procedures and reports from the independent auditors on the aforementioned reports;
- the publication of a notice concerning the fees paid to statutory auditors;
- information related to the number of voting rights and the number of shares which make up paid-in capital;
- a description of share buy-back programs;
- a notice describing how a prospectus is made available;
- privileged information;
- the notice describing the means by which information will be made available to shareholders prior to a shareholders' meeting (documentation listed in article R.225-83 of the French Commercial Code);
- the information provided for in article 223-21 of the AMF's General Regulations (modifications of rights attaching to different categories of shares, modifications of the conditions of issuance likely to have a direct impact on the rights of the holders of non-equity instruments, new issuances of debt and the corresponding guarantees). In the second case, regulated information only includes notices related to privileged information and making prospectuses available.

## 2 ■ PRINCIPLE OF EQUAL ACCESS TO INFORMATION

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In order to assure perfectly equal access to information in providing information to shareholders, the issuer who communicates privileged information to a third party who is not bound by a confidentiality undertaking must assure the effective and complete dissemination either simultaneously in the case of intentional communication or as soon as possible in the case of unintentional communication (the issuer will, for example, be required to publicly disseminate such information in the case that confidential information is communicated to an analyst during a one-on-one meeting or during a roadshow).

In addition, with the same concern for equal treatment, the information disseminated must be **accessible to all investors simultaneously** in order to avoid creating an unfair distribution of information which favours certain investors to the detriment of others.

Under the assumption that an issuer or any of its subsidiaries are listed in a foreign country, the information must be **disseminated simultaneously in France and the foreign country**. It should be noted that the principle must be applied both for the dissemination by a press release and for the notification or the filing of documentation with foreign authorities (for example, such as the 6K report in the USA).

Issuers are also recommended to disclose financial information **outside of market trading hours** in order to permit all investors to assimilate the information before the beginning of trading to avoid turbulent changes in the issuer's share price. In that respect, even if the French legal transposition of the markets in financial instruments directive (the **MiFID**) put an end to the requirement to concentrate market transactions on the regulated markets and welcomed alternative means of executing transactions, it is probable that the majority of share transactions for French issuers listed on Euronext will remain on Euronext, at least in the short term. Under those conditions, it seems that the opening and closing market hours of the Paris Stock Exchange will continue to provide the appropriate reference for the publication of information by companies listed on Euronext.

In the case of a multi-listing, the standard practice for French companies is to base themselves on the Paris Stock Exchange's (Euronext) trading hours. They do however retain the right to use another stock exchange's hours as a reference.

Finally, in order to respect the principle of the equal treatment of all shareholders in providing information, in the case that an issuer holds a significant stake in another listed company, it is essential that the communication calendars of the issuer and that company are coordinated.

### 3 | PRINCIPLE OF CONSISTENCY

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According to the principle of consistency, the communication of information must be considered by the issuer in light of **prior communication practices** in order to avoid misleading investors.

Specifically, the issuer must maintain the **same treatment** regarding communication of information likely to impact its share price either upwards or downwards.

In applying the principle of consistency, the issuer must also ensure the **coherence** of all information disseminated, regardless of the date, support or recipient of the dissemination. In particular, financial information disseminated through the written press must be consistent with information disseminated by electronic means. This requirement for consistency implies the implementation by the issuer of a **pre-dissemination control process** and the centralization of information disseminated.

Finally, in applying the principle of consistency, should the issuer choose to communicate non-GAAP performance measures, it should ensure the consistency over time of those performance measures. (see part II, section 1: "Communication of non-GAAP performance measures"). Likewise, segment reporting must also remain consistent over time.

### 4 | DISSEMINATION OF ACCURATE, TRUE AND FAIR INFORMATION

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Information released to the public must be **accurate, true and fair**. These requirements apply as much to regulated disclosures as to information disclosed on a voluntary basis.

Information provided to the public by the issuer must be **accurate**, which means without errors. It must also be complete; the dissemination of information which is, in fact, accurate could be criticised if the issuer has omitted certain information which would have been likely to change the evaluation of its situation by the market.

Information provided to the public must be **true**, that is to say, the issuer must communicate all of the details related to the event which is the subject of the communication to the market so that the market can evaluate the impact of the event and the outlook for the issuer.

Information provided by the issuer must be **fair**. The **fairness** of the information provided implies that both the positive and negative components related to the information under consideration are communicated. This is also linked to the principle of consistency described above.

## 5 ■ REQUIREMENT FOR MARKET DISCLOSURE OF "PRIVILEGED INFORMATION" CONCERNING THE ISSUER

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For **periodic information** or for specific circumstances within which regulations require disclosure, the driver of the disclosure requirement is based upon one or several **objective criteria** which require **no judgement on the part of the issuer**. The issuer must promptly publish an annual report with respect to each financial year (periodic information) or publish a prospectus when its securities are offered to the public or admitted to trading on a regulated market.

On the other hand, **for ongoing information**, it is the **responsibility of the issuer** to determine whether or not this information should be disclosed to the public as according to the principles contained in the AMF's General Regulations.

In principle, whenever an issuer has precise information at its disposal concerning itself and that information is not known to the public, the disclosure of that information to the public is **necessary** as soon as the information, if it were known, would have a **material impact on the share price**. Information of that nature is deemed to be "*privileged information*" as defined by market regulations.

In principle, the issuer must proceed with the disclosure of that information as soon as possible. Nonetheless, subject to the following cumulative conditions and at its own responsibility, the issuer can decide to defer the disclosure of information:

- **A legitimate interest** exists for the issuer to defer the dissemination. Examples of legitimate interests which justify the deferral of the dissemination of information include:
  - The constraints of confidentiality related to competition;
  - The need to coordinate the dissemination of information over the national market with the dissemination over foreign markets; or,
  - The risk that a premature dissemination could endanger ongoing negotiations.
- The absence of a communication must not result in **the public being misled**.
- The issuer must be capable of maintaining the confidentiality of the information.

In particular the issuer must put in place effective internal measures which limit access to the privileged information to persons who need it in order to perform their functions and the issuer must ensure that all persons having access to its privileged information are advised that they are required to maintain the confidentiality of said information. Within that framework, the issuer is required to establish and keep updated lists of persons having access to privileged information related to the issuer and the AMF can request to see such lists.

Moreover, the AMF published a guide on how to prevent misfeasance in which it recommends the implementation of preventive measures such as the appointment of

a deontologist, the definition of close periods for the company's securities and the use of "trading plans" for managers.

## 6 | COMPLETE AND EFFECTIVE DISSEMINATION OF REGULATED INFORMATION

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The issuer must ensure **the complete and effective dissemination** of regulated information which concerns it.

The dissemination of regulated information must be performed **using electronic means** in accordance with the principles defined by the AMF's General Regulations which require the dissemination to a public **as wide as possible**, within a **timeframe as short as possible** and using methods which ensure the **integrity of the information**. In order to do that, issuers may, at their own discretion, choose to disseminate regulated information themselves, or, decide to use the services of one of the **primary information providers** registered on a list published by the AMF.

Issuers are also required to file their regulated information with the AMF in electronic format simultaneously with its public dissemination.

On December 10, 2007, the AMF published a practical guide related to the filing of regulated information and its dissemination. This guide was updated on March 2, 2010.

## 7 | STORAGE AND TRANSPARENCY OF REGULATED INFORMATION

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Since January 20, 2007, issuers are required to post their regulated information on line on their website as of its dissemination and to keep it available for a minimum period of five years.

In addition, out of concern for transparency, within twenty days following the dissemination of their annual financial report, issuers must file a document at the AMF which contains or mentions all information disclosed to the public over the prior twelve months. That document may be included as a component of the annual reference document filed with the AMF.

In addition, the Direction des Journaux Officiels (French Directorate of Official Journals) provides for the centralized storage of regulated information on its website [www.info-financière.fr](http://www.info-financière.fr).

## 8 | FINANCIAL COMMUNICATION LANGUAGE

The growing internationalisation of the financial markets with an increasingly wide geographical base, the listing of several issuers on several markets (multiple-listings) and the increase in cross-border transactions are all contributing factors to the increased importance of the linguistic treatment of documents containing information disclosed by issuers.

The need to translate these documents may be a significant constraint for an issuer or slow their access to foreign financial markets. At the same time, in order to ensure that investors are well informed, it is necessary that information disseminated by an issuer on a foreign financial market be available in a language which is understandable to the investors concerned.

In order to favour the movement of capital within the European Union while guaranteeing that investors are provided good information, the EU law has harmonised the rules governing the language of the various documents published by issuers.

The principles laid down within the community – often expressed in a complex manner – have been transposed by the AMF within its General Regulations.

### REGULATED INFORMATION<sup>2</sup>

Several different cases should be differentiated.

When the AMF is the competent authority which controls the regulated information disclosed by an issuer, (which would be the case for an issuer headquartered in France), the information shall be written in French – subject to certain derogations – if the securities issued by the issuer are accepted for trading on a French regulated market.

If, on the other hand, the securities issued by an issuer are not listed on a French regulated market, the regulated information shall be disseminated, at the choice of the issuer, in French or another language commonly used by the financial community.

In the case that an issuer is listed on one or more regulated markets in other countries within the EEA<sup>3</sup>, the regulated information for which the AMF is the competent authority will be disseminated within those countries either in the official language of the countries concerned or in another language commonly used by the financial community.

Should the AMF not be the competent authority which controls the regulated information disclosed by an issuer, and the securities of that issuer are accepted for trading on a French regulated market, regulated information disclosed in France should be written either in French or in a language commonly used by the financial community.

<sup>2</sup> - Article - 221-2 of the AMF's General Regulations.

<sup>3</sup> - EEA: European Economic Area.

In addition, it should be underlined that the AMF's General Regulations were modified on December 7, 2007 in order to create a special compartment in the regulated market aimed at admissions to listing without a prior public offering. Issuers admitted to that special compartment benefit from reduced reporting requirements for both periodic and ongoing information with the possibility of disclosing all regulated information in a language commonly used by the financial community<sup>4</sup>.

### PROSPECTUS<sup>5</sup>

In this case as well, several different situations should be differentiated.

In the case of a public offering of securities in France, if, in application of community law, the AMF is the competent authority for the certification of a prospectus (as would be the case if the issuer is headquartered in France and the public offer concerns equity securities) the prospectus shall be written in French. When the public offer also takes place in one or more other states which are members of the European Economic Area (EEA), the prospectus shall be made available to the other regulatory authorities in a language commonly used by the financial community<sup>6</sup>, the other regulatory authorities being only able to require that a summary of the prospectus be translated into their official language.

As derogation, the prospectus certified by the AMF can be written in a language commonly used by the financial community if the public offering concerns debt instruments for which the nominal value is greater than or equal to 1,000 euros or when the statutory headquarters of the issuer are located in a non-EEA country and the public offering is for employees of the issuer working at subsidiaries or establishments in France. In such case, the summary of the prospectus is translated into French.

In the case that securities are admitted to a regulated market in France or in one or more states within the EEA (hypothetically without a public offering), when, in application of community law, the AMF is the competent authority for the certification of the prospectus (which would be the case if the issuer is headquartered in France and if the request for admission is for equity securities), the prospectus must be written in French or in another language commonly used by the financial community. In the later case, the summary of the prospectus must be written in French, except when the admission to trading is applied for in the compartment provided for admission without a prior public offering (described in article 516-18 of the AMF's General Regulations).

In the case of a public offering of securities and/or application for admission for listing on a regulated market in one or more EEA member countries with the exception of France, when, in application of community law, the AMF is the competent authority for the certification of the prospectus (which would in particular be the case when the issuer's headquarters are registered in France and its prospectus concerns equity securities), the prospectus should be written either in French or in another language commonly used by the financial community. The prospectus must also be made available to the regulatory authorities of the other countries in a language commonly used by the financial community, those regulatory authorities only being permitted to require the translation of the summary of the prospectus in their official language.

4 - AMF Press release dated December 20, 2007.

5 - Article 212 - 12 of the AMF's General Regulations.

6 - In practice, that language is English.

Finally, when the AMF is not the competent authority to provide a certification of the prospectus (most notably regarding equity securities issued by an issuer whose registered office is located within the territory of another EEA member country), in the case of a public offering of securities or an application for admission to trading on a regulated market, the prospectus must be written in French or in another language commonly used by the financial community. In the latter case, the summary of the prospectus should be written in French.

#### **OTHER INFORMATION DISSEMINATED BY THE ISSUER**

No specific regulation exists applicable to other information which may be disseminated by an issuer on its own initiative outside of its obligations in the case of a public offering or an application for admission to trading on a regulated market (broker presentations, slide shows, etc.: see part III, section 3, “Relations with financial analysts and investors”).

## 2

# Framework for Financial Communication

Following part 1, which was devoted to the principles of financial communication, part 2 sets out the framework for various situations of financial communication.

Beyond the simple reminder of the regulatory framework upon which financial communication strategy is constructed, this second section seeks to illustrate common practices for various scenarios.

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## Part 2

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## 1 ■ DISCLOSURES OF PERIODIC INFORMATION

Disclosures of periodic information are major events in the financial communication of an issuer. Indeed through these disclosures the listed company sends, through various means, a large amount of information regarding its strategy, its markets, its performance as well as their impact on the financial statements and the company's life. Analyses performed by market participants on the issuer are mainly based upon this information. Therefore, for analyses to be as relevant as possible, it is essential for a listed company to assist these participants in their analysis and the understanding of its business model. To this end, entities whose securities are admitted to trading on a regulated market must set up a specialized committee responsible for monitoring the preparation of financial information.

### DISCLOSURE OF ANNUAL RESULTS

Disclosure of annual results includes several types of documents, required or optional, for which the type, method and calendar of dissemination are as follows:

Type of document event	Driving factor	Dissemination method	Calendar
Press releases	Required	Through electronic means Posted on the issuer's website	After the board of directors' or the supervisory board meeting and, as regards sales, within 60 days
Meeting	Common market practice	Physical meeting Conference call	
Financial notice	Optional	Written press, internet or radio	
Annual financial report	Required	Through electronic means with the possibility of only disclosing the means by which the report has been made available (regulated information). Posted on the issuer's website and sent to the AMF	Within 4 months following the financial period closing date
Reference document	Optional	Posted on the issuer's website and sent to the AMF	No regulatory deadline
Annual information document <sup>7</sup>	Required	Posted on the issuer's website and sent to the AMF	Within 20 trading days following the publication of the annual financial report
Disclosure related to the statutory auditors' fees	Required	Through electronic means. (regulated information) Posted on the issuer's website and sent to the AMF	Within 4 months following the financial period closing date
Documents published in the BALO	Required	Electronic transmission to the BALO (Bulletin of legal announcements)	Within 4 months following the financial period closing date
Documents filed with the Commercial court registry	Required		Within the month following the approval of the annual financial statements by the shareholders' meeting

<sup>7</sup> - The annual information document has been abandoned by the EU Directive 2010/73/EU whose deadline for transposition in French law is July 1, 2012.

Companies listed on Alternext shall, within a four month period, disclose the annual financial statements, the management report, and, if they establish consolidated accounts, the consolidated financial reports and group management report as well as the pertaining statutory auditor's reports. This information shall be posted on the websites of the issuer and Alternext for a two year period.

### Press releases

Press releases disseminated by issuers commonly include the following types of information:

- an analysis of the variation in consolidated sales and income statement items (internal growth, changes in consolidation scope, impact of exchange rates);
- business segment information, supplemented as appropriate by a description of the activities, of the performance and of the perspectives in the geographical areas and operational sub-segments at risk where very different situations exist<sup>8</sup>;
- balance sheet items, cash flow;
- where applicable, a description of any changes in accounting methods which took place from one period to another and any changes in the consolidation scope which have an impact on the financial statements greater than 25% (see Part II, Section 1, "Changes in the issuer's scope");
- the strategic orientation of the issuer;
- significant events during the period regarding the previously announced strategy;
- post closing events where applicable;
- the objectives/forecasts of the issuer, provided on a voluntary basis (see Part II, Section 2, "the publication of estimates or prospective information");
- the amount of dividends proposed at the shareholders' meeting for the period as well as the payment date if approved;
- situation as regards the certification of the financial statements by the statutory auditors;
- details on other related information available on the issuer's website.

Some issuers also include more detailed accounting information in an annex (income statement, balance sheet, cash flow statement, segment information).

It is common practice to disseminate a press release following the board of directors' meeting at which financial reports are approved or after the supervisory board has reviewed the financial reports presented by the Management Board. Such press release shall be subject to a complete and effective dissemination as regulated information. It shall be simultaneously posted on the issuer's website and sent to the AMF when disseminated. The use of a primary information provider which has been certified by the AMF is recommended.

Moreover, the AMF recommends that, as soon as possible after the financial period closing date and no later than 60 days after that date, issuers disclose the information on annual revenue for the past year along with comparative information, unless they have already published their annual results press release by that date.

### Information meetings

The issuer may present its annual results during information meetings which are held for its main audiences, (buy-side or sell-side analysts, portfolio managers, investors, shareholders, journalists, etc.) or through conference calls or webcasts.

If such is the case, care should be taken to ensure that all information unknown to the public which is disclosed during these meetings and which may have an influence on

share prices, including significant comments or developments, is immediately disseminated to the public.

In order to ensure wide and continuous dissemination, some issuers broadcast these meetings using either live or delayed transmission, by conference call or on their website through a webcast.

It is common practice to hold these meetings as soon as possible following the dissemination of a press release. The AMF recommends that any presentations for financial analysts be simultaneously posted on the issuer's website when presented to the analysts.

### Financial notices

The issuer can disclose information related to its annual results through the written press using presentation methods it deems appropriate given its shareholder profile and its size. The content of that disclosure is determined by the issuer however it must be consistent with the information disclosed in the annual report and press releases and it must not be misleading. No deadline has been established by regulations for this disclosure; nonetheless, it is common practice to disseminate such notice after the press release.

### Annual financial reports

Issuers are required to publish an annual financial report<sup>9</sup> and file it with the AMF within four months following the closing date of the financial period<sup>10</sup>. It should be noted that, in corporations with a board of directors and supervisory board, the board shall approve the financial statements within three months following the financial period closing date in order to permit the supervisory board to perform its review. Even though it is not explicitly provided for by regulations, it may be useful to submit the annual financial report to the supervisory board.

The financial reports shall include the following components:

- the annual accounts;
- where applicable, the consolidated accounts;
- a management report;
- a statement made by the natural persons taking responsibility for the annual financial report;
- the report of the statutory auditors on the annual accounts, and where applicable, the consolidated accounts.

The management report which is included in the financial report shall at least include the following information:

- an analysis of the company's business development, results and financial position, the key financial and non-financial performance indicators relevant to the company and the business, such as information pertaining to environmental issues and personnel matters; the main risks and uncertainties the company faces; indications concerning the company's use of financial instruments;
- information regarding the company's capital structure and information likely to have an impact in the case of a public offer;
- information related to the number of shares sold and purchased during the financial period within the framework of a share buy-back program and the nature of the transactions;
- should the issuer be required to prepare consolidated accounts, information referred to in article 225-100-2 of the French commercial code related to the consolidated management report.

9 - The requirement to publish an annual financial report also concerns non-listed companies which issue letters of credit under certain conditions related to the nature and nominal value of those instruments on a regulated market within the European Community.

10 - Article L. 451-1-2-1 of the Monetary and financial code detailed in article 222-3 of the AMF's General regulations.

The annual financial report may serve as the annual report submitted to the shareholders' meeting if it also includes the following information:

- employee shareholder participation plan (article L. 225-102 of the French Commercial code);
- remuneration and benefits of all kinds paid to each company officer (article L. 225-102-1 of the French Commercial code);
- a list of all the remits and functions performed by each company officer (article L. 225-102-1 of the French Commercial Code);
- the environmental and social impact of the issuer's business (article L. 225-102-1 of the French Commercial code);
- a description of Seveso installations (article L. 225-102-2 of the French Commercial code);
- the business activities of subsidiaries and minority investments and the portion of ownership (article L. 233-6 of the French Commercial code);
- the shareholder structure and shareholder thresholds crossed (article L. 233-13 of the French Commercial code);
- a summary table of the current powers granted in connection with capital increases (article L. 225-100 of the French Commercial code);
- a summary statement of the transactions in company shares made by its executives (article 223-26 of the AMF's General Regulations) ;
- the Chairman's report on the board's work, the application of the principle of equal representation of men and women within the Board and internal control and risk management procedures. This report has now to be approved by the board of directors.

In addition, issuers may add other information to their annual financial report. By doing so, they are exempted from the requirement to disclose that information separately. Such information includes: (i) the annual information document (see infra "annual information document"), (ii) the disclosure related to the statutory auditors' fees (see infra "the disclosure related to the statutory auditors' fees") and (iii) The Chairman's report on internal controls as well as the statutory auditors' report on the Chairman's report.

In addition to the filing with the AMF, the annual financial report shall as a rule be disseminated through electronic means in accordance to the dissemination methods for regulated information<sup>9</sup> described in the first chapter of this guide. In practice, the issuer can disseminate a simple release describing the means by which the document has been made available<sup>10</sup> (an example of a press release is included in Annex 6 of the *Guide related to the filing of regulated information with the AMF and to its dissemination*).

### Reference document

The production of a reference document is optional. Nonetheless, most issuers produce one. It may be included as a reference within a prospectus disseminated in the case of a public offering or an application for admission to trading on a regulated market - under the condition that it is up to date. The production of a reference document can facilitate such transactions and increase the speed of the process.

The content of the reference document is defined by AMF instructions dated December 13, 2005, by commission regulation n° 809/2004, as well as by interpretations and recommendations of the AMF and the Committee of European Securities Regulators (see the index of regulatory texts applicable with respect to financial information included in part four of this document). In addition, on January 27, 2006, the AMF released a

11 - Articles L. 221-3 et seq. of the AMF's General regulations.

12 - Article 221 - 4 V of the AMF's General Regulations.

Guide to preparing reference documents which includes the regulations in force as well as the interpretations and recommendations of the AMF. This guide was updated on December 10, 2009.

The AMF also updated the Guide to preparing reference documents specific to small and medium sized companies, "VaMPs", which, in one brochure, combines all of the texts applicable for the production of the document. For companies in this category, that document replaces the Guide to preparing reference documents of January 27, 2006.

There is no deadline imposed by regulations for the production of a reference document. Nonetheless, in practice, the reference document is usually disclosed before the annual shareholders' meeting.

In addition, when the reference document filed at the AMF is disclosed within four months following the issuer's financial year end and includes all the information required in the annual report, the issuer is exempted from the requirement to publish an annual report separately under the condition that (i) a communication indicating the availability of the reference document is disseminated through electronic means and , (ii) the document is archived on the issuer's website, or on a referenced archive site, for a period of five years (*an example of a press release is set out in annex 11 to the guide related to the filing of regulated information with the AMF and its dissemination*). Additional information concerning the preparation of the reference document is presented in the Annex).

### Annual information document<sup>13</sup>

The publication of the annual information document is a requirement which is detailed in article 222-7 of the AMF's General Regulations. The document mentions all information disclosed to the public in order to fulfil legal or regulatory requirements regarding securities during the last twelve months in one or more countries party to the European Economic Area agreement as well as several third party countries. When referring to some documents, the issuer must state where they can be obtained free of charge.

The annual information document must be made available to the public at no cost at the issuer's headquarters and posted on its website. In practice, it is easier to integrate this document within the reference document or the annual financial report as permitted by the regulations.

### The disclosure of statutory auditors' fees

The disclosure of fees paid to the statutory auditors is a requirement for issuers of equity securities. This requirement arises from Article 222-8 of the AMF's General Regulations. The communication shall specify the amount of fees paid to each statutory auditor and, where applicable, the firm he works for. When the issuer prepares consolidated accounts, the fees are those paid by it and all companies which are fully consolidated. The AMF instructions detailing this disclosure provide that a distinction should be made between fees related to legally required independent audits of the financial statements and associated services on the one hand and fees for other services on the other.

This communication is disseminated through electronic means (according to the methods regarding regulatory information) within four months following the end of the financial period. In practice, it is easier to include it within the reference document or the annual financial report as permitted by the regulations.

13 - The annual information document has been abandoned by the EU Directive 2010/73/EU whose deadline for transposition in French law is July 1, 2012.

### Publication in the BALO

The requirement to publish annual results in the BALO has been eased since September 1, 2008. The requirement to publish provisional financial statements prior to the annual shareholders' meeting has been eliminated and issuers are only required, within 45 days of said meeting, to publish in the BALO (i) a statement that the annual financial statements were approved without modification by the annual shareholders' meeting and indicating the date of dissemination of the annual financial report or, in the event of modification in relation to the financial statements published in the annual financial report, the approved annual financial statements and consolidated financial statements, accompanied by the certification of the statutory auditors, as well as (ii) the decision regarding the allocation of net profit.

### Filing at the commercial court registry

Within the month of the annual financial statements approval by the shareholders' meeting or within the next 2 months following this approval when the filing is made electronically issuers shall file the following documents at the commercial court registry where their headquarters are registered:

- the annual accounts and, where applicable, the consolidated accounts;
- the management report as required by the commercial code;
- the statutory auditors' report on the annual accounts and, where applicable, the consolidated accounts
- the report prepared by the chairman of the board of directors or of the supervisory board, as the case, may be related to internal control procedures as well as the statutory auditor's comments on that report;
- a summary table of powers granted in connection with capital increases;
- the proposed allocation of net income and the resolution approved at the shareholders' meeting.

### DISCLOSURE OF HALF-YEARLY RESULTS

To a large extent, requirements related to the disclosure of half-yearly results are comparable to those applicable to the annual results concerning the following items:

- Press releases,
- Information meetings,
- Financial notices.

An information meeting supported by slide presentations is recommended and can be held through a meeting, webcast or conference call.

The main difference with the annual results concerns the disclosure deadline which is much shorter for the half-yearly financial report: this disclosure must take place within the two months following the end of the first half year.

Lastly, there is no disclosure of the statutory auditors' fees or filing requirement at the commercial court.

Some issuers may decide to update their reference document on this occasion. The disclosure of half-yearly results thus includes several types of documents, required or optional, for which the type, method and calendar of dissemination are as follows:

Type of document event	Driving factor	Dissemination method	Calendar
Press release	Required	Through electronic means Posted on the issuer's website	Following the board of directors' or the supervisory board meeting
Information meeting	Common market practice	Physical meeting/ Conference call	
Financial notice	Optional	Written press, internet or radio	
Half-yearly financial report	Required	Through electronic means with the possibility of only disclosing the means by which the report has been made available (regulated information). Posted on the issuer's website and sent to the AMF	Within two months following the end of the first half year period
Update of the reference document	Optional	Posted on the issuer's website and sent to the AMF	No regulatory deadline

Issuers listed on Alternext shall disclose a report covering the first half-yearly period within four months after the end of the second quarter. Such report includes a balance sheet, an income statement and commentary on the period and shall be posted on the issuer's and Alternext's website for a two-year period.

### Half-yearly financial report (report of article L. 451-1-2 III of the Financial and monetary code)

Issuers are required to disclose half-yearly financial reports and file them within two months of the end of the first half-year of their accounting period<sup>14</sup>.

The half-yearly financial report shall include the following items:

- the half-yearly financial statements, either condensed or complete, for the past half-year, presented in consolidated form where applicable;
- a half-yearly management report (for which the content is defined in article 222-6 of the AMF's General Regulations);
- a statement from the natural persons assuming responsibility for the half-yearly financial report (regarding this item, it seems logical that the same individuals sign both the annual and half-yearly reports);
- the statutory auditors' review report on the fairness of the condensed financial statements in relation to the information contained in the half-yearly management report.

14 - Article L. 451-1-2 III of the Monetary and Financial Code and Article 222-4 of the AMF's General Regulations.

With respect to the half-yearly financial statements:

- Should consolidated accounts be disclosed, issuers must produce them according to IAS 34 (“Interim financial reporting”);  
If a company discloses a complete set of financial statements in its half-yearly financial report, the form and content of such statements shall be compliant with the requirements of IAS 1 for a complete financial report. If a company discloses a condensed or summarized set of financial statements, such statements shall at least contain all items and sub-totals presented in the most recent annual financial report, as well as the selection of explanatory notes to the financial statements required by IAS 34. They should also present the financial statement items and notes to the financial statements for which the omission would result in the half-yearly condensed financial report being misleading.
- in the case the issuer is not required to produce consolidated accounts or to apply international accounting standards, the half-yearly financial statements shall at least include (i) a balance sheet (ii) an income statement, (iii) a table indicating the changes in shareholders’ equity, (iv) a cash flow statement, and (v) explanatory notes to the financial statements which may, should the financial statements be condensed, contain only a selection of the most significant notes.

The condensed balance sheet and income statement shall contain all of the items and sub-totals contained in the issuer’s most recent annual financial statements. Additional items may be added if, by excluding them, the half-yearly financial statements provide a misleading view of the assets, the financial position and the results of the issuer. The notes to the financial statements included should, at least, contain the information necessary to ensure the comparability of the condensed half-yearly financial statements with the annual financial statements and sufficient information and commentary to ensure that the reader is correctly informed of any material changes which could impact amounts or trends in the half year period concerned<sup>15</sup>, which are reflected in the income statement and balance sheet.

Although the approval of half-yearly financial statements by the board of directors is not legally required, the disclosure of those financial statements without the board of directors’ approval or that of its Audit Committee would seem imprudent and contrary to the principles of corporate governance.

The half-yearly management report shall include the following components:

- material events that occurred in the first half of the year and their impact on the half-yearly financial statements;
- a description of the main risks and uncertainties for the second half of the year. It should be noted that an update of the risks described in the management report or the reference document is sufficient;
- for issuers of shares, material transactions between related parties (in the spirit of IAS 24 “Related party disclosures”).

In May 2009, the AMF published a study on the disclosure of financial information related to the first half of 2008, in the context of the Transparency Directive, which provides reminders and recommendations concerning disclosures. Like the annual financial report, the half-yearly financial report must be disclosed through electronic means in accordance with the means of dissemination for regulated information described in part 1 of this guide<sup>16</sup>. However, the issuer can choose to disseminate a simple communication detailing the means by which the half-yearly financial statements will be made available<sup>17</sup> (*an example of a press release is set out in annex 7 to the guide related to the filing of regulated information with the AMF and its dissemination*).

15 - Article 222-5 I of the AMF’s General regulations. 13 - Articles 221-3 et seq. of the AMF’s General regulations.

16 - Articles 221-3 et seq. of the AMF’s General Regulations.

17 - Articles 221-4V of the AMF’s General Regulations

Finally, it should be underlined that, if the issuer releases within two months of the end of the first six month period an update of its reference document which includes all information required in the half-yearly financial report, it is exempted from a separate disclosure of the half yearly financial report.

### BALO publication

Since September 1, 2008, the half-yearly publication in the BALO has no longer been required inasmuch as such a requirement resulted in a duplication of half-yearly disclosure requirements.

## DISCLOSURE OF QUARTERLY INFORMATION

### First and third quarters

The disclosure of quarterly financial information in the spirit of the Transparency directive is required for only the first and third quarters of the period. This quarterly financial information shall be disclosed by the issuer and filed at the AMF within 45 days following the first and third quarters' of the period<sup>18</sup>.

A press release may be used for quarterly financial information if its content fulfils regulatory requirements.

The disclosure of quarterly financial statements is not mandatory; issuers are not required to disclose the quarterly results or components thereof. The contents of quarterly information have not been defined by the AMF's General Regulations which, in its communications related to the Transparency directive refers to the position of professional organisations (MEDEF, ANSA, CLIFF, AFEP, Middlednext, SFAF) dated December 15, 2006.

According to the professional organisations, quarterly information of a narrative or descriptive nature (there is no requirement for the disclosure of financial statements), should include the following information:

- a presentation by the issuer of its sales by business; that amount shall be reported for the past period and for prior quarters as well as on a cumulative basis<sup>19</sup>;
- an illustration of the conditions leading to its financial position and its results which describes, (i) the significant business events (new product launches, the strengthening of a particular division, etc.) and (ii) key external factors, as soon as those factors, when considered as a whole, have had a material influence on the issuer's business (as for example, changes in exchange rates, crude oil prices or a change in the competitive environment, etc.);
- these figures shall be presented individually or on a consolidated basis where applicable. The consolidation scope shall be based upon the one used for the production of the annual and half-yearly financial statements. The notion of business activity shall be based upon IAS 14 definition ("Segment reporting");
- an explanation of material transactions or events during the quarter, given that, according to the professional organisations, those transactions and events are strictly considered to be ongoing information. In practice, that implies that, within the context of quarterly reporting, information which has already been the subject of a press release shall be repeated in the framework of quarterly reporting.

Quarterly information is regulated information which should be disseminated according to the same methods as annual and half-yearly financial reports.

18 - Article L.451-1-2 IV of the Monetary and financial code.

19 - According to the AMF, quantitative disclosures of sales shall be reported by business and for the total of all periods concerned (8 columns for the 3<sup>rd</sup> quarter, 2 columns for the 1<sup>st</sup> quarter).

## Second and fourth quarters

The publication in the BALO of second and fourth quarter sales within 45 days of the end of the period is no longer required. In practice, this information is nevertheless disseminated:

- for Q2: with the half-yearly results, even if some companies still publish their first half sales data (and Q2) separately and ahead of their half-yearly results if these are published at the end of August;
- for Q4: within sixty days following the end of the period, with the publication of the annual sales data, in accordance with the AMF's recommendation of December 17, 2008.

## BALO publication

Since September 1, 2008, the publication of quarterly sales data in the BALO has no longer been required inasmuch as such a requirement resulted in a duplication of quarterly financial disclosure requirements.

## COMPONENTS RELATED TO PERIODIC DISCLOSURES

### Changes in the segment organisation

Segment information disclosed by companies is a key item of financial communication. This information must be consistent with the segment information presented in the financial statements, which must be prepared in accordance with IFRS 8, effective January 1, 2009. It must be prepared on the basis of the entity's internal reporting and monitored by the chief operating decision maker in deciding how to allocate resources to different segments and regularly assessing their performance.

Segment information may therefore change in line with changes to the internal reporting, such as a change of activities or economic models due to external growth transactions, restructuring or discontinued activities. Segment information may also be changed if changes occur to the indicators monitored by chief operating decision maker.

The AMF reminded of the principle of consistency between financial releases and segment information that is presented in the accounts for the definition of segments as well as for performance indicators. In particular, when a company chooses to provide additional segment indicators to those presented in the accounts, it must provide all relevant explanations. In this case, these reports complete or precise the approach chosen in the accounts but cannot replace the segment information presented in the accounts<sup>20</sup>.

	<b>IFRS 8</b>
General principle for determining operating segments	Segments are determined on the basis of internal reporting
Quantitative information	At least assets and results per segment. Other quantitative information required under certain conditions associated with the level of detail in internal reporting
Evaluation methods of segment information	Evaluation according to the accounting principles adopted for internal reporting

## Changes in the consolidation scope of the issuer (publication of pro forma information)

Changes in the consolidation scope may be associated with one or more acquisitions or divestitures of entities, assets or groups of assets and liabilities.

If those changes are material, it is absolutely necessary for the issuer to provide pro forma information reflecting the new organisation, in order to facilitate its monitoring by the financial community.

The difficulty of implementing the pro forma information requirements arises from the multitude of documentation on the subject. The table below provides a summary of the various documents and their implication on the pro forma information to report:

	Regulatory texts	Driving Factors	Threshold <sup>21</sup>	Reporting period	Nature of the information	Specific statutory auditor's report
Prospectus	Annex II of the European regulation	Material changes in gross values	25%	Current period, Most recent prior period, and/or most recent interim period	No detailed definition however the possibility exists of providing: balance sheet, income statement and the supporting notes, schedule of changes in shareholders' equity, cash flow statement	Yes
Reference Document	AMF Instruction 2005-11					
Financial Report	Instruction AMF 2007-05 in application of article 222.2	Change in consolidation scope		At least the current period (period concerned)	Provide in the notes to the financial statements information in addition, if applicable, to the information required by accounting requirements (see infra)	No (information is included in the notes to the financial statements)
IFRS	IFRS 3, IFRS 5	Business combinations (IFRS 3) / Divestiture or closure of a businesses (IFRS 5)	No Threshold	Current period, (period concerned)	IFRS 3: impact on sales and income as if the combination took place on the first day of the financial period. IFRS 5: presentation of the impact on the income statement and the balance sheet on separate lines (restatement of income and the balance sheet of prior years however no comparable balance sheet).	

21 - The 25% threshold raises practical problems most notably in the case of multiple transactions.

The pro forma information provided depends on the document in which that information is found and the date of the event triggering the communication. Once those criteria are defined, it is necessary to have a look at how the various documents link together. That articulation varies based upon the date that the transaction takes place.

The table below summarizes, for the various documents, the regulatory texts applicable and the pro forma information requirements based upon whether the transaction takes place during the financial period concerned or a prior period:

	<b>Financial Report</b>	<b>Reference document</b>	<b>Prospectus</b>
Regulatory texts	Information required by AMF instruction N°2007-05 in application of article 222-2	Information required by AMF instruction AMF 2005-11	Information required by annex II of the European regulations
Transaction occurred during the financial year or period concerned	Provide intermediate income statement balances, in addition, if applicable, to information required by accounting regulations	Comptable information No additional information to provide except for an acquisition of isolated assets or for disposals.	
Transaction occurred following the financial year or period concerned		Provide pro forma information as required by annex II of ER* Prospectus + Specific report from the statutory auditors	Provide pro forma information as required by annex II of ER* Prospectus + Specific report from the statutory auditors.

\*ER: European Regulation

### Disclosure of non-GAAP performance measures

Non-GAAP performance measures are performance measures which are not defined by accounting regulations.

Those measures are generally disclosed separately from the financial statements in key figures communicated to the market by issuers. Nonetheless, they may be included in the financial statements in which case they shall be in accordance to IAS 1 (Presentation of Financial Statements). They may also voluntarily be presented according to recommendation CNC n°2004-R-02.

These non-GAAP performance measures can provide investors useful additional information if they are adequately presented and explained. In such case, they allow a better understanding of a company's strategy and financial performance.

The CESR (Committee of European Securities Regulators) and the AMF have published a series of recommendations of which the main ones are mentioned below:

- Non-GAAP performance measures shall respect the principles issued within the framework of IFRS, i.e. be understandable, relevant, reliable and comparable;
- Issuers shall define the terminology and the basis of calculations made. That requirement is especially necessary because of the differences which can exist between market practices and academic concepts. In addition, investors shall be

clearly advised that the Non-GAAP performance measures used have not been prepared according to the accounting standards used for the audited financial statements;

- The definition of non-GAAP performance measures chosen by the issuer shall remain consistent over time. In the exceptional case that the definition is changed, the issuer shall provide detailed explanations and restated historical data;
- Non-GAAP performance measures shall only be presented as complementary information and in addition to the normal GAAP data. In addition, the differences between the two measures shall be made explicit through, for example, reconciliation table;
- If the company chooses to create Non-GAAP performance measures, it shall provide comparable information for the prior periods and the number of periods covered shall correspond to the number of periods covered for the GAAP measures;
- Lastly, the issuer shall inform investors in the case that the Non-GAAP performance indicators have been subject to a separate audit review and, if such is the case, mention the nature of the review and the conclusions.

### Accounting restatements

Should an issuer make an accounting restatement related to an error and/or a change in accounting methods, the information associated with the restatement is in principle disclosed to the market within the framework of periodic disclosures in the explanatory notes to the financial statements; it shall be in accordance to the principles prescribed in IAS 8 (Accounting policies, Changes in accounting estimates and errors).

If the issuer believes that an immediate disclosure is appropriate, that disclosure should mention, at least, the impact of the restatement on the financial statements if such information is sufficiently reliable, the cause and the nature of the error, as well as, if such is the case, the financial impact on objectives that may have been communicated.

The issuer shall judge if the disclosure of the potential impact of such restatement on its safety clauses or bank covenants is relevant and justified. In any event, such disclosure could be deferred, under the responsibility of the issuer, in accordance with the provisions of the AMF General Regulation (Part I, section 2 – Ongoing information).

### Changes in the financial communication calendar

As further addressed in part 3, the issuer may decide to disclose a projected financial communication calendar. This issuer should, in such case, judge whether a change in one or more of the dates provided in the calendar requires a press release, notably in the case of a postponement of a date initially disclosed (in the case of a change in the dividend payment date, see *infra*, “*Changes in the dividend payment date*”).

In any case, the communication calendar shall be updated on the issuer’s website. It is good practice to include it within the press releases.

## 2 ■ DISCLOSURE OF ESTIMATES OR PROSPECTIVE INFORMATION

### DISCLOSURE OF QUALITATIVE PROSPECTIVE INFORMATION

The disclosure by the issuer of qualitative prospective information to the market is required:

- in the management report prepared for the general shareholders' meeting in application of articles L. 233-26 and L. 232-1-2 of the French Commercial code: article L. 233-26: "The group management report shall provide (...) foreseeable developments (for the total company as made up of companies included in the consolidation)"; article L. 232-1-2: "The management report describes (...) the foreseeable developments (of the company)";
- in the reference document in application of items 20.9 "Significant changes in the issuer's financial or trading position" and 12.2 "Trend information" of annex I of the Prospectus regulation:
  - Item 20.9: "Describe any significant change in the financial or trading position of the group which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or provide an appropriate negative statement"
  - Item 12.2: "Inform of any known trends, uncertainties, commitments or events that are reasonably likely to have a material effect on the issuer's prospects for at least the current financial year."

In some cases, qualitative prospective information communicated by an issuer can be requalified by the AMF as a forecast of results (see *infra*).

### DISCLOSURE OF QUANTITATIVE PROSPECTIVE FINANCIAL INFORMATION

The disclosure of prospective quantitative information to the market by the issuer concerning its own outlook is optional and entirely at the issuer's discretion. Indeed, such disclosures depend notably on the existing related business practices and specificities of a particular business segment. This type of information should be differentiated from estimated financial data relating to a past period (see Part II, Section 2: "Disclosure of estimated financial data").

The disclosure of quantitative prospective information is treated differently depending on whether it is being disclosed with periodic information or in a prospectus.

#### Within the framework of periodic information

Among the various types of prospective information it is necessary to distinguish between "objectives" and "forecasts". On that subject, the report of a work group led by Jean-François Lepetit<sup>22</sup> clearly defined the difference. That report describes the notion of objectives and specifies that "*objectives can be defined as the summarized and quantitative expected results of the strategy adopted by management whether defined in commercial terms (for example: market share or sales growth, etc) or financial terms (for example: return on capital employed, income per share, etc). They express the company's goals as defined by management based upon their anticipations of prevalent economic conditions, often expressed in normative form, and the resources that they have decided to employ.*"

22 - Report related to Profit warnings dated April 6, 2000 from the Work group created under the supervision of the COB and chaired by Jean-François Lepetit.

As regards forecast information, the work group on profit warnings stated that *“in general, forecasts are the quantified conclusions of studies aimed at determining the total impact of a list of factors related to a future period (so called, assumptions)”* and notes that *“the disclosure of forecast results is generally the responsibility of financial analysts, as by nature such a task is based upon a high level of uncertainty, results sometimes significantly differing from forecasts initially presented”*.

In the case financial data are qualified by an issuer as “forecasts” (versus objectives), they should be accompanied by a description of the underlying assumptions as well as a report from the statutory auditors.

Should an issuer choose to disclose prospective financial data, general practice is to communicate objectives and forecasts when disclosing half-yearly or annual results.

In any case, an issuer may only communicate quantitative prospective information to the market on the condition that the reliability of the data has been checked internally prior to any communication in order to ensure the pertinence of the information communicated and to avoid misleading the public on the issuer’s forecast results. In accordance with the recommendations of the work group’s report on profit warnings, the disclosure of quantitative prospective financial data by the issuer should clearly state the nature of such information (objectives or forecasts) as well as the time frame.

#### Within the framework of a prospectus

When quantitative prospective information is communicated by an issuer within the framework of a prospectus and that information can be qualified as “profit forecasts” in the spirit of the Community Prospectus Regulation, it must be accompanied by a description of the underlying assumptions and a report from the statutory auditors. That report certifies that the forecasts were established on the basis of the provided assumptions and that the accounting methods used are in accordance with those applied by the issuer for the establishment of its financial statements. It should be noted that the Prospectus Regulation defines the notion of profit forecast as *“a form of words which expressly states or by implication indicates a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word “profit” is not used”*.

The notion of “forecasts” as used in the Prospectus Regulation was the subject of an AMF position dated July 10, 2006 and of questions and answers dated October 23, 2007: the AMF most notably stated the analytical criteria to be used in order to determine whether prospective financial information qualified as a profit forecast in the spirit of the Prospectus Regulation. It also expressed recommendations concerning the treatment of profit forecasts in the reference document in the case that such is incorporated within a prospectus.

#### DISCLOSURE OF ESTIMATED FINANCIAL DATA

An issuer can, on an optional basis, communicate estimated financial data after the date on which the financial year or half year period ends, however prior to the disclosure of the finalized financial statements for the same period. Although historically issuers have made use of such a communication for estimated or “provisional” financial data, reduced disclosure deadlines are gradually rendering that practice obsolete.

In any case, excluding certain specific situations (for example, in the case of a financial transaction following the end of an accounting period but before the disclosure of the financial statements), such practice is not recommended.

If the issuer decides to disclose estimated financial data, it must comply with the five principles issued in the recommendations of the AMF dated October 12, 2004 related to estimated financial data:

- estimated financial data must systematically be qualified as “estimated results (or financial data)” to the exclusion of any other terminology and the issuer must eliminate any risk of confusion with the definitive financial statements with respect to either terminology or presentation;
- the communication must clearly state the degree to which the competent authorities (board of directors or executive board) were involved in examining the estimated financial data as well as the date expected for closing the accounts;
- information provided to the market must be as consistent and complete as possible given the stage of the closing process;
- the reliability of information communicated to the market must be ensured through the respect of appropriate accounting and/or budgeting processes and the issuer must indicate that data communicated have not yet been reviewed by statutory auditors;
- should the subsequent disclosure of finalized financial statements reveal significant differences from the previously disclosed estimated data, those differences must be explained in detail by the issuer.

In addition, in application of the Community Prospectus Regulation, should the issuer choose to include a results estimate in a prospectus, such estimate must include a description of the underlying assumptions and a report from the statutory auditors certifying that the estimates have been made based upon the provided assumptions and that the accounting methods used are in accordance with those applied by the issuer for the establishment of its financial statements.

#### **DIFFERENCES BETWEEN PREVIOUSLY DISCLOSED OBJECTIVES AND THE PLAUSIBILITY OF RESULTS (PROFIT WARNINGS)**

In accordance with the recommendations made by the work group for profit warnings, as soon as an issuer regularly, in the context of periodic information, discloses to the market information related to its strategy and objectives, the characteristics of its business and its sensitivity to macro-economic factors, the market should, in principle, be capable of measuring the impact of that information, or of any changes in relevant macro-economic factors, on the issuer.

In such case, the issuer will usually update its previously announced objectives through periodic information instead of an immediate and specific disclosure.

Nevertheless, should an issuer find that there is a difference between previously disclosed objectives and the plausibility of results for any given period (whether such difference be positive or negative), and if that difference appears to be inevitable and material (in absolute amounts, as a percentage of the disclosed objective, as a percentage of the figure disclosed by the issuer in the prior period or given how fast the gap is widening), a prompt communication to the market concerning that difference appears necessary.

Should the issuer judge that an immediate disclosure is necessary, the issuer's communication should include an update of the objectives and assumptions to take the reported differences into account as well as a commentary related to the reasons for such differences.

That communication may be followed by an analyst meeting.

In any case, the issuer may, under its responsibility, defer the disclosure of that information to the market, should it believe that the difference is not unrecoverable and that, in the case of a negative difference, it may be recovered before the end of the period concerned.

### **DIFFERENCES BETWEEN FORECASTS PROVIDED BY A HOMOGENEOUS MARKET CONSENSUS AND THE PLAUSIBILITY OF RESULTS (PROFIT WARNINGS)**

In principle, it is not the issuer's role to comment upon forecasts concerning its business made by analysts.

Nevertheless, in accordance with the recommendations made by the work group related to profit warnings: *"Whenever a company decides to report that its expected results will be materially<sup>23</sup> below the range of estimates provided by a closely grouped market consensus<sup>24</sup>, and its management concludes that such difference arose from the inadequate explanation of its strategy, from the specific factors affecting its business or from its sensitivity to other external variables, it should react as soon as possible to provide the appropriate information related to those items. Should the company not have the opportunity of using a periodic disclosure to that effect, such communication should be made specifically and take the form of an official communication released under the conditions provided for by the regulations in force. That disclosure may be followed by an analyst meeting.*

*That disclosure should contain qualitative and strategic components rather than provide one time explanations. In addition, the company should mention the detailed actions which will be taken so that the market can judge its capability of managing those events.*

*Nonetheless, should the differences be based solely on the economic assumptions used (for example, differences between the company and analysts in their expectations of price trends for raw materials), there is no requirement for the company to provide additional information because changes in the economic climate, as reflected in the interim results disclosed, will naturally absorb those differences.*

*In the case a company judges that its results will be significantly above the range of estimates provided by the relevant market consensus, it is generally useful, and also in the firm's best interest, to alert the market in order to maintain the medium term credibility of its communication."*

23 - "The material nature of that difference can be determined based upon its absolute amount or its recent change: a difference which continues to widen is generally considered to be material", page 15 of the Lepetit report.

24 - "Whenever the market consensus is dispersed, (for example, in connection with different perceptions of different business segments by different analysts), it is, in general, difficult to correct it, except in considering that it is the company's responsibility to render it homogeneous, nonetheless, without manipulating opinion.", page 15 of the Lepetit report.

### 3 | EVENTS ASSOCIATED WITH A COMPANY'S BUSINESS

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Information regarding company's sales, production, research & development and, to a certain extent, employment related aspects, constitute, along with more strategic releases (acquisitions or divestitures), the "newsflow" of an issuer, aimed at illustrating the implementation of its strategy and its image. **The issuer must always make sure that the events it decides to communicate on are material, in order to avoid saturating market participants by delivering them an excess of information without any mention of its relative importance.**

Thus, information of a commercial or technical nature, of local or specific interest (related to a sector or technology), which does not achieve a certain threshold of materiality (see below), need not be the subject of an effective and complete dissemination (because it does not qualify as regulated information), and can just be made available on the issuer's website.

When an event related to a company's business occurs, the issuer thus judges if a disclosure to the market is necessary depending on whether the event is material or not and on the potential impact it may have on the share price of the issuer. The issuer can base its decision on the following criteria:

- the expected consequences on financial performance (sales, margins, costs incurred),
- the impact on the balance sheet structure (net debt, shareholders' equity),
- the estimated impact on the competitive position (gain or loss of market share, etc.), of the strategy (expansion into a new geographical area, diversification of the business, etc.),
- the estimated social consequences (recruitment, organisational restructuring, etc.), especially on the geographical area concerned (country, region, etc),
- the business sector of the issuer (for example: the significance of patents for issuers in the pharmaceutical and cosmetic industries, the significance of large contracts within the oil industry, etc.).

#### SALES AND MARKETING

This may concern the signing or loss of a contract, the gain or the loss of a customer, the signing or loss of a commercial agreement or, of a new partnership or the termination of a partnership.

The potential press release will provide: a strategic view and the presentation of the contract, commercial agreement or partnership and its impact on sales. An introduction of the customer or partner can also be included.

#### PRODUCTION

Examples of this type of release might be the announcement of an industrial investment plan, a reorganisation or restructuring plan, the opening or closing of a production line or a new production site.

Points worth mentioning in such a press release include: a reminder of the strategic and market environment, the nature of the production, the locations concerned, the forecast calendar for the opening or closing of production facilities, the amount of investment or the cash and non-cash financial impact of the discontinuation of the business as well as any related impact on the issuer's organisation and the personnel concerned.

## RESEARCH & DEVELOPMENT

Relevant events include the filing, loss, launch, change or abandon of a brand name, license or patent or, the launch or discontinuation of a product or service.

If a press release is disseminated, it shall mention the estimated impact on the business, the R&D or marketing expense, the calendar for the launch or abandon and, if relevant, the customers concerned.

## EMPLOYEE-RELATED EVENTS

### **Restructuring plans or redundancies, strikes**

Should the issuer decide to disseminate a press release on one of these topics, the strategic, macro-economic and competitive and social impact on the company can be mentioned, the factors having led to this type of decision, the number of employees and locations concerned, as well as the potential impact on cash or other aspects.

It should be underlined that, in all cases, any communication to the market of a restructuring plan must be coordinated with the information/consultation of the issuer's employees representative bodies.

### **Employee savings plans (PEE)**

Communication regarding an employee savings plan shall not be made unless such event results in a material change, for example, in the shareholdings of employees in the issuer's capital.

Regulations related to the information of employees representative bodies must also be respected.

## FINANCIAL DIFFICULTY

If the issuer experiences financial difficulty and is subject to pre-insolvency procedures (ad hoc mandate or conciliation), the AMF considers that since the market is not informed of these events and is aware of the issuer's general financial position, the latter does not have to inform the public of the opening of such procedures. It is nevertheless recommended to inform the AMF of such an event.

However, in the event of insolvency procedures (safeguard, receivership, liquidation), a press release is required.

## 4 | CORPORATE GOVERNANCE

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### COMPOSITION OF THE EXECUTIVE, THE BOARD OF DIRECTORS OR SUPERVISORY BOARD

#### Appointment, dismissal or resignation of a member of the Board or Supervisory Board

In principle, a communication related to the composition of a board of directors or supervisory board takes place within the framework of periodic information (in fact, such information is included in the management report, in the President's report on internal control and risk management and in the reference document).

In case an issuer wishes to disclose such information before the dates for disclosure of periodic information, a press release can be issued introducing the person concerned; the main positions occupied and possibly explain the reason for his appointment, dismissal or resignation. In practice, issuers do not disseminate such a release except when it concerns the Chairman of the board, a board member representing a strategic shareholder or the financial or accounting expert on the Audit Committee.

In case a nomination proposal is made by the supervisory board or board of directors to be put to a vote at the shareholders' meeting, the communication can be disclosed following a board of directors or supervisory board meeting or, at the latest, when the resolution approved by the shareholders' meeting is disclosed.

In case of a co-optation by the board of directors or supervisory board or a resignation, the communication must be disclosed immediately after the board of directors or supervisory board meeting at which to the co-optation or the resignation took place.

In case the shareholders' meeting decides the dismissal of a board member, the communication shall take place immediately after the shareholders' meeting at which the resolution was approved.

#### Appointment, dismissal or resignation of the Chief Executive Officer or a member of the Executive Board

Communications related to a Chief Executive Officer or members of the executive board are made within the framework of periodic disclosures (this information is, in fact, included in the reference document and the management report provided for by the French Commercial Code).

The immediate communication to the market by the issuer seems nonetheless necessary as of the appointment, dismissal or resignation of a Chief Executive Officer or a member of the executive board.

In practice, in case of an appointment, the press release disseminated by an issuer will indicate the main functions performed by the Chief Executive Officer or executive board member and may address the various stages of his professional career and the context of his appointment, dismissal or resignation.

### The creation of a specialised committee

The December 8, 2008 order requires every company listed on a regulated market to create an audit committee responsible for monitoring the process of preparing the financial information, the effectiveness of the internal control and risk management systems, the statutory audit of the financial statements and the independence of the statutory auditors. As regards the financial communication, the AMF recently specified that the audit committee must ensure that a preparation process is in place for the annual, half-yearly and quarterly press releases<sup>25</sup>.

There are exceptions, particularly with regard to companies having a board fulfilling the duties of an audit committee. This requirement took effect at the earliest on September 1, 2009 but the effective date may differ from one company to another, depending on the end date of a director's term of office and the closing date for the financial period.

A communication to the market related to the creation and to the functioning of a specialized committee is made within the framework of periodic communication (the Chairman's report relating to the conditions of preparation and organization of the company's reference document).

An immediate communication to the market is not necessary.

The issuer may nonetheless wish to make an immediate communication regarding the creation of a specialized committee in order to demonstrate the implementation of best corporate governance practices.

### The indictment, involvement or condemnation of an executive in a legal affair

Information related to the potential condemnation pronounced against an executive is, in principle, communicated in the reference document<sup>26</sup>. In addition, whenever one of an issuer's executives is the subject of an indictment or, more often, finds himself implicated in a legal affair, the issuer may evaluate whether a disclosure to the market is necessary or appropriate. Such decision will be based on how much the implication of the executive is likely to have consequences on his capacity of performing his functions or on the business of the issuer.

## ACTIVITIES OF THE EXECUTIVE, THE BOARD OF DIRECTORS OR SUPERVISORY BOARD

### Management and Executive Board meetings

In practice, meetings of the Management or of the Executive Board are not subject to any public disclosure.

### Meetings of the Board of Directors or of the supervisory board and special committees

Within the framework of periodic information, a communication related to the meetings of the board of directors or supervisory board or other specialised committee shall be included in the Chairman's report (in the reference document, if such is the case).

25 - AMF report on audit committees dated June 14, 2010

26 - Prospectus regulation, Annex 1, Item 14.1

In principle, issuers only disseminate a press release following board of directors or supervisory board meetings related to important decisions likely to have a material impact on share prices (approval of financial statements, a decision to carry out a financial transaction, etc.). Such communication may however be deferred, under the responsibility of the issuer, if there is a legitimate interest and the absence of a communication is not likely to mislead the public.

Should the board meeting not concern such a decision, an immediate communication to the market does not appear necessary.

Lastly, the reference document should indicate the members, responsibilities and activities of every Board committee.

## COMPENSATION AND BENEFITS

### Executive compensation and stock options

In principle, market disclosures related to executive compensation, the attribution and the exercise of stock options and free share grants are made within the context of periodic information (the information is included in the management report required by the Commercial Code, in the financial statements, in the Chairman's report relating to the conditions of preparation and organisation of the board's work, and, in the company's reference document).

In addition, the Breton Law dated July 26, 2005 provides that the granting of deferred compensation by an issuer to its executives requires the prior approval by the board of directors or supervisory board and the approval of the shareholders' meeting. The TEPA law dated August 21, 2007 also states that the granting of deferred compensation is tied to performance criteria and must be approved by the board of directors or supervisory board, whichever the case, after the beneficiary has completed his mandate before any payment is made to him. The law of December 3, 2008 also imposed new terms and conditions for granting deferred compensation, such as the existence of a similar compensation system for employees.

The TEPA law also requires the disclosure of the board of directors or supervisory board's decisions authorising the granting of deferred compensation and the transfer of such to the beneficiary. The board's decision authorizing the granting of this deferred compensation is disclosed on the company's website within five days following the board meeting and may be viewed during the entire duration of the beneficiary's functions. The board's decision authorizing the payment of this deferred compensation is also disclosed on the company's site within the same five-day period and may be viewed at least until the following shareholders' meeting. Each year shareholders are informed about the existing system of deferred compensation via a special report.

### Transactions in shares of the issuer made by Executives

Transactions in shares of the issuer made by executives, or by persons having close ties with them<sup>27</sup>, shall be the subject of a declaration to the AMF within 5 trading days of their occurrence. A form for such declaration is available on the AMF's website.

A summary of those transactions shall be included in the management report required by the Commercial code.

27 - Persons concerned by the declaration requirement are listed in detail in Articles L.621-18-2 and R.621-43-1 of the Monetary and financial code. See the AMF Questions - Answers dated April 16, 2008, and updated on May 26, 2009, concerning the requirements for disclosing transactions entered into by executives, their close relations and similar persons.

In certain exceptional cases, the issuer may want to communicate on a transaction should it judge it material in nature.

## SHAREHOLDERS' MEETINGS

### Information to the shareholders concerning the shareholders' meeting

The issuer's shareholders shall be informed of shareholders' meetings through the publication of a notice in the BALO at least 35 days prior to such meeting (that deadline being shortened to 15 days in case a meeting has been called for a public offering, in order to respect the calendar constraints associated with the offering procedure). In particular, the notice for the meeting shall indicate the meeting agenda and provide the draft resolutions to be submitted to shareholders for approval as well as the internet address of the Website in which are available all information regarding the General Assembly and if need be the Internet address of the Website dedicated to electronic voting.

At the latest, 15 days prior to the initial notice of a shareholders' meeting (or 6 days in the case of a shareholders' meeting for the approval of a public offering) and, at the latest, 6 days prior to a second notice (or 4 days in the case of a public offering), a notice shall be published in a journal approved for the disclosure of legal announcements within the French district where the issuer's headquarters are registered and also published in the BALO.

In order to favour shareholder participation in shareholders' meetings, the AMF<sup>28</sup> recommends in addition to the publication on the Website of the Convening Notice that issuers also post their notices on their websites and disclose the date, the location and the time of the shareholders' meeting through a notice published in a newspaper with national circulation. Such disclosure should be made simultaneously at the time of the publication in the BALO and the journal of legal announcements. The AMF also recommends to include on their website and in a press release the means by which shareholders can obtain the preliminary documentation to prepare for the shareholders' meeting (*an example of such press release is included in Annex 5 of the AMF Guide related to the filing of regulated information at the AMF and its dissemination*).

It should be noted that directive 2007/36/CE dated July 11, 2007, related to the exercise of certain rights of shareholders of listed companies that happened in December 2010 and enforceable for General Assemblies held as of January 1, 2011, requires from companies to now have a Website.

### Written and oral questions from shareholders

In application of the principle of equal access to information, the communication of answers to written and oral questions asked by shareholders is necessary if the issuer judges that those answers provide privileged information in the spirit of market regulations.

If the issuer judges that, in application of the aforementioned principle, a market communication is necessary, the issuer's press release should be disclosed at the beginning of a shareholders' meeting in case of answers to written questions and immediately after the close of a shareholders' meeting in case of oral questions.

## 5 | EVENTS AFFECTING THE SHAREHOLDING STRUCTURE

### CHANGES IN THE SHAREHOLDING STRUCTURE

#### Voting rights and shares making up the share capital

According to regulations, every month, issuers are required to send to the AMF and publicly disclose the total number of shares and voting rights making up the share capital if those figures differ from the information previously disclosed (*a sample press release is shown in Annex 12 of the Guide to Filing Regulated Information with the AMF and to its Dissemination*).

Effective January 1, 2008, the number of shares and voting rights making up issuers' share capital is no longer published on the AMF's website. Such information is now disseminated by issuers as regulated information.

#### Crossing of legal thresholds (information for which the shareholder is responsible)

Market disclosure in the event of a change in the issuer's shareholding base is specified in the regulation. In the event that a legal threshold is crossed (i.e. 5%, 10%, 15%, 20%, 25%, 30%, one-third, 50%, two-thirds, 90% or 95% of the issuer's share capital or voting rights), whether upwards or downwards, the shareholder must notify the AMF and the issuer concerned by the fourth trading day after the threshold is crossed, at the latest. The AMF publishes this information on its website. A form for disclosing the threshold crossing is available on the AMF's website.

According to the regulation, the notice of threshold crossing indicates in particular the crossed threshold, the total number of shares and voting rights held and the name of the shareholder who has crossed the threshold. The shareholder who has crossed the threshold must also specify:

- The number of shares that the shareholder owns that give deferred rights to newly issued shares and the corresponding voting rights;
- Existing shares that the shareholder may obtain, by way of an agreement or a financial instrument not including those that have already been counted in the calculation to determine the crossing of the threshold;

The notice of threshold crossing must also disclose whether the shareholder is acting alone or in concert with others and, where applicable, (in the event of crossing the thresholds of 10%, 15%, 20% or 25% of share capital or voting rights) must state in a declaration of intent the objectives for the next 6 months. The declaration of intent should be sent to the issuing company and be received by the AMF by the end of the fifth trading day following the threshold crossing. The AMF publishes this information on its website. November 1, 2009, shareholders will also be required to specify the number of shares and voting rights that they may obtain as well as the shares and voting rights concerned by any agreement or security paid for in cash and which for the shareholder has an economic impact similar to possession of shares.

Since July 1, 2009, this declaration of intent has been required in the event of the crossing of the thresholds of 10%, 15%, 20% and 25% of the share capital or voting rights, and

must specify the objectives to be pursued in the coming six months, the methods of financing the acquisition, whether the acquirer is acting alone or in concert, whether the acquirer is planning to stop or continue purchasing and to acquire control or not, the planned strategy in relation to the issuer and the transactions to implement this strategy, the acquirer's intent as to the settlement of the agreements and instruments mentioned in points 4° and 4° bis of the I of article L. 233-9 if the acquirer is a party to such agreements or instruments as well as any temporary sale agreement concerning the shares or voting rights.

This declaration will also specify whether the acquirer plans to request appointment for him/herself or for one or more persons as a director, member of the management board or the supervisory board. In the event of a change in intent within six months, a new declaration must be immediately sent to the company and the AMF and brought to the public's attention, thus marking the start of a new six-month period

### **Crossing of legal thresholds (information for which the issuer is responsible)<sup>29</sup>**

In principle, within the framework of periodic information, the issuer discloses the composition and possible changes to its shareholding structure upon publication of its reference document.

As an exception, when the shareholding structure has been modified following a transaction to which the issuer is a party, the issuer may consider it necessary to disclose the information to the market immediately, because of the material nature of the change. The issuer's press release should be published either when the definitive agreement that will result in a change in the shareholding structure is reached, or prior to reaching a definitive agreement when it becomes obvious that the confidentiality of the change in the shareholding structure can no longer be assured.

In the absence of a material change in the shareholding structure, an issuer who wishes to disclose to the market any change in its shareholding structure is completely free to make such a disclosure.

If the issuer believes that an immediate disclosure is necessary or timely, the press release disseminated by the issuer may describe the transaction that led to the change in the shareholder structure and describe the breakdown of share capital following the transaction, the company's main commitments and, if appropriate, the company's position relative to this change in shareholder structure.

### **Crossing of thresholds established by the company's articles of association**

A shareholder who has crossed a threshold established by the company's articles of association is obliged to declare this breach to the issuer within the time limit set in the articles of association.

Communicating to the market that such a statutory threshold has been crossed is completely optional and at the issuer's complete discretion. In practice, such disclosures are rare.

In order to give investors easier access to information concerning the thresholds stipulated in the articles of association, the issuer may post the thresholds on its

<sup>29</sup> - Contrary to issuers listed on Paris Euronext, issuers listed on Alternext are required to disclose threshold crossings of 50% or 95% of their capital or voting rights within 5 trading days following the day it becomes known to them, through the posting of the disclosure on their website and on that of the Alternext.

website.

### Shareholders' agreements concerning the issuer: signature or termination

Clauses in shareholders' agreements that set preferential conditions for disposal or acquisition of shares covering at least 0.5% of both the issuer's share capital and voting rights must be sent by the signatories to the AMF, which will issue a notice accordingly, within five trading days of the agreement's signature<sup>30</sup>.

However, the issuer is under no obligation to disclose to the market either the signature or termination of a shareholders' agreement of which it is the subject. In principle, the issuer's disclosure of shareholders' agreements is made in the framework of periodic information (reference document).

### Shareholders' agreements concerning a subsidiary or investment of the issuer: signature or termination

When the issuer signs a shareholders' agreement concerning one of its listed subsidiaries or an investment in a listed company, or when such an agreement is terminated or expires, market disclosure is mandatory pursuant to the regulation if the agreement sets preferential conditions for the disposal or acquisition of shares covering at least 0.5% of both share capital and voting rights. The shareholders' agreement must then, under the terms of the regulation, be sent to the AMF, which will issue a notice accordingly, within five trading days of the agreement's signature.

If the agreement does not concern a listed company or if it concerns a listed company but does not set preferential conditions for the disposal or acquisition of shares covering at least 0.5% of both share capital and voting rights, the issuer will evaluate whether market disclosure, is necessary or timely depending on the situation, through examining the materiality of the shareholders' agreement, notably with regard to the major strategic interest of the subsidiary for the issuer, the number of shares covered by the shareholders' agreement, and the rights conferred to the issuer and/or any other parties to the agreement.

If the issuer believes that market disclosure is necessary or timely, the press release should be published immediately by the issuer, as soon as the agreement is signed or expires or is terminated.

The issuer's press release should indicate the identities of the contracting parties, the number of shares covered by the agreement and the term during which the agreement will remain in force. The press release should also describe the main rights and obligations that the signatories will derive from the agreement, as well as the results of its termination (end of the potential concerted action, etc.).

## BUYBACK AND/OR DISPOSAL BY THE ISSUER OF ITS OWN SHARES

In the event of a buyback and/or disposal by the company of its own shares, market disclosure is mandatory pursuant to the regulation. The content and means of the disclosure are set by the regulation.

### Setting up a share buyback programme

A document known as "Programme Description" not subject to AMF approval must be

30 - Article L. 233-11 of the Commercial code

31 - The "Breton Law" of July 26, 2005 eliminated the requirement to produce an information note certified by the AMF prior to launching a share buyback programme

published prior to implementation of a share buyback programme<sup>31</sup>. The description of the buyback programme is qualified as regulated information in the spirit of the AMF's General Regulations, and as such is subject to the requirement of effective and complete dissemination. In the event that the description is included in the reference document, the issuer is not subject to the requirement of effective and complete dissemination of this information.

### Decision to implement a share buyback programme

In general, issuers do not communicate concerning the decision to implement a share buyback programme that has been authorised by the shareholders' meeting, given that any announcement may have an impact on the issuer's share price, and thus may make the share buyback programme's implementation more costly for the issuer.

### Implementation of a share buyback programme

The AMF's General Regulations require the issuer to inform the market of all transactions carried out within the framework of a share buyback programme within seven trading days following execution of the transactions. This weekly disclosure is made on the issuer's website.

The issuer must also inform the AMF on a monthly basis, of cancelled shares, transactions carried out within the framework of a buyback programme and open positions on derivatives on the date of the declaration. The monthly notice constitutes regulated information in the spirit of the AMF's General Regulations and as such is subject to the requirement of effective and complete dissemination. This information is available on line on the AMF's website. If the weekly declaration relative to the implementation of the share buyback programme contains all the information required in the monthly notice, the issuer is not required to file the monthly notice.

The board of directors or the management board must indicate, in its annual report to shareholders, the number of shares purchased and sold in the course of the year within the scope of the share buyback program, the average prices of the purchases and sales, the amount of the trading fees, the number of shares registered in the company's name at year end and their value in terms of the bid price as well as the nominal value of shares allocated to each planned objective, the number of shares used, any reallocations of the shares to other objectives, and the fraction of share capital that they represent.

### Cancellation of own shares

In principle, market disclosure relative to cancellation of repurchased shares is made within the framework of the monthly notice concerning the share buyback programme.

In addition, the Breton Law of July 26, 2005 instituted a requirement for listed companies to disclose the total number of shares and voting rights making up the company's share capital on a monthly basis if they differ from those in the preceding month's disclosure, as in the event of cancellation of repurchased shares (see Part II, Section 5, "Voting rights and shares making up the share capital").

As an exception, if the issuer considers immediate market disclosure to be necessary or timely in view of the material size of the cancellation, it should indicate in a press release the impact of the cancellation on voting rights and financial ratios for the issuer (with the stipulation that the total number of voting rights used as a basis for calculating

threshold crossings remains that indicated in the most recent declaration published by the issuer pursuant to article L. 233-8 II of the Commercial Code).

## LIQUIDITY CONTRACT

The liquidity contract entered into by the issuer within the framework of its share buyback programme must be disclosed to the market by means of a press release disseminated according to the same rules as regulated information.

A notice shall be published (i) upon implementation of a liquidity contract, (ii) at the same time as the half-yearly balance sheet, (iii) when the liquidity contract is terminated and (iv) when any change is made to any features of the liquidity contract.

## DIVIDENDS

### Dividend payments

The draft resolution submitted to the annual shareholders' meeting concerning distribution of a dividend is attached to the management report as described in the Commercial code.

The issuer must also publish a press release announcing the amount of the proposed ordinary or extraordinary dividend that is to be put to a vote at the shareholders' meeting or the amount of the interim dividend, and the planned dividend or interim dividend, payment date.

Information concerning the proposed dividend may be included in the issuer's press release announcing annual results. Information concerning an interim dividend payment may be included in the issuer's press release announcing half-yearly or quarterly results, as appropriate.

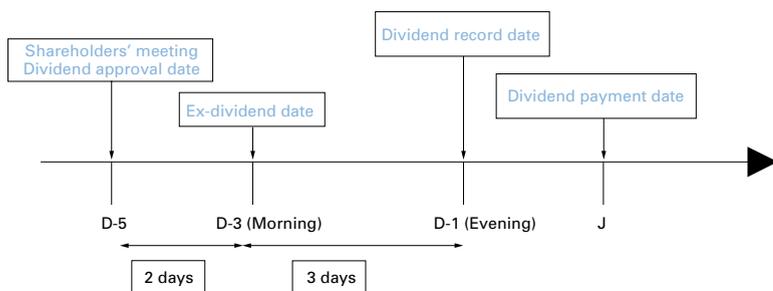
The AMF indicated in a position statement on March 23, 2007 that because of their potential impact on valuation of open derivatives positions, information concerning the amount and date of payment of the proposed dividend to be submitted to a vote by the shareholders' meeting must be considered privileged information in the spirit of the regulation.

In all situations, disclosure to the market should be made allowing a reasonable amount of time before the planned dividend payment date so that participants in derivatives markets, when the issuer's shares constitute the underlying instruments of the derivatives, can integrate this information into their valuation models.

Given the technical constraints in force since November 2, 2007 with regard to securities traded on Euronext concerning the time period for dividend payments, it should be

emphasised that the dividend payment date shall be set no earlier than the fifth working day following the shareholders' meeting that approved distribution of the dividend (see diagram below).

Diagram of the positioning of dates for dividend management



Ex-dividend date:

Date from which trades are executed with the dividend detached, that is, bearers of shares traded from that date will not receive dividends.

Dividend record date:

Date on which Euroclear determines the persons who have the right to payment of the dividend on the basis of position balances at the end of its accounting day. In general, this is the day before the payment date.

Dividend payment date:

Date from which dividends are payable. This date is determined by the issuer and serves as a reference to anchor the other dates.

### Change in the dividend payment date

If the issuer decides to change the date for payment of the dividend to its shareholders, the market must be informed.

Pursuant to the AMF's position of March 23, 2007, the notice to the market indicating the new dividend payment date must be given within a reasonable amount of time before the planned dividend payment date so that derivatives market participants, when the issuer's shares constitute the underlying instruments of the derivatives, can integrate the change in dividend payment date into their valuation models.

## 6 | RISKS AND LITIGATION

In the course of its business, the issuer may be exposed to various types of risks. Schematically, it is possible to distinguish between the issuer's own risks that are specific to it and are related to internal factors (for example, the risk of default of one of its clients, risks linked to a significant event concerning a listed or non-listed subsidiary of the issuer, or the risk of default of a counterparty in market transactions), risks related to external factors, particularly macroeconomic factors, that may have an impact on its

business and/or its results (for example, market risks including currency risk, interest rate risk, liquidity risk or commodity-related risk), risks related to changes in regulation applicable to the issuer or modification of tax law, or country risks that may have an impact on the issuer's production, product distribution or supplies.

On October 29, 2009, the AMF issued a recommendation<sup>32</sup> on the presentation of the "risk factors" section of the reference document and recalled the specific provisions applicable to small- and mid-cap companies.

### RISKS RELATED TO CHANGES IN MACROECONOMIC FACTORS

The issuer shall in principle disclose to the market, on a regular basis, within the framework of periodic information, information that will enable investors to assess its sensitivity to macroeconomic risks. Thus, the market should in principle be able to assess the impact on the issuer's situation of any change in macroeconomic factors that may affect it.

Information on market risks to which the issuer is exposed must be included in the issuer's financial statements under IFRS 7. The "risk factors" section of the reference document may refer to relevant passages of the issuer's financial statements for the description of these market risks. The section in the management report, the annual financial report, on the main risks and uncertainties and the "risk factors" section of the reference document may refer to relevant passages of the issuer's financial statements for the description of these market risks.

In addition to this information, and as of the entering into force of law no. 2008-649 of July 3, 2008, the Chairman's report on internal control must also report on risk management procedures.

Consequently, the issuer generally does not need to make any immediate and specific communication concerning its sensitivity to changes in macroeconomic factors, such communication being made in principle through the dissemination of periodic information.

However, when the issuer believes that a change in a macroeconomic factor has led to an unjustified disturbance in its share price, it should examine whether the disturbance has resulted from an insufficient explanation to the market of its sensitivity to the relevant macroeconomic factor. If this is the case, the issuer should communicate rapidly to the market in order to provide it with a full explanation that will enable market participants to assess the impact of changes in the relevant macroeconomic factor on its business and/or its results.

### RISKS SPECIFIC TO THE ISSUER

Disclosures relative to risks specific to the issuer take place in principle within the framework of periodic information (the information will be shown in the management report, the annual financial report and/or the reference document or even in an updated version of it).

However, as an exception, the issuer should publish a press release as soon as it determines the existence of a risk that is not known to the market if it considers the scope and potential financial impact of the risk to be material, particularly with regard to the estimated impact on its performance and its financial structure under various risk scenarios, the potential impact on its share price, the estimated impact on its strategy and/or its organisation or the potential impact on its reputation, that it necessitates immediate market disclosure.

When the issuer considers that immediate disclosure to the market is necessary, the information should include an explanation of the type of risk and should describe the

internal control procedures put in place by the issuer. The issuer's disclosure may also include a quantified assessment of the impact in the event that the risk materialises (provided that this assessment is sufficiently reliable) and it may indicate whether the issuer has hedged the risk.

## LITIGATION

In the course of business, the issuer is exposed to various types of litigation.

Schematically, that litigation may be of the following types:

- litigation with a client, a supplier or a commercial partner;
- action for damages brought against the issuer due to defects in its products or services or related to non-compliance with environmental regulations;
- litigation with the French or European administrative authorities;
- litigation with employees or their representatives.

In principle, the issuer's communication concerning any major litigation is made within the framework of periodic information (reference document and financial statements).

As an exception, the issuer assesses the necessity and timeliness of immediately disseminating a press release by examining whether the litigation is material with regard to its industrial, commercial and/or financial consequences for the issuer, it being understood that the materiality of litigation with employees and/or their representatives must be assessed with regard to the payroll concerned and claims against an employee redundancy plan or a collective bargaining agreement.

In practice, the issuer's communication generally pertains to the terms of the litigation and the amount of the claims against the issuer relative to the litigation. The issuer's communication may also include an assessment of the potential commercial, industrial, social and/or financial impact of the outcome of the litigation for the issuer – provided that disclosure of this assessment will not damage the issuer's interests within the framework of the legal proceedings in progress – and, if necessary, the communication may also state whether the litigation has been provisioned in the issuer's financial statements.

## 7 ■ RUMOURS AND LEAKED INFORMATION

### RUMOURS

As a general principle, issuers should not comment on rumours concerning them, regardless of the source of the rumour (market traders, media, internet forums on the market, etc.).

As an exception, in the event of a persistent unfounded rumour which the issuer finds to be causing a significant disturbance in the price and/or trading volumes for its shares, it is up to the issuer to assess whether a press release denying the rumour should be published.

If the rumour has a basis in truth, the matter very likely concerns leaked information, which should be treated as such (see below, "Leaked information").

The specific case of a rumour or leaked information relative to a takeover bid on the issuer is discussed in the section devoted to takeover bids.

#### **LEAKED INFORMATION**

In the event of leaked information concerning the issuer, disclosure to the market is deemed necessary if the issuer judges that the leaked information is causing a significant disturbance in the price and/or trading volumes of its shares.

When the issuer deems that disclosure to the market is necessary, the issuer should act as quickly as possible to publish either a confirming press release or a release stating that information on the matter will be issued shortly, which in the latter case should cover only a brief period until the leaked information can be confirmed by the issuer.

The specific case of a rumour or leaked information relative to a takeover bid on the issuer is discussed in the section devoted to takeover bids.

## **8 | MERGERS AND ACQUISITIONS**

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### **ACQUISITION AND DISPOSAL**

#### **Existence of negotiations and signature of a letter of intent or pre-contractual document**

If the issuer is in the process of negotiating with a third party concerning an acquisition or disposal, and if it can no longer guarantee the confidentiality of this information, it must judge whether immediate market disclosure is necessary or timely, depending on the situation, with regard to whether the transaction is material (the materiality of the transaction being assessed particularly in consideration of the criteria discussed in the sub-category entitled "Signature of a firm agreement").

If the transaction is not material, the issuer's disclosure of the existence of negotiations is optional and may be made at its complete discretion.

If the issuer considers immediate market disclosure to be necessary or timely, the issuer's release will indicate in practice the purpose of the negotiations, the state of advancement of the negotiations and the partner's name.

In the event of the signing of a pre-contractual document (memorandum of understanding, letter of intent, etc.), the issuer's communication may in certain cases contain a summary of key elements of the agreement as well as the main future steps or conditions precedent to the conclusion of a firm agreement or the implementation of the transaction when the issuer considers the disclosure of these matters to the market to be necessary or timely.

### Signature of a firm agreement

Upon the issuer's signing of a firm agreement concerning an acquisition or disposal transaction, the issuer shall judge whether immediate market disclosure is necessary or timely with regard to the material character of the acquisition or disposal for the issuer.

The material nature of the disposal or acquisition, depending on the case, should be assessed in particular with regard to the size of the acquisition and its estimated impact on the business, results and the issuer's financial structure, the strategic, financial, commercial and/or industrial importance of the transaction for the issuer and the capital gain or loss realised by the issuer in the event of a disposal.

If the transaction is not of material importance for the issuer, market disclosure may nonetheless be made if announcement of the acquisition would correspond to an expectation on the part of the market.

Market disclosure is made by the publishing of a press release. In certain cases, the issuer will also organise a meeting for analysts or a press conference relative to the transaction.

In practice, the press release disseminated by the issuer generally includes a description of the target (businesses, financial results and outlook) and strategic, financial, commercial and/or industrial objectives pursued by the issuer in the framework of the acquisition or disposal, as appropriate. The press release also outlines any pending conditions precedent to the completion of the transaction (regulatory and competitive authorisations, etc.) and provides a provisional timetable for the transaction (a sample press release is shown in Annex 2 of the Guide to Filing Regulated Information with the AMF and to its Dissemination).

Concerning an acquisition, the press release disseminated by the issuer generally indicates the purchase price if it is material and may, if the issuer judges it useful, indicate the means of financing planned for the transaction. If appropriate, the press release may also indicate the accounting impact of the transaction, anticipated synergies, a discussion of changing or leaving in place the target company's management and a description of the specific risks presented by the target (such as environmental or social risks, etc.).

Concerning a disposal, the press release disseminated by the issuer generally indicates the estimated capital gain or loss if it is material (however, this information may be provided qualitatively instead of being quantified). It is also useful to note that, in certain cases, for specific accounting reasons related to the asset divested, this information can be not disclosed to the market if it is likely to mislead the public.

However, in practice issuers rarely transmit to the market a description of the context of the transaction or disclose the existence of agreements or related transactions (such as management contracts, commercial contracts, etc.).

### Completion of a transaction (Closing)

In practice, issuers generally issue a disclosure to the market when an acquisition or disposal of material importance about which they have previously communicated is

completed, particularly if the market had been informed that the circumstances of the transaction carried risks of it not being completed.

In addition, the acquisition or disposal will result in a change in the issuer's consolidation scope that may require providing pro forma information in the framework of periodic information (see above, "Change in the consolidation scope of the issuer [publication of pro forma information]").

#### **Fulfilment or non-fulfilment of conditions precedent relating to the transaction**

When conditions precedent (authorisation by the relevant competition authorities, regulatory authorisations, etc.) relating to a disposal or acquisition about which the issuer has previously communicated are fulfilled, the issuer will assess, on a case-by-case basis, the necessity or timeliness of disclosing this information to the market with regard to the material importance of these conditions precedent to carry out the transaction.

In the event of non-fulfilment of a condition precedent relating to a disposal or acquisition about which the issuer has previously communicated, immediate market disclosure is necessary if such non-fulfilment of the condition precedent definitively prevents the transaction from being carried out.

#### **Break-off in negotiations**

In the event that negotiations are broken off, immediate disclosure to the market is necessary if the market was previously informed that negotiations were in progress; in the opposite case, a disclosure of the information to the market would not appear desirable.

If the issuer discloses the break-off in negotiations, the press release published by the issuer will recall the purpose of the negotiations. In practice, it is rare for the press release to indicate the exact reasons for breaking off negotiations.

### **MERGER, DE-MERGER, PARTIAL MERGER OR SPIN-OFF**

#### **In the framework of an internal reorganisation**

##### **■ Definitive decision by the governing bodies**

When the issuer decides to carry out a merger, de-merger, partial merger or spin-off within the framework of an internal reorganisation, the issuer will assess whether market disclosure is necessary or timely by examining the material nature of the transaction with regard particularly to its strategic, commercial, industrial and/or financial interest for the issuer, the scale of the reorganisation, the impact of the reorganisation on the issuer's consolidated financial statements and the dilutive effect of the transaction on shareholders.

If the issuer judges that disclosure is necessary or timely, the issuer's press release should be disseminated as soon as the definitive decision has been made by the governing bodies of the group's parent company.

In practice, the press release generally indicates the reasons for the transaction and

its positioning in the issuer's group strategy as well as a description of the transaction and its impact on the group's reorganisation and specifies the provisional timetable for the transaction. It also indicates, if necessary, the dilutive impact of the transaction for the issuer's shareholders. In some cases, the press release disseminated by the issuer details the exchange parity or contribution value and describes the impact of the transaction on the financial statements (or at least on key figures) of the companies concerned (notably including, if applicable, an estimate of restructuring costs).

#### ■ **Fulfilment or non-fulfilment of the conditions precedent**

Upon the fulfilment of conditions precedent (regulatory authorisations, etc.) relating to a merger, de-merger, partial merger or spin-off in the framework of an internal reorganisation, and about which the issuer has previously communicated, the issuer will determine on a case-by-case basis whether market disclosure is necessary or timely with regard to the material nature of the conditions precedent for the completion of the transaction.

In the event of non-fulfilment of a condition precedent relating to a merger, de-merger, partial merger or spin-off in the framework of an internal reorganisation, and about which the issuer has previously communicated, immediate market disclosure is necessary if the non-fulfilment of this condition precedent definitively prevents the transaction from being completed.

#### ■ **Completion of a transaction**

In practice, issuers generally disclose to the market when a reorganisation of material size about which they have previously communicated has been completed, especially if the market had been informed that the circumstances of the transaction carried risks of it not being completed.

### **In the framework of a merger with a third party**

#### ■ **Existence of negotiations, signature of a pre-contractual agreement**

When the issuer is in negotiations with a third party related to a merger, partial merger or spin-off, and the issuer is no longer able to guarantee the confidentiality of this information, it will assess whether immediate market disclosure is necessary or timely, with regard to whether the transaction is of material importance (its material importance being assessed notably in consideration of the criteria described in the sub-category entitled "Signing of the formal agreement").

If the transaction is not material in size, the issuer's communication on the existence of negotiations is optional and may be made at its entire discretion.

If the issuer judges that immediate market disclosure is necessary or timely, the issuer's communication will in practice indicate the purpose of the negotiations, their state of advancement and the partner's name.

In the event of the signing of a pre-contractual document (memorandum of understanding, letter of intent, etc.), the issuer's communication may, in certain cases, contain a summary of the key provisions of the agreement as well as possible future steps or conditions precedent that should be fulfilled prior to the conclusion of a firm agreement or implementation of the transaction when the issuer judges that market disclosure of this information is necessary or timely.

### ■ Signing of the formal agreement

In a merger, de-merger, partial merger or spin-off carried out with a third party, at the time of signing the formal merger or partial merger agreement, the issuer assesses whether immediate market disclosure is necessary or timely on the basis of whether the transaction is material as regards its strategic, commercial, industrial and/or financial interest for the issuer and its estimated impact on the issuer's results and financial structure.

Market disclosure is made by the publication of a press release. In practice, the press release disseminated by the issuer generally indicates the reasons for the transaction and the anticipated synergies as well as the transaction's terms and conditions, its timetable and any possible conditions precedent (notably, regulatory and competition authorisations). It generally describes the impact of the transaction on the issuer's consolidated financial statements and on the composition of governing bodies and states the price, the exchange parity or the consideration for the contribution, as appropriate. In some cases, issuers also organise analyst meetings or press conferences relative to the transaction.

When the issuer is the beneficiary of the contribution, the press release disseminated by the issuer generally contains an indication of the dilution that will result from the transaction for the issuer's shareholders.

When the issuer is the contributing company, the press release disseminated by the issuer contains in most cases an indication of the issuer's strategic interest in the stake received in consideration for the contribution.

However, in practice issuers rarely disclose to the market a description of the context of the transaction or disclose the existence of agreements or related transactions (such as management contracts, commercial contracts, etc.).

### ■ Fulfilment or non-fulfilment of the conditions precedent

Upon fulfilment of the conditions precedent (authorisation by the relevant competition authorities, regulatory authorisations, etc.) relating to a merger, de-merger, partial merger or spin-off in the framework of a merger with a third party, and about which the issuer has previously communicated, the issuer will assess, on a case-by-case basis, the necessity or timeliness of disclosing this information to the market with regard to the material importance of these conditions precedent to carry out the transaction.

In the event of non-fulfilment of a condition precedent relating to a disposal or acquisition about which the issuer has previously communicated, immediate market disclosure is necessary if such non-fulfilment of the condition precedent definitively prevents the transaction from being carried out.

### ■ Completion of a transaction

In practice, issuers generally make a disclosure to the market when a merger of material importance with a third party about which they have previously communicated is completed, especially if the market had been informed that the circumstances of the transaction carried risks of it not being completed.

## TAKEOVER BID

### Events concerning the offeror

#### ■ Rumours

The reform of takeovers put in place by the March 31, 2006 Act introduced into French law an anti-rumour mechanism ("put up or shut up") the details of which are set out in the AMF's September 18, 2006 amendment to its General Regulations relating to public offers.

This new mechanism enables the AMF, in particular when the market in an issuer's securities shows significant unusual variations in price or volume, to request that any entity in respect of which there is reasonable cause to think that it is preparing a takeover bid make a declaration within a period fixed by the AMF.

If the entity declares that it has no intention of making a takeover bid on the potential target, that entity may not launch an offer on the company concerned prior to the expiration of a period of six months following the date of this declaration, unless there is a significant change in the environment, the situation or the shareholding structure of the target or the potential offeror.

If the entity declares its intention of making a takeover bid, it must indicate the characteristics of the bid in a press release within the time set by the AMF. Failing this, the entity is deemed to have no intention of making a takeover bid. The publication of the press release indicating the characteristics of the bid, either to satisfy this requirement or by any person preparing a transaction likely to have a significant influence over the price of shares, marks the beginning of the pre-offer period.

Without prejudice to the existence of the anti-rumour mechanism mentioned above, when there is a precise rumour relative to a hostile takeover bid by one or more identified potential offerors and if the rumour has led to a significant disturbance in the potential target's share price and/or the offeror's share price, it is the prospective offeror's responsibility to take as soon as possible, all measures that it judges necessary to cut short this situation of uncertainty and to bring the price disturbance to an end.

If the rumour is without foundation, the prospective offeror should publish as soon as possible a release including a denial of the rumour.

However, if the rumour has a basis in truth and the prospective offeror is in fact planning to launch a takeover bid, the offeror should attempt to speed up the timetable for making the public offer in order to avoid prolonging the period of uncertainty beyond a reasonable time.

#### ■ Launch of a takeover bid

When a takeover bid is made, market disclosure by the offeror is mandatory pursuant to regulation. The content and procedures for this disclosure are set by regulation.

This disclosure shall be made by dissemination of a press release, an offer document and a disclosure document related to the offeror's characteristics.

#### - Press release

The press release contains the main features of the draft offer document and specifies the procedures for consulting the draft offer document (a sample press release is shown in Annex 13 of the Guide to Filing Regulated Information with the AMF and to its dissemination).

The offeror's press release must be published no later than the filing of the draft offer

document with the AMF, using procedures that will assure its effective and complete dissemination. The press release disseminated by the offeror is also posted on the AMF's website and that of the issuer.

#### - Offer document

The content of the offer document is set by regulation.

The draft offer document must be filed with the AMF at the same time as the draft offer. As soon as the draft offer is filed, the draft offer document is made available free of charge to the public at the offeror's registered office and the offices of the institutions sponsoring the offer.

When the draft offer document has been established jointly with the target company, it is also made available at the target company's registered office and at the organisations engaged as paying agent for the target company's securities.

The draft offer document is then published on the offeror's and the AMF's websites.

When the draft offer document has been established jointly with the target company, it is also published on the target company's website.

The definitive offer document, after approval by the AMF, is disseminated before the opening of the offer and no later than the second trading day after the offer is declared compliant. The offeror's definitive offer document must either be published in a national financial newspaper or made available free of charge to the public at the offeror's registered office and at the offices of the sponsoring institutions (a sample press release is shown in Annex 14 of the Guide to Filing Regulated Information with the AMF and to its Dissemination).

When the definitive offer document is not published in a national financial newspaper, the offeror must either publish a summary of the offer document in a national newspaper or issue a press release by methods that will assure effective and complete dissemination, specifying the procedures for access to the definitive offer document.

The definitive offer document is posted on the AMF's website.

#### - Disclosure document related to the offeror's characteristics

Since the provisions of the AMF's General Regulations concerning public offers were modified on September 18, 2006, information concerning in particular the legal, financial and accounting characteristics of the offeror is no longer included in the offer document but is published in a separate disclosure document that is not subject to the AMF's approval.

The disclosure document concerning the offeror's characteristics must be filed with the AMF and made available to the public under the same conditions as the offer document, no later than the day before the opening of the offer.

When the offeror publishes a reference document, the disclosure document will essentially consist of an updating of the information in the reference document.

#### ■ Event taking place during the offer

If the offeror becomes aware of an event taking place during the offer, the offeror will assess whether a press release is necessary or timely concerning the impact of the event on the offer and/or its share price.

If the offeror judges that market disclosure is necessary or timely, the press release disseminated by the offeror should be published as soon as the event occurs and should

include a description of the event as well as an explanation of its impact on the development and/or the evaluation of the offer.

#### ■ **Competing bid**

When a third party makes a competing offer, communication by the first offeror is optional and at the complete discretion of the offeror unless it decides to make an improved offer to withdraw its offer (see below, “Withdrawal of an offer” and “Improved offer”).

#### ■ **Withdrawal of an offer**

The offeror may withdraw its offer:

- within five trading days of publication of the timetable of a competing bid or an improved competing bid; or,
- if the target, because of measures that it has taken, finds that its substance is modified during the offer or in the event that the offer is successful; or, if the offer is frustrated (in the latter case, prior authorisation from the AMF is necessary).

The offeror must inform the AMF of its decision to withdraw the offer. The AMF will, if necessary, rule on whether the offeror may withdraw. The decision to withdraw the offer may, if necessary, be accompanied by the reasons for the withdrawal.

The AMF makes public the offeror’s decision to withdraw its offer.

#### ■ **Improved offer**

The offeror may improve upon the terms of its original offer. The draft of the improved offer must be filed with the AMF no later than five trading days before the initial offer closes.

In the event of an improved offer, market disclosure by the offeror is mandatory. The offeror must disseminate a supplement to the offer document approved by the AMF. The content of this document is set by regulation.

The supplement to the offer document specifies the terms of the improved offer with regard to conditions precedent to the offer as well as changes in various items included in the offeror’s offer document.

The draft supplement to the offer document with the AMF is filed concomitantly with filing of the improved offer (and therefore no later than five trading days before the initial offer closes).

### **Events concerning the target**

#### ■ **Rumours**

Without prejudice to the existence of the anti-rumour mechanism mentioned above, when there is a precise rumour related to the existence of discussions between an issuer and one or more potential offerors relative to a takeover bid, to the extent that the rumour has led to a significant disturbance in the potential target’s share price, it is the issuer’s responsibility to take as soon as possible, all measures that it judges necessary to cut short this situation of uncertainty and to bring the price disturbance to an end.

If the rumour is without foundation, the issuer concerned should publish as soon as possible a release including a denial of the rumour.

However, if the rumour has a basis in truth and the draft offer cannot be filed rapidly, the

issuer should publish as soon as possible a press release stating that discussions exist and indicating, if necessary, the potential offeror's or offerors' identity or identities and the state of advancement of the discussions.

#### ■ Factors that may have an impact in the event of a takeover bid

The March 31, 2006 Act relative to takeover bid introduced the obligation for issuers to indicate in their management report a list of certain items fixed by regulation (clauses of change of control, capital structure, etc.) when these may have an effect in the event of a takeover bid.

It is up to the issuer to examine on a case-by-case basis and under its own responsibility whether these factors may have an impact in the event of a public offer and whether they should therefore be mentioned in the management report.

The offer document published in response by the target should include an updating of factors that may have an impact in the event of a public offer, which should be published in the management report.

In addition, the March 31, 2006 Act relative to takeovers introduced the possibility for listed companies to include in their articles of association, at their discretion, certain provisions for the neutralisation of restrictions under the articles of association or other agreements concerning the exercise of voting rights or the transfer of shares, as well as the suspension of extraordinary rights of appointment or removal from office of officers and directors in the event of a public offer. As soon as the articles of association have been modified, the issuer should inform the AMF of the introduction or deletion of the relevant clauses for updating on the AMF's website.

#### ■ Launching a friendly offer

Upon the launch of a friendly public offer, market disclosure by the target is mandatory pursuant to regulation. Its content and procedures are set by regulation.

In the event of a friendly public offer, assuming that a fairness opinion by an independent appraiser is not required, only one offer document is established jointly by the target and the offeror. This joint offer document will thus contain the main items that should be included in the offer document in response (see below, "Offer document in response").

However, since the reform of public offers, when the board of directors or the supervisory board of the target company has designated an independent appraiser to issue a fairness opinion, the target company's offer document in response may not be established jointly with the offeror's offer document and must be filed separately.

#### ■ Launching a hostile bid

In the event of a hostile takeover bid, it appears necessary for the target company to publish a press release in order to inform the market of the unsolicited nature of the offer. The press release should be disseminated rapidly upon the launch of the offer and, if possible, the day of the offer filing.

In this press release, the target will indicate the unsolicited nature of the bid and may also, if it so desires, indicate the date of the meeting of the board of directors or the supervisory board called to decide on the response to the bid.

#### ■ Target's reasoned opinion

When an offer has been filed, the target company may disseminate a press release as

soon as the offeror's press release is disseminated and no later than the dissemination of the offer document in response.

This press release includes the reasoned opinion of the board of directors or supervisory board concerning the interest and/or risks of the offer and its consequences for the target company, its shareholders and its employees. It also indicates the conditions under which this opinion was reached (absent members, existence of dissenting opinions, etc.). If necessary, the press release disseminated by the target company may mention the conclusions of the report of the independent appraiser designated by the target company's board of directors or supervisory board, for purposes of issuing a fairness opinion on the financial terms of the offer.

This communication is optional for the target company and may be made at its complete discretion.

#### ■ Offer document in response

Publication of an offer document in response is mandatory pursuant to regulation concerning public offers. The offer document's contents and the procedures for its dissemination are set by regulation.

The draft offer document in response must in principle be filed with the AMF no later than five trading days after publication of the AMF's statement certifying that the offer is compliant. By exception, when an independent appraiser is designated pursuant to regulation, the target company must file the draft offer document in response no later than 20 trading days after the offer is filed; the AMF will issue its statement of compliance for the offer no earlier than five trading days after the filing of the target company's draft offer document in response.

As soon as the draft offer document in response has been filed with the AMF, the draft offer document in response is made available free of charge to the public at the registered office of the target company and at the offices of the organisations engaged as paying agent for the target company's securities. The draft offer document in response is also published on the websites of the target company and the AMF.

The definitive offer document in response is disseminated to the public after receiving the AMF's approval.

The offeror's definitive offer document in response must either be published in a national daily financial newspaper or made available free of charge to the public at the target company's registered office and at the offices of the organisations engaged as paying agent for the target company's securities (a sample press release is shown in Annex 14 of the Guide to Filing Regulated Information with the AMF and to its Dissemination).

When the definitive offer document in response is not published in a national daily financial newspaper, the target company must either publish a summary of the offer document in a national daily financial newspaper or issue a press release by methods that will assure effective and integral dissemination, specifying the procedures for access to the definitive offer document in response.

The definitive offer document in response is posted on the AMF's website.

#### ■ Disclosure document relative to characteristics of the target

Since the modification of provisions of the AMF's General Regulations related to takeovers on September 18, 2006, information related particularly to legal, financial and accounting characteristics of the target company is no longer included in the offer document in response but is published in a separate disclosure document, which is not subject to AMF approval.

The disclosure document relative to characteristics of the target must be filed with the AMF and made available to the public under the same conditions as the offer document in response, no later than the day before the opening of the offer.

When the target company publishes a reference document, this disclosure document will consist essentially of an update of the information included in the reference document.

#### ■ Event taking place during the offer

If the target company becomes aware of an event taking place during the offer, it will assess whether a press release is necessary or timely concerning the impact of the event on the offer and/or on the target's share price.

If the target company judges that market disclosure is necessary or timely, the press release issued by the target should be published as soon as the event occurs. It should include a description of the event as well as an explanation of its impact on the development and/or the evaluation of the offer.

#### ■ Organisation of alternative transactions ("white knight")

When the target company organises alternative transactions, it is necessary to issue a press release as soon as the terms of the alternative transaction have been determined between the target and the "white knight."

The press release must be sent by the target to the AMF prior to dissemination.

The press release disseminated by the target should include a description of the content of the agreement reached between the target company and the "white knight" as well as an explanation of the interest presented by the competing offer for the target and its shareholders in comparison with the initial offer.

#### ■ Competing bid

In the event of the launch of a competing bid, publication of a press release by the target is mandatory pursuant to regulation. The content and procedures for this press release are set by regulation.

When the competing bid is carried out in conciliation with the target, the target company may communicate jointly with the offeror of the competing bid.

The press release disseminated by the target specifies the reasoned opinion of the board of directors or the supervisory board concerning the competing offer. This opinion will concern the interest or the risks that the competing bid presents, as well as the consequences of the competing bid for the company, shareholders and employees.

The target company's press release should be published, by procedures to assure its

effective and complete dissemination, as soon as the target has made a decision and after first sending the press release to the AMF.

#### ■ Improved offer

In the event of an improved offer, publication of a press release by the target is mandatory pursuant to regulation. The content and procedures for this press release are set by regulation.

The press release disseminated by the target specifies the reasoned opinion of the board of directors or the supervisory board concerning the improved offer. This opinion will concern the interest or the risks that the improved offer presents, as well as the consequences of the improved offer for the company, shareholders and employees.

The target company's press release should be published in accordance with procedures to assure effective and complete dissemination as soon as the target has made a decision and after first sending the press release to the AMF.

## 9 ■ FINANCIAL TRANSACTIONS

The reform of the public offering regime implemented by the order of January 22, 2009, abandoned the concept of *appel public à l'épargne* (public offering) specific to France, in favor of the concepts of "admission to a regulated market" and "offer of securities to the public." An offer of securities to the public consists of:

- a communication addressed to persons which presents sufficient information on the terms and conditions of the offer and on the securities concerned in order to enable an investor to decide to purchase or subscribe for these securities;
- the placement of securities by financial intermediaries.

A certain number of exemptions from these requirements are provided for in articles L. 411-2 et seq. of the Monetary and Financial Code.

An offer of securities to the public generally requires the publication of a document intended for the public that describes the content and the terms and conditions of the transaction concerned, as well as the organization, the financial position and changes in the issuer's business activity and any underwriters of the securities concerned by the transaction. This document is drafted in French or, in the cases set forth in the general regulations, in another language commonly used by the financial community. In principle, it includes a summary and, where applicable, must be accompanied by a translation into French of the summary.

### CAPITAL INCREASES AND OTHER ISSUES OF SECURITIES PROVIDING ACCESS TO CAPITAL

#### Capital increase by way of a public offering: the decision

Prior to carrying out a capital increase by way of a public offering, upon the adoption by the issuer's relevant decision-making bodies of a decision to increase the share capital, the issuer may make an immediate market disclosure depending on the type, amount and/or strategic nature of the transaction.

In this situation, the press release disseminated by the issuer will generally indicate the planned amount of the capital increase, describe the main features of the securities and the transaction and specify the provisional timetable for the transaction.

### Capital increase by way of a public offering: the transaction

When financial instruments are issued to the public, market disclosure is mandatory pursuant to regulation. Its content and its procedures are fixed by regulation.

A prospectus subject to AMF approval must be established by the issuer. It cannot be distributed before obtaining approval and must be distributed no later than the opening of the subscription period.

The prospectus is posted on the AMF's website and on the issuer's website. The issuer must also publish a summary of the prospectus in one or more national or other large circulation newspapers, or alternatively may publish a press release specifying the procedures by which the prospectus is made available (a sample press release is shown in annex 9 of the Guide to Filing Regulated Information with the AMF and to its Dissemination).

In practice, in addition to the mandatory disclosures as required by regulation, the issuer also communicates regarding the issue by organising various communication-based events, such as analyst meetings and road shows.

In addition, at the conclusion of the capital increase, the issuer generally publishes a press release presenting the definitive results of the capital increase, including in particular the number of shares issued and the amount raised.

### Capital increase by way of a public offering: special case of cross-border transactions

In the event of a capital increase by way of a public offering carried out in several countries, the disclosure requirements with which the issuer must comply will depend on the applicable regulation in each country concerned.

However, at Community level, the Prospectus Directive has facilitated cross-border transactions involving a public offering in several Member States of the European Union or parties to the agreement on the European Economic Area (EEA) by instituting a mechanism for mutual recognition of the approval granted by the competent regulatory authority for the prospectus established by the issuer.

Thus, the prospectus established by an issuer whose registered office is located in France in order to carry out a capital increase may, after receiving the AMF's approval, be validly used for a public offering in other Member States of the European Union or the EEA, subject to the AMF's prior delivery of a certificate of approval to the regulatory authorities of the States concerned. The certificate will attest that the prospectus has been established in compliance with the provisions of the Prospectus Directive.

### Capital increase reserved for a third party (Private Investment in Public Equity, or PIPE)

In the event of a capital increase or issue of securities giving access to capital reserved for third parties, market disclosure by the issuer appears necessary.

A press release should be published as soon as the agreement with the third party is signed.

The press release should indicate the planned amount of the issue and the issue premium and describe the main features of the transaction and of the securities to be issued. It should also state the beneficiary's name and the dilution for existing shareholders that will result from the transaction and explain the reasons for the issue.

### **Capital increase reserved for employees who are members of an employee savings plan (*Plan d'Épargne Entreprise – PEE*)**

In the event of a capital increase reserved for employees, market disclosure by the issuer appears necessary.

The press release should be published at the conclusion of the shareholders' meeting that decides to carry out the capital increase reserved for employees.

The press release disseminated by the issuer should indicate the planned amount of the issue, the dilution for the issuer's shareholders that will result from the transaction, the discount offered to employees and the percentage of the issuer's capital held by employees.

## **FINANCING CONTRACTS, DEBT AND SECURITISATION**

### **Conclusion of a new financing contract**

In principle, disclosures related to financing contracts take place in the framework of periodic information (financial statements and reference document).

As an exception, immediately upon the conclusion of a new financing contract, the issuer will immediately inform the market if the new financing is material with regard to the change in its debt (in particular with regard to the amount of this debt and its maturity), the change in the cost of debt for the issuer (in particular, the fixed or floating-rate nature of the debt and its amount), the issuer's objective and the financial guarantees and sureties granted by the issuer in favour of lending banks.

In any event, immediate market disclosure appears necessary if the issuer's indebtedness is a topic of concern for the market.

In the event of immediate market disclosure, the press release disseminated by the issuer will generally indicate, on a case-by-case basis, according to the importance of these items in view of the situation, the main features of the financing contract concluded by the issuer (amount of the loan, interest rate, term of the loan, specific acceleration clauses provided for in the financing contract) as well as financial guarantees and sureties granted by the issuer in favour of the lending banks. The press release may in some cases also state the lenders' identities, the issuer's objective and the use of the funds.

### **Issuance of bonds to the public: the decision**

When the issuer's governing bodies decide to issue bonds to the public, immediate market disclosure is optional and may be done at the issuer's complete discretion. Such communication in advance of an issuance is rare in practice.

### **Issuance of bonds to the public: the issuance**

At the time of the issuance of bonds to the public, market disclosure is mandatory pursuant to regulation. The content and procedures for this disclosure are set by regulation.

A prospectus approved by the AMF is established by the issuer. The prospectus must not be disseminated prior to obtaining this approval. It shall be disseminated no later than the opening of the subscription period.

The prospectus is posted on the AMF's and the issuer's websites. The issuer must also publish a summary of the prospectus in one or more national or other mass-circulation newspapers or alternatively may publish a press release specifying the procedures by which the prospectus is made available.

#### **Issuance of bonds: special case of cross-border transactions**

In the event of the issuance of bonds to the public in several countries, the disclosure requirements with which the issuer must comply will depend on applicable regulation in each country concerned.

However, at Community level, the Prospectus Directive has facilitated cross-border bond issue transactions to the public in several Member States of the European Union or parties to the agreement on the European Economic Area (EEA) by instituting a mechanism for mutual recognition of the approval granted by the competent regulatory authority for the prospectus established by the issuer.

#### **Issuance of bonds without a public offering**

In principle, a disclosure related to the issuer's debt is made in the framework of periodic information (financial statements and reference document).

By exception, when bonds are issued without a public offering, the issuer will immediately inform the market if the bond issue is material, particularly with regard to the change in the issuer's debt (in particular as regards the amount and maturity of the debt), the change in the issuer's cost of debt (in particular, the fixed or floating-rate nature of the cost of debt and its amount), the issuer's objective, financial guarantees and sureties granted by the issuer in favour of the lending banks and specific features of securities being issued.

In the event of immediate market disclosure, the press release should be disseminated by the issuer as soon as an agreement with the third party has been concluded. The press release will generally indicate the amount of the issue and the main features of the issue and the securities being issued (interest rate, specific acceleration clauses, etc.) (A sample press release is shown in Annex 4 of the Guide to Filing Regulated Information with the AMF and to its Dissemination).

#### **Non-compliance by the issuer with bank loan covenants**

In the event of non-compliance by the issuer with financial ratios and/or commitments stipulated in its financing contracts, immediate market disclosure appears necessary when the impossibility of meeting the commitments and/or financial ratios becomes certain.

However, the issuer may postpone informing the market, under its own responsibility, if there is a legitimate interest in doing so and an immediate announcement of its default could be prejudicial to it. However, in postponing such a disclosure the issuer must take

into consideration whether the consequences of non-compliance with financial ratios and/or commitments stipulated in the issuer's contracts are sufficiently significant that the absence of communication would mislead the market concerning the issuer's financial position.

If the issuer judges it necessary to inform the market immediately, the press release disseminated by the issuer may indicate that the company intends to renegotiate its debt.

### **Issuer's rating: upgrading or downgrading**

In the event of a change in an issuer's rating, the rating agency that made the change is responsible for publicising the new rating. It is not the issuer's responsibility.

In practice, it is rare for an issuer to comment on a change in its rating by a rating agency. In any case, if the issuer decides to inform the public, it should be careful to make a clear distinction between the explanations given by the issuer concerning the change in its rating and the reasons given by the rating agency to justify the change.

### **Global debt renegotiation**

In principle, communication concerning the issuer's debt takes place in the framework of periodic information (financial statements and reference document).

By exception, in the event of global renegotiation of the issuer's debt, the issuer will immediately inform the market if the renegotiation is material, particularly as regards the change in the issuer's indebtedness (in particular with respect to the amount of indebtedness and its maturity), the change in the cost of debt for the issuer (particularly with respect to the fixed or floating-rate nature of the debt and its amount), the issuer's objective and financial guarantees and security granted by the issuer in favour of the lending banks.

If the issuer considers market disclosure necessary or timely, the issuer's press release should be disseminated either at the start of the renegotiation if the renegotiation is necessary in order to avoid the issuer being in default or after the renegotiation if the renegotiation was not necessary to avoid the issuer being in default. In the latter case, the issuer may postpone informing the market if immediate market disclosure could precipitate to the issuer being in default or create an obstacle to the success of the renegotiation of the debt, on the condition that the lack of communication would not mislead the market with regard to the issuer's financial position.

If the issuer considers that immediate market disclosure is necessary or timely, the press release disseminated by the issuer should indicate the total amount of the issuer's global debt, (current and after the renegotiation) and the maturity of the issuer's debt. The press release disseminated by the issuer may also describe the main financing lines resulting from the new debt structure and the associated costs as well as the new financial guarantees and sureties granted in the framework of the renegotiation. Lastly, the press release disseminated by the issuer may describe the impact of the renegotiation on its share capital.

### Securitisation involving a public offering

When the issuer carries out a securitisation and the securities issued by the debt securitisation fund (fonds commun de créance – FCC) to which the issuer's receivables had been assigned are offered to the public, market disclosure is mandatory pursuant to regulation. Its content and its procedures are fixed by regulation.

Dissemination of an offer document approved by the AMF constitutes a prerequisite for the issue to the public of the securities by the debt securitisation fund.

### Securitisation without a public offering

In general, in the event that a securitisation is carried out without a public offering, issuers inform the market only if the impact of the securitisation on the balance sheet structure is material.

If this is the case, the press release will generally be published as soon as the definitive decision to proceed with the securitisation has been made and will describe the main features of the securitisation transaction (securitisation vehicle, nature and volume of receivables assigned, etc.) and of the financing obtained (amount, interest rate, specific acceleration clauses, etc.).

## INITIAL PUBLIC OFFERING (IPO)

### Initial public offering of the issuer: prior to the offering

Prior to the initial public offering, market disclosure is optional and is entirely at the future issuer's discretion. Communication of this type is rare in practice.

However, in the event that such communication does take place, the issuer must ensure that this communication remains institutional and that it avoids resembling a public offer prior to obtaining approval.

### Initial public offering of the issuer: the steps in the offering

Disclosure by the issuer is mandatory pursuant to regulation. The content and procedures for this disclosure are set by financial market regulation.

The issuer's communication include dissemination of a registration document (document de base) and a securities note (note d'opération) – including a summary – whose content is set by AMF regulations.

The draft registration document that must contain all required information for establishing the prospectus except that pertaining to the financial instruments whose listing is requested, must be filed with the AMF at least 20 trading days before the planned date for obtaining approval for the offering. The AMF notifies the issuer of approval for registration. This registration approval is made public by the AMF. The registration document is disseminated as soon as notification of registration approval is received. The issuer may, however, postpone its publication if it is able to assure the confidentiality of significant information that it contains in the meantime. In any case, the registration document is disseminated no later than five trading days before the planned date for obtaining approval.

The draft securities note and the summary must be filed no later than five trading days before the planned date for obtaining approval. The securities note may be disseminated as from the date of obtaining approval and must be disseminated at least six trading days before the closing of the transaction.

Any new fact that may affect investors' assessment and that occurs after registration of the registration document must be included in the securities note.

During the black-out period (that is, in practice during a period of two to three weeks prior to obtaining approval), all communication to the market related to the offering is forbidden, approval of the prospectus (registration document and securities note) not yet having been given by the AMF, by definition.

The registration document and securities note are posted on the AMF's and the issuer's websites.

The issuer must also publish a summary in one or more national or mass-circulation newspapers, or alternatively publish a press release specifying the procedure by which the registration document and securities note will be made available.

In practice, in addition to the information required by regulation, the issuer will communicate regarding the transaction by organising analyst meetings and roadshows.

#### **Initial public offering of a subsidiary or a significant business of the issuer**

In the event of an initial public offering of a subsidiary or a significant business of the issuer, immediate market disclosure before the initial public offering may be necessary if a rumour exists that may lead to disturbance in the issuer's share price (see above, "Rumours").

In this case, the issuer may disclose, prior to the offering, a description of the transaction, an indication of the strategic interest of this initial public offering for the issuer, the stock exchange chosen for listing and the planned number of shares to be issued.

At the time of the initial public offering itself, at each of the steps of the offering, market disclosure is mandatory, pursuant to regulation. Its content and methods are set by regulation (see above).

In practice, in addition to the information required by regulation, communication concerning the transaction will take place through the organisation of analyst meetings and roadshows.

## 3

## Financial Communication Practices

Part 3 discusses the management of various aspects of financial communication practices. It starts with the preparation of a calendar for the periodic information: this calendar is based on legal constraints, and can differ notably depending on how effective the company's information systems are.

Financial communication consists above all of a commitment by the company's executive management to regularly communicate to financial market participants with full transparency, professionalism and responsiveness.

Given the increasing constraints imposed by the regulatory authorities and the markets, investor relations plays a central role in the process. Investor relations, designated by the management, is the permanent point of contact for all financial market participants. It adapts to meet their needs and objectives, which may be different and occasionally antagonistic. To accomplish this, it implements a marketing strategy to reach its targets in order to optimise the valuation of the company, using the most appropriate tools.

It plays a vital role in channelling information from the markets back up to executive management, including issues such as the general perception of the company, the behaviour of market participants and information regarding competitors.

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## 1 ■ CALENDAR AND ORGANISATION

### FINANCIAL COMMUNICATION CALENDAR

The calendar of financial communication is governed by legal disclosure requirements (see Part II, Section 1), and the company's information systems must be able to provide accurate quantitative information and clear, precise explanations within a given deadline. Situated at the end of the information chain, financial communication continuously optimises this calendar in accordance with the scheduling needs of the company's management, the financial market participants, the financial publications of other issuers' as well as practical considerations such as the availability of meeting rooms!

Annual and half-yearly results are being reported increasingly quickly in recent years, resulting in a concentration of publications within increasingly tight periods (mid-February, early March, end-July, end-August, etc.). Nonetheless, many companies still do not have a consolidation process allowing them to provide results this rapidly. The calendar for the publication of half-yearly results is even tighter, as it has now been legally shortened from 120 days to 60 days after the close of the first half.

Quarterly financial information must be disclosed within 45 days after the end of the first and third quarters.

*Example of a financial communication calendar based on deadlines for a reporting year ending December 31*

Information	Deadline
Sales for Q4 and full year	February 28
Annual results	April 30
Financial information for Q1	May 15
Annual shareholders' meeting	June 30
Sales for Q2 and H1	August 15
Half year (H1) results	August 31
Financial information for Q3	November 15

It is recommended that the financial communication calendar be made available to the public on the company's website, and even mention the next scheduled event in all communications of periodic disclosures.

In the specific case of companies with listed subsidiaries, it is important to pay careful attention to the harmonisation of all financial communication calendars.

A specific communication calendar is usually established for major financial transactions.

### INFORMATION SYSTEMS

The reliability of the information and reporting systems of listed companies plays a central and critical role in the quality of a company's financial communication as, in many ways, it conditions the perception that the markets will have. These systems must not only provide the financial information required within the legal deadlines, but also provide additional aggregates so that year-on-year results and changes from one quarter to another may be analysed. Information systems that supply a database for detailed analysis and also enable forecasts to be prepared on the basis of working assumptions, allow companies to more fully satisfy market expectations.

Dialogue between the consolidation and the financial control departments is also fundamental and contributes to the definition of the appropriate financial information.

## **CORPORATE DISCLOSURE POLICY**

It is recommended that a corporate disclosure policy be defined for financial communication (a model is included in the annex to this guide). The disclosure policy is intended to establish the guidelines for the company's financial communication. It may include: the designation of all spokespersons; the behaviour that employees should adopt when in contact with market participants; the procedures to be followed for publication of financial information (reporting periods, quiet period, etc.); the information approval process to be followed; and, potentially, the level of involvement of the board of directors or supervisory board and rules applicable to the dissemination of privileged information.

It is strongly recommended that the Investor Relations Officer or, if no such function exists, the Chief Financial Officer, be informed of any event that affects the Group and that may be likely to have an impact on the financial markets. This includes events such as corporate or local road shows, press conferences, industry conferences, trade shows, strikes, local crises and executive or management interviews. It is recommended not to organise these events during quiet periods (see below).

Similarly, it is recommended that Investor Relations participate in all meetings of the company's executive management with members of the financial community, as the investor relations department is the most familiar with the information available to the market and is responsible for the ongoing monitoring of the relationship.

## **VALIDATION PROCESS OF FINANCIAL COMMUNICATION**

### **Decision to disseminate information**

When any sort of event arises, depending on its importance and especially whether or not it is deemed to be material or of a strategic nature, the issuer may decide to disseminate information concerning the matter (see Part II, Section 3). This decision about whether to disseminate information must, in any case, be validated by the company's executive management.

### **Timing**

The decision concerning the timing of disclosures is an important one, and will be contingent upon several factors such as:

- whether or not any legal obligations exist;
- the risk of "leaks";
- constraints imposed by time of day (market openings, time at which newspapers "close for production", etc.) or other calendar constraints (holidays in a foreign country, etc.);
- simultaneity with other events (corporate events, announcements made by competitors, trade shows, etc.).

In any case, the timing of the information disclosed must be validated by the company's executive management.

### **Validation of content**

The content of every external communication must be approved internally, from both the technical (accuracy of the facts) and the strategic standpoints. This validation process may be extended to any other documents (Q&A, presentations, etc.) and it should be an iterative process, the executive management being responsible for final validation.

### **QUIET PERIOD**

The quiet period is the period that precedes the release of the company's annual, half-yearly earnings and quarterly information. During the quiet period, companies must refrain from any contact with analysts and investors, and senior managers should not grant any interviews to the media.

It is recommended that companies adopt this practice, which lasts from two weeks to one month prior to the disclosure of their results or sales. It is useful to mention these periods on the company's website.

Similarly, it is recommended that a quiet period be respected (sometimes referred to as a blackout period; see Part II, Section 9) during the period preceding and following a financial transaction initiated by an issuer, and during which the members of the underwriting syndicate themselves commit to not release any analyst research to third parties.

These practices do not, however, exempt an issuer from its obligation to periodically provide the market with information concerning any important facts or events occurring during that period and likely to have a significant impact on the share price, as part of its responsibility to provide ongoing information (Part I, Ongoing information).

Concerning the disclosures of listed subsidiaries, as each case may be unique (depending on the degree of control, market capitalisation, free float or the relative contribution of the subsidiary to consolidated earnings), it would be desirable for information to be disclosed simultaneously, or for the listed subsidiary to disclose after the parent company has disclosed. If this is not possible, notably in the case of a minority interest, it is desirable that disclosures be coordinated.

## **2 | MARKETING AND TARGETING**

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### **MARKETING STRATEGY**

The financial communication strategy of the issuer is not limited to the dissemination of quantitative data to financial market participants at regular intervals. It must involve the implementation of a marketing policy targeting those investors likely to be interested in the company's strategy.

Therefore, a company must communicate with its shareholders, as well as with all investors likely to become shareholders. This targeting allows the company to:

- diversify the profiles of the investors in its shareholder structure, with regard to the amount of capital they manage, their investment strategy or their geographical origin;
- create a healthy balance between stable shareholders and those with a shorter-term investment strategy, which contributes to the liquidity of the company's shares.

This approach should improve the valuation of the company. Moreover, depending on the size of the issuer and the structure of its free float, it is indispensable to target investors to be able to optimise the amount of time senior managers devote to meeting them.

Discussions with existing and prospective shareholders are another source of added value, due to their potential industry knowledge and perspective on the competitive environment.

## SHAREHOLDERS IDENTIFICATION METHODS

The ease with which shareholders are identified depends on whether the shares are primarily held in registered or bearer form. In the first case, the registration of the shares in the owner's name provides detailed, up-to-date information. In the second case, if more exhaustive and accurate identification of the company's shareholders is not easily obtained, several sources of information remain available to the issuer:

- Trading data: these data may be based on the analysis of the identifiable bearer securities request filed by the issuer with Euroclear, the central clearing agency. Among the other available sources of information, service providers may allow a company to understand more about its shareholder base using public information and/or specific surveys conducted with institutional investors (shareholder identification).
- Empirical data: companies must exploit every opportunity to improve their familiarity with their shareholders: feedback after road shows, analysis of proxies collected at annual meetings, information received directly from investors at events such as one-on-one meetings, etc.
- Regulatory data: the law provides companies with various possibilities for identifying their shareholders: disclosures of upward or downward crossings of statutory and legal thresholds, registration of shares, etc.

Listed companies should use a combination of these various tools to obtain a more detailed understanding of the composition of and changes to their free float.

## FINANCIAL MARKETS PARTICIPANTS

### Sell-side: analysts and sales force

Sell-side financial analysts are employed by brokerage firms, which are generally owned by banking networks that distribute their research to their investor clients. The decision whether or not to follow a stock depends on several criteria, such as the number of analysts employed, the strategy of the research department – especially with regard to industry coverage – and, most frequently, the market capitalisation of the listed company.

These research reports combine earnings forecasts, share price targets and buy-sell-hold recommendations which all result in a valuation of the issuer concerned.

These reports form a marketing tool that the brokerages' sales forces can use to propose investment strategies to their institutional investor clients. These strategies are simplified versions of the various proposals made by the analyst. It is useful for the issuer to maintain contact with these sales forces, whose power to shape the opinion of the end investor contributes to increasing share value.

Investor Relations department is the analyst's point of contact within the company. Always available and competent, it must ensure that the financial analyst takes account of the industry fundamentals, the competitive environment within which the company operates, its strategy, outlook and the risks to which it is exposed. Investor Relations points out any factual errors an analyst may have made, while respecting the independence of his opinion.

It continuously monitors changes in analysts' opinions and forecasts, notably using the earnings consensus it prepares for the company's executive management. This consensus corresponds essentially to the arithmetic mean of the sell-side analysts' estimates (see section on "monitoring of market consensus"). This understanding allows it to foresee the possible impacts on share price of any change in estimates or recommendations.

### **Buy-side: analysts and fund managers**

Buy-side analysts are employed by institutional investors, and their recommendations are intended for the sole use of their company's portfolio managers.

Their analytical processes are not very different from those practised by the sell-side analysts, whose work they use to evaluate listed companies. Meetings with the issuers' management are an important and sometimes indispensable step in making the decision to invest. At some institutions, the financial analyst also acts as fund manager.

Investors may be classified into several categories of investment strategy, including growth, value, growth at reasonable price ("GARP"), momentum, index, hedge and socially responsible investment. It should be noted that this classification system becomes difficult to use when a financial institution employs several different investment strategies.

The time that should be spent by management on these buy-side analysts depends on several factors, including their investment strategy, size, interest in the company, etc. It is important to meet directly with the fund managers making the investment decisions to discuss the company's strategy, or with activist-type funds that may try to influence their decisions. Conversely, the decisions of the index funds depend solely upon a weighting within an index.

### **SRI: analysts and rating agencies**

Socially responsible investment (SRI) analysts focus their analysis on questions of corporate governance, human resources and environmental and consumer protection. Their research takes ethical and social issues into consideration, in addition to purely financial performances.

SRI funds make use notably of information released under the terms of the French New Financial Regulations Act (so-called Loi NRE), which perimeter should expand following the implementing decree of the Grenelle II law. Financial communication personnel must then work with the managers of the company's human resources, sustainable development & environment functions to be able to provide the information appropriate for this target audience, in the format and with the content they require.

Traditional investors are increasingly tending to integrate these same criteria.

The growing interest in sustainable development has given rise to new participants, including specialised rating agencies, and the creation of specialised socially responsible investment indices (e.g. the FTSE4Good and DJSI). Certain issuers have established sustainable development departments.

The agencies' clients are institutional investors, whose investment criteria are focused entirely or in part on this issue, and issuers seeking to add this extra dimension to their corporate communication. For the latter, it is a question of setting in place relevant monitoring tools and coordinating the production of information by the finance, human resources, sustainable development (if one exists) and even manufacturing and research & development departments.

### **Credit analysts and rating agencies**

Credit analysts assess the financial health of a company from the standpoint of the debt instruments it has issued. In addition to the usual ratios regarding the company's economic and financial performances, they attempt to analyse the solvency of the issuer and the equilibrium of its balance sheet, the structure of its debt (exposure to interest rate and currency risk, maturity schedule and cost of debt) and the types of safety clauses or covenants that may exist.

The investor relations department frequently works with the corporate treasurer and ensures the consistency of the messages provided to credit analysts. Presentations and road shows may be specially organised for these types of analysts.

Rating agencies are external bodies that assess the solvency and the liquidity of an issuer. There are three main rating agencies in the world, which are paid by the listed companies (in the case that they request a rating).

Ratings are periodically published at the rating agency's initiative, when earnings are released or when any event occurs that could bring about a change in the issuer's financial position. Ratings have an impact on an issuer's cost of financing, which reflects the market's assessment of the issuer's risk.

Issuers provide these agencies with the data – mostly prospective information – they need to establish their rating. As such, the agencies are in possession of privileged information.

They use press releases to announce their ratings and, if applicable, any changes in their position.

### **Individual shareholders and associations**

One aspect of a corporate shareholder strategy may involve winning over and retaining a significant individual shareholder base, which is often considered to be more stable than its institutional shareholder counterpart; a company's financial communication will therefore reflect this strategic orientation.

With the same obligations and objectives as those for relations with institutional investors, financial communication targeting individual shareholders must take into account their specific needs, such as separate information distribution channels, more pedagogical information regarding the company's business and strategic orientations, and personalised dissemination tools.

If the democratisation of equity investment and acceleration of the use of internet are tending to make analysts' and individual shareholders' needs more similar, certain financial communication tools are particularly well-suited to individual investors, including notably a specific section of the company's website, financial publicity, publication of a shareholders' letter, information sessions, eventually, site visits and even custodial services provided by the shareholder services department.

Depending on the nature of an issuer's business, it may be wise to combine its financial communications with its institutional communications, for example, in the case of consumer goods and services.

Lastly, any company that wishes to build and retain a significant individual shareholder base must also incorporate this strategy into its financial policy, (for example, by offering interim dividends, splitting the shares to make them more accessible, etc.).

Many associations have sprung up in the past several years seeking to represent the interests of individual shareholders, and especially to defend the rights of minority interests in certain financial transactions. Issuers may find it useful to meet with these associations when preparing their annual meetings, in order to better identify their concerns.

### **Employee shareholders**

As is the case with communications targeting individual shareholders, communications aimed at informing employee shareholders must also serve as general pedagogical tools. They are subject to the same legal obligations as those presented in Part I, and especially those concerning equal treatment.

Several supporting tools may be used to communicate with employee shareholders, including notably a dedicated employee shareholder intranet site, a specific letter or a shareholder section in any in-house publications.

The content of these media may consist of a presentation of specific metrics for the employee shareholder base (percentage held, geographical breakdown, etc.), information about the share itself (earnings releases, events, comments on share price trends, dividends, etc.) and the various means by which it is held (through the employee stock-ownership programme, on a pure registered basis, etc.).

### **IMPACT OF THE SIZE OF THE COMPANY**

The size of the company – be it in terms of revenues, market capitalisation or percentage of free float, i.e. the share of the capital that is effectively traded on an exchange – may impact financial communication in several ways:

- internally, it often affects the resources (number of personnel, budget, etc.) allocated to investor relations and management's availability to meet with members of the financial community (frequency of meetings, seniority of correspondents, etc.);
- externally, it tends to have an impact on the coverage provided by analysts, i.e. the number of research and brokerage firms covering the stock, or even the quality of the coverage. Some small- and mid-cap stocks are covered only by generalists, rather than by industry specialists. Moreover, the smaller a company is, the more important it is that management meets with investors. Lastly, small companies are less likely

- to attract the interest of foreign investors, which often only follow the largest stocks included in leading indices, with the exception of companies that are market leaders or are present in niches that attract special interest, such as new technologies;
- inclusion – or not – in an index (e.g. CAC 40) will influence the visibility of the issuer and therefore its coverage by analysts. Similarly, a company's entry in an index would present a good opportunity for communication.

On January 9, 2008, the AMF presented its position regarding the modification of financial information obligations to make them appropriate to small and mid-cap companies. These modifications were an extension of the proposals made by the joint workgroup created with MiddleNext, the French independent trade association that exclusively represents mid-cap listed stocks.

The AMF published on December 10, 2009 an update on the preparation of a registration document [*document de référence*] specifically for small- and mid-cap stocks, which combines in a single brochure all of the laws and regulations applicable to the preparation of that document. It replaces the reference document preparation guide for these companies issued by the AMF on January 30, 2006, and is applicable for small- and mid-cap companies financial year ended December 31, 2007.

### 3 ■ FINANCIAL COMMUNICATION ON A DAY-TO-DAY BASIS

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If regulated, periodic and ongoing financial information constitute the starting point from which investors forge their opinion of an issuer, other criteria also contribute, and often quite significantly, to the decisions they make. The first criterion for all investors and analysts is their confidence in the company's management. Meetings organised around the disclosure of earnings provide senior managers with an opportunity to meet with the financial community and journalists. Still, these meetings alone no longer suffice. Current market requirements oblige the senior managers of listed companies to devote more time to financial communication in general.

#### PREPARATION OF FINANCIAL DISCLOSURES

It is vital for senior managers to be prepared for the financial communication exercise, and to always scrupulously respect the principal of equal treatment insofar as information is concerned. In particular, it is indispensable that every financial disclosure event be carefully prepared in order to define the principal messages and identify the most sensitive subjects.

#### Definition of messages

Financial communication provides companies with an opportunity to report to the financial community on progress they are making in achieving their strategy. In addition to providing strategic perspective, the messages delivered at communication meetings must also explain the highlights of a company's earnings or other events, current issues, and provide answers to any questions the financial market participants may have.

These explanations and answers must take into account all information that has been previously provided and anticipate, insofar as is possible, their future consequences. It is also a matter of foreseeing the reaction of market participants to various announcements.

### **Preparation for “Q&As”**

At each financial disclosure event, it is useful to draw up a list of the main questions likely to be asked and to prepare the answers. This increases the level of detail contained in the messages, and ensures that they are consistent, regardless of the target audience, with the company's corporate and internal communications.

If appropriate, the answers to the questions most frequently asked by analysts may be attached to the press release, thereby providing perspective on all sensitive questions and current topical subjects, etc.

### **Handling requests for meetings**

The investor relations department is careful to provide financial market participants with the greatest possible access to the company, and to use the time invested by senior managers as effectively as possible. As the latter can devote only a portion of their time to financial communication, it is particularly important that the investor relations department manage requests for meetings that are submitted to it.

Criteria that may be used to determine the most appropriate contact include: interest that it represents for the company, size of the institution, investment management style, quality of shareholder, historical relationship, etc.

## **RELATIONS WITH FINANCIAL ANALYSTS AND INVESTORS**

While the two populations have different centres of interest, the methods used to contact and maintain relations with financial analysts and investors are fundamentally the same.

### **Telephone meetings**

Analysts frequently contact the company in order to refine their valuation models, confirm an assumption or react to some current event – and notably one that affects a competitor. Investors take the same approach, often less in the goal of filling out a model than to make sure that it has clear understanding of the issuer's strategic objectives.

During a telephone contact with an analyst or investor, at the initiative of the latter, the investor relations department must be careful not to disclose any new information that could have an impact on the share price and which is not known to the public. On the other hand, it may comment on any information previously released, in order to ensure that it has been correctly understood by the market.

If any information inadvertently disclosed may be considered insider information, the issuer must then disseminate a release as quickly as possible to publicly disclose that information.

### Individual meetings (“one-on-ones”)

These individual meetings are between the senior executives of the company, the investor relations department and analysts and investors.

For investors, one-on-ones provide a valuable and desirable opportunity to go beyond the simple data to assess the vision that senior managers have for their company, their analysis of the competitive environment, market trends and even geopolitical conditions. One-on-ones generally include a brief formal presentation of the company, and most of the time is spent on questions and answers.

These meetings rarely last more than an hour, and may also include human resources issues, especially the company’s compensation and corporate governance policies and any other subject that is not specifically financial in nature. The position held by the senior executive questioned may also determine the relative importance of the various topics addressed.

### Information meetings

In practice, a meeting (see Part II, Section 1) with financial analysts, investors and, if applicable, journalists, is organised for the release of annual – and even half-yearly – earnings. These meetings represent one of the most important opportunities for the company’s management to communicate and hold discussions with the financial community.

During the quiet period (see Part III, Section 1) that precedes it, the investor relations department and management work together to prepare the meeting (see Part III, Section 3): all messages are validated (see Part III, Section 1) and all materials put together (press release, visual presentation, Q&A, consolidated accounts, etc.).

The earnings release is distributed before the meeting starts. A conference call may be organised with the main press agencies. Visual presentations (in French and in English) are posted online before the start of the meeting.

To ensure that information is disseminated as widely as possible, it is recommended that the meeting be broadcast live over the internet, with simultaneous translation. The preparation of the meeting will entail a large number of logistical constraints that must be closely coordinated: the meeting room must be reserved, any audio and video aids that may be needed, security, photocopying of all presentation materials, webcasts and even buffets and receptions must all be attended to.

The French Society of Financial Analysts (*Société Française des Analystes Financiers*, or SFAF) may help organise the meeting, notably by sending invitations to its members.

There is also the question of whether or not journalists should be invited to financial analyst meetings. This decision is left to the issuer, given that the populations in question have different concerns. If the decision is made to hold separate meetings, it is recommended that they be held the same day. In any case, identical messages should be given out in both meetings.

## Road shows

Road shows consist of direct meetings of a company's senior managers with investors, organised during a given period (from one day to one week) in one or more financial markets. The programme generally consists of a series of individual and group meetings with existing or prospective shareholders.

### ■ Types of road shows

Road shows may be organised around the disclosure of earnings or another point in time in order to maintain close contact with the financial markets.

Road shows are occasionally held to make a strategic announcement, or to announce a financial transaction that needs to be presented to the market (notably the case with an acquisition). Road shows may also be held in financial marketplaces of secondary importance to the issuer, on which companies may visit only from time to time as appropriate.

Lastly, road shows are increasingly used to reach out to other categories of investors, most notably SRI and bond investors. The investor relations department is generally assisted, when appropriate, by the sustainable development manager or the corporate treasurer (road shows for bonds or interest bearing instruments).

### ■ Choice of destinations

The choice of destination and frequency of visits depend primarily on the importance of the assets managed by the local financial community, the marketing strategy and the distribution of the issuer's shareholder base.

Issuers have every interest in organising road shows in financial marketplaces other than their primary one in order to expand their shareholder base. Generally, the investor relations department itself is responsible for building relationships with these potential investors.

### ■ Organisation

Most often, issuers use brokers to organise road shows. To ensure that the trip is as effective as possible, the investor relations department prepares a list of the investors to be met, based on its own marketing policy and the recommendations of the broker.

Brokers are selected on the basis of the following criteria: quality of research (depending on the degree of the analyst's involvement); number of investors company has met through the broker; salesperson's knowledge of the financial marketplace; effectiveness of its organisation before and during the road show; and quality of its feedback. The size of its sales force and access that it provides to institutions may also be taken into consideration.

In practice, in the light of these criteria, different brokers have to be used for different road shows.

Feedback is particularly useful for ensuring that the issuer's strategy has been properly understood, and to list any concerns and criticism investors may have. These remarks allow the issuer's management to establish areas that need to be improved in future presentations. It is regrettable that a growing number of investors prefer not to provide their opinion after a road show.

Certain companies refuse to work with any broker whose analyst has a sell recommendation on the stock. Still, this may provide an opportunity for the issuer to defend its position against the analyst's negative opinion.

Some investors may not wish to have the broker's representative (analyst or salesperson) participate in the meeting with the issuer.

The company may also decide to organise its road shows itself, either directly – if it has the targeting tools needed and other in-house resources – or by using the services of a specialised, independent third party.

In the specific case of a transaction in progress that concerns the company's securities ("deal road show") or another type of financial or strategic transaction, the road show used to present it is organised by the broker(s) of the primary bank(s) involved in the transaction. This rule is especially true when it concerns a primary market issue.

### **Conferences organised by brokerage firms**

Some brokers organise conferences, to which they invite their institutional clients to meet with listed companies in connection with industry, topical or geographical presentations.

These presentations are generally followed by meetings, either individually (one-on-ones) or in small groups, with the participation of management and the buy-side analysts and fund managers. This allows the issuer to organise a large number of meetings in a short period of time, with a wide range of institutions.

The investor relations department's decision to recommend that its management participate in the conference is based on criteria such as:

- the audience and its composition (buy-side analysts, local or international fund managers, etc.); the objectives in terms of diversification of the shareholder base, reputation with the financial community; the participation of active or prospective investors that the company has few opportunities to meet with otherwise, etc.;
- the list of other industry players that are participating, and their level of seniority (Chairman, CFO, Investor Relations Officer or other);
- the profile of the conference within the specific industry (reputation of the broker organising it and quality of financial analysis);
- whether or not the timing of the conference is compatible with the company's communication calendar.

### **Visits by fund managers at corporate headquarters**

Brokers also organise specific trips with their buy-side analysts and fund managers to meet with the management of a certain number of issuers (reverse road shows).

The same criteria used to determine whether or not to participate in a conference organised by a broker are also used to decide whether management should receive a group of managers visiting the company.

This access is particularly valuable to investors in establishing a trusting relationship with management, and is responsible for a significant portion of the time spent by investor relations.

### **Analyst & investor days**

Whether it is called Investor Day, Analyst Day or even Capital Day, the organisation of any such event can only be justified if the issuer has a strategic message to pass along, or feels the need to improve the public's general understanding of a business, a product or a geographical region.

It is recommended that any presentations made at this type of event be posted on the company's website and, if applicable, that the event be broadcast in real time or afterwards by either webcast or conference call.

An on-site visit may provide an opportunity to enrich this type of meeting.

### **On-site visits**

On-site visits (or field trips) and technical meetings give financial analysts and investors a chance to improve their understanding of the company from an operational standpoint, beyond those events organised to present periodic financial information. It is important to choose the proper site for a visit: it must illustrate the company's strategy and competitive positioning while providing an opportunity to meet with operations managers. This type of event must be prepared just as rigorously as any other financial communication event. It is particularly important that operations managers be well prepared for discussions with analysts and investors.

### **Other forms of contact with the financial community**

Some brokers propose different types of meetings:

- inviting several Investor Relations officers from different companies to visit a foreign financial marketplace and meet with local investors in a single place, either as a group or in a series of one-on-ones;
- arranging very short meetings of investors and issuers (speed meetings lasting approximately 30 minutes each). This type of meeting may be held to help broaden the shareholder base, but is somewhat less appropriate when a relationship with the investor has already been established.

## **RELATIONS WITH INDIVIDUAL SHAREHOLDERS**

Relations with individual shareholders require the use of suitable communication tools, which are generally characterised by a more instructive presentation of the company's businesses and strategy.

### **Financial communication tools**

If the democratisation of equity investment and acceleration of the use of internet are tending to make analysts' and individual shareholders' needs more similar, certain financial communication tools are particularly well-suited to individual investors, including notably a specific section of the company's website, financial publicity, publication of a shareholders' letter, a shareholders' guide, information sessions, eventually, site visits, and even custodial services provided by the shareholder services department.

### **Clubs and advisory committees**

Some issuers maintain relationships with individual shareholders by creating shareholders clubs, with a minimum number of shares required for membership. Familiarity with the members of the club allows the company to develop a closer relationship with these shareholders and thereby increase their loyalty.

Members of advisory committees or discussion panels may help prepare certain communications, such as shareholders' letters and financial notices.

### **Telephone contacts**

Individual shareholders may be provided with special, sometimes toll-free, telephone numbers to use to speak with the company. Generally managed by the financial communication department or outsourced to third parties, this type of contact requires a certain familiarity with the company and issues of concern to individual shareholders. The peak calling periods generally come around the annual meeting and when dividends are paid.

### **Meetings outside the Paris area**

In order to meet with and increase the loyalty of their individual shareholders, the largest listed companies – often in partnership with the financial press – organise meetings for individual shareholders in the largest cities in both the provinces and the outskirts of Paris. These meetings give companies an opportunity to present their activities and answer questions. The speaker may be a member of the company's executive management or the Investor Relations Officer. These meetings are generally held by issuers with a high percentage of individual shareholders in their capital, or those wishing to increase that percentage.

### **Custodial services**

The custodial services that an issuer may offer its registered – essentially individual – shareholders consist of registering (or outsourcing to a depositary bank) the shares held by the shareholder in the books of the issuer. Registration provides a certain number of advantages: it allows issuers to identify their most loyal shareholders, and allows shareholders to have their custodian fees paid for them, receive all information prepared by the company, and possibly even qualify them for double voting rights after shares are held for two years. In order for these registered shares to be transferred, they must first be reregistered as "bearer".

## **ANNUAL SHAREHOLDERS' MEETING**

The purpose of the annual shareholders' meeting has changed over time: from a purely legal exercise, it has evolved into an opportunity to meet with the company's management, a place where shareholders can express their opinions and a crossroads for financial and corporate communications.

### **Preparation of shareholders' meeting**

Shareholders' meetings are prepared well in advance. The investor relations department works closely with the legal department to update its knowledge of recent changes in shareholder voting policy, including those recently recommended by corporate

governance opinion leaders or issued by the investing institutions themselves. This enables the investor relations department to help prepare the draft resolutions.

In certain cases, investor relations organises meetings or conference calls with the managers responsible for deciding how their institutions should vote on the resolutions presented by the companies in which they are shareholders. This same approach may be taken with the opinion leaders, i.e. companies whose role is to advise investors how to vote on resolutions. These meetings allow issuers to present the reasons underpinning the resolutions they are submitting to their shareholders, so that the latter may make a fully-informed decision on how to vote.

Proxy solicitors are occasionally used to help organise shareholders' meetings. These firms contact the shareholders of the company, to make sure that they will vote and to guarantee that a quorum will be met.

Furthermore, the issuer might be brought to discuss with the proxy voting consulting firms of the shareholders. These agencies are bound to inform of their general voting orientation each year<sup>33</sup>.

The notice of the meeting is sent two weeks before the shareholders' meeting, and includes a summary statement of the company's situation and its annual financial statements, and the draft resolutions. In order to ensure a clear presentation, it is recommended that summaries of the latter be drafted.

Companies willing to use electronic communication means instead of postal mail can do so, subject to their respective shareholders' approval.

Several days before the shareholders meeting, the projected results of the vote are updated based on the forms returned by the shareholders to the centralising bank.

### **Holding of shareholders' meeting**

The holding of the shareholders' meeting requires the coordinated efforts of the legal, finance communication and corporate affairs departments. It generally includes a presentation of the results of the period and the company's strategy, which is substituted for the reading of the management report. The Chairman of the board of directors may report on the duties performed by the board and its specialised committees.

This presentation is followed by a question and answer session between management and the individual and institutional shareholders, analysts and journalists.

Most often, the resolutions are voted upon electronically. The shareholders' meeting may also be broadcast over the internet, with English translation provided.

Recent evolutions of the Commercial code govern electronic vote, vote by correspondence or by proxy.

### **Communication at end of shareholders' meeting**

In addition to its legal obligations, the company may also distribute a summary of the shareholders' meeting, and/or post the results of the votes on the resolutions on the internet and confirm the date on which the dividend is to be paid.

On February 7, 2012 the AMF published a report by the "Public companies' general shareholders' meetings" working group, whose propositions are currently being considered.

Please note that since the publication of the Guide, on July 2, 2012 the AMF published the n°2012-05 Recommendation.

33 - AMF recommendation n°2011-06 dated March 18, 2011 on proxy advisors.

## INTERNET TOOLS

### Websites

The corporate website provides companies with a crucial communication tool to present their products, businesses and strategy, and makes an active contribution to the marketing of the share by enhancing the visibility of listed companies with an increasingly large and international audience. It saves both time and money in the dissemination of financial information.

Websites provide a platform for the required archiving of the regulated information by listed companies, which is placed on-line at the same time that it is released. To facilitate users' access to this regulated information, companies must archive it under a separate section of their website and maintain it for at least five years.

Most companies have a specific financial communication section on their website, which is generally called "Finance," "Investor relations" or "Shareholders." This section is subject to precise regulations regarding its content and its updating in real time with the company's other forms of communication.

#### Common practices:

- it is important to have technical architecture that allows the financial communication team to maintain and update financial information without requiring any "systems specialist";
- the updated financial calendar and latest press release must be easily and directly accessible;
- headings and text should be comprehensible and user friendly;
- some issuers also provide a glossary and a "FAQ" section, for the most frequently asked questions;
- financial information archiving tools (for press releases, analyst presentations, financial reports, legal documents, etc.) must be classified by publication date;
- if the company is not required to post the value of its share price in real time, then it must provide historical market data (highs, lows, transaction volumes, historical performances, etc.);
- in the "Finance" section of their websites, most companies provide contact information (e-mail, telephone, etc.) for the financial communication department;
- the internet is increasingly replacing all other forms of dissemination of information, and paper documents are becoming less important.

### Internet conference calls

When making an important announcement, such as earnings or the launch of an acquisition or divestiture or some other type of financial transaction, conference calls and videoconferences that are streamed over the internet allow information to be disseminated rapidly and simultaneously to a large number of persons.

By distributing more detailed information more quickly, and being available to answer the questions of both analysts and investors simultaneously, these e-communications provide a valuable addition to – and sometimes even replace – an actual physical meeting, in due form.

Anyone may participate in these conferences, which are announced via either a press release or a personal invitation which are also posted in advance on the company's website. They are archived and placed at the disposal of the public, where they may be used notably by the international financial community in different time zones and may be consulted for some time after the event.

### **Webcasts**

Webcasts allow issuers to broadcast events over the internet in audio or video form, on either a live or delayed time basis. Internauts may use their multimedia player to listen to or watch them on their computer.

Unlike a conference call, a webcast is a form of communication that does not generally allow questions to be raised.

Issuers use webcasts to broadcast events such as shareholders' meetings, presentations of earnings and presentations of specific operations such as acquisitions, disposals, mergers, etc.

As they can be listened to repeatedly, webcasts also serve as a tool for internet archiving for issuers.

This technology allows the audience for events to be expanded without imposing any capacity constraints, and complies with the principle of equal access to information.

Webcasting is generally provided by a specialised third party. It is relatively costly to set in place and requires a special organisation. The company must choose between an audio webcast and a video webcast. The latter is more costly and technically complicated, as the event itself must of course be filmed.

The brokers that organise conferences are increasingly providing issuers with the opportunities to webcast their events, and assume responsibility for the technical organisation and associated cost.

### **Videoconferences**

Videoconferencing allows participants to meet without the need to travel. The technology involved has now been tested and proven, and enables correspondents in different cities or countries to meet while keeping time and transportation costs to a minimum.

In financial communication, videoconferencing is used to allow management to hold one-on-ones with foreign investors, organise analysts' meetings with a physical presence at one site and a "video presence" at another, etc.

Videoconferences are easy to organise, using either the company's own equipment or materials rented from specialised third parties who also make sure that the technical quality of the meeting remains high. It can never provide a perfect substitute for face-to-face meetings, however. For a company's first contact with a potential investor or new analyst, it may be preferable to organise meetings in person. Videoconferencing may, on the other hand, be an appropriate forum for an audience that is already familiar with the issuer's management and investor relations team, which may just want to provide an update while avoiding the problems associated with being in different time zones.

## 4 ■ PROVIDING MANAGEMENT WITH FEEDBACK ON MARKET PERCEPTIONS

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“Market sentiment” includes investors’ and analysts’ perception of the strategy, activities, performance and outlook of the company and of the credibility of its management.

Investor relations play a key role in passing this market sentiment along to its senior managers. Its special talent lies in recognising when analysts’ and investors’ individual opinions become a general shared impression – through various points of contact (telephone, road show, e-mail, publication of sector notes, etc.) – which it shares with the company’s executive management, or even the board of directors.

The investor relations department must decide when and how to provide this information, which may depend on the topics and recipients concerned, and must not be afraid of reporting any negative feedback.

### DISSEMINATION OF ANALYSTS RESEARCH

Investor relations provides the company’s senior managers and, if applicable, its board of directors with full copies of the most relevant studies (and summaries of all others)

### MONITORING OF MARKET CONSENSUS

Market consensus is the average of the earnings estimates and share price objectives published by sell-side analysts. In order for market consensus to be representative, it must incorporate the estimates of all of the analysts that actively follow the shares. The median of the same indicators may also be provided. It is recommended that the market consensus be regularly monitored all year long, and be updated and provided to management prior to the release of any earnings or revenue figures.

The purpose of this is to anticipate the market’s reactions prior to the release of any information, so that the issuer can make any appropriate adjustments to its public announcements. It may be necessary to issue a press release if a significant difference is observed between the consensus and the company’s internal data (see Part II, Section 2 “Profit warning”).

Market consensus are available from independent providers specialised in the dissemination of financial information. The problem with these consensus is generally that the same indicators are not always used (profits before or after non-recurrent items, fully-diluted or basic EPS, etc.) and the data provided is often not up-to-date.

### FEEDBACK AND PERCEPTION SURVEYS

In addition to keeping its management continuously informed of the reactions and expectations of the market, it is useful for Investor Relations to provide management with prompt feedback (or a summary) of the opinions expressed by all participants after any road shows, conferences, one-on-ones or meetings with investors and/or analysts.

Participants are asked by the broker, or potentially directly by the company, about the quality of the answers provided to their questions, their perception of the company's management, of its strategy, any subjects of concern, etc.

As part of its market activities, the company may also wish to conduct a perception survey of the financial community. This survey may concern the company's financial communications, or a specific problem such as the pertinence of its strategic orientations or choice of performance indicators.

### **COMPETITIVE MARKET WATCH**

One of the roles of the financial communication function is to monitor the market trends of the company's listed competitors, including notably comparisons of share prices, transaction volumes, shareholder bases and tracking analysts and valuation criteria.

This survey may also include a sample of stocks that are comparable in terms of company size, industry or strategy (capital structure, change of direction, crisis, etc.). The competitive market watch may cover trends in the market performances of these companies or the ways in which they communicate with the markets: strategic messages, choice of performance indicators, existence and horizon of earnings forecasts, frequency and content of current information regarding the company (newsflow), schedule of publications, choice of financial communication tools, availability of corporate management, etc.

### **SHARE PERFORMANCE**

The financial communication department monitors certain daily metrics tracking the behaviour of its listed shares, including notably all changes in share price (in absolute value and in comparison with one or several benchmark indices); transaction volumes in number, in value and as a percentage of capital exchanged; and market capitalisation.

This familiarity with the life of the stock enables companies to identify unusual movements in their shares and to try to learn the cause from either external correspondents, such as brokerage firms, or internal sources, such as the treasury department. Although this sort of information is increasingly difficult to identify with any certainty, it may nevertheless be vital to alerting the company's senior managers.

### **INFORMING THE BOARD OF DIRECTORS OR SUPERVISORY BOARD**

The board of directors may be provided with various types of information on a regular or periodic basis, such as share price trends and summary or exhaustive financial analyses.

Prior to the release of any financial disclosures, especially those concerning earnings or financial transactions, the board of directors may be provided with a copy of the draft press release.

The investor relations department may be called on to present the company's financial communication strategy to the board of directors.

## 5 ■ COORDINATION OF COMMUNICATION WITHIN THE COMPANY

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The financial communication function must ensure that its messages are consistent with those passed on in other institutional communications, especially media relations, marketing communications and the internal communications. This principle is also applicable to international markets, and must be systematically applied before each major announcement.

It is recommended that financial communication prepared for internal purposes use the same messages that are released externally. If these documents need to be simplified, the internal communication department must have it validated by the financial communication department.

### **MEDIA COMMUNICATION**

Media communication is handled by the company's media relations department. Some journalists in the economic, financial or investment press may wish to establish a direct relationship with the Investor relations. This is especially true when financial transactions are involved.

If the rules established by the company allow this type of relationship – some companies do not want the financial communication department to have direct contact with journalists – it is still important for the following rules of conduct to be observed:

- the media relations department must take the initiative or have given its approval, if the request comes directly from the journalist. Whenever possible, the meeting should be held in the presence of a representative of the media relations department;
- Investor relations must play the role of instructor, and avoid using language that is overtly technical.

It is also important to be sensitive to journalists' deadlines, which means that their calls must be returned or they must be contacted as quickly as possible. Responsiveness is a key factor.

Lastly, understanding the positioning of the newspaper or magazine and the objectives or orientations of the article is essential to helping the journalists in the best possible manner.

### **COMPANY AND GROUP WORKERS COUNCIL**

Issuers with a company or group workers council are legally required to provide the latter with quarterly and annual reports on the company's operations and financial position. The council is notified of and consulted on all changes made to the company's economic or legal organisation, notably prior to certain types of M&A activities (especially in cases involving the acquisition or sale of a subsidiary).

Employee representatives may therefore be provided with sensitive information concerning the issuer that is not available to the public, and are required to respect the confidentiality of the information.



# Conclusion

With this guide, **Framework and Practices of Financial Communication**, the *Observatoire de la Communication Financière* is true to its calling as the promoter of financial communication best practices. Thanks to the combination of multi-discipline expertise, this reference book demonstrates the fact that financial communication obeys a collection of rules and requirements which, although complex, leave a great deal of freedom to issuers in their use.

In order to perform their duties, an issuer should:

- have a good knowledge of the regulations,
- define a financial communication strategy,
- implement that strategy, relying on the know-how of financial communication professionals who are increasingly referred to as “*Investor Relations*”; which is their role.

It is up to the persons managing the investor relations to ensure the continuous management of interactions with financial market participants and to define the range of actions necessary to do so. It is as much a strategic position within listed companies as a skilled profession for which the level of professionalization will continue to increase in importance:

- it requires a rare combination of talent, in communication of course, but also know-how in the fields of finance, law, business and technology,
- it directly engages the credibility of the listed company and therefore, affects its valuation.

*Investor Relations* are a central factor in the relationship between the market and corporate equity. In that respect, it seems obvious that, in addition to the missions that this guide is focused on detailing, it is the duty of *Investor Relations* to support top management in defining “the rules of the game”.

That is why this guide would be incomplete if it did not evoke the idea that listed companies establish a written corporate disclosure policy, for which a model is provided as an Annex. Such a policy statement organises both the internal and external relationships that a listed company expects with the market. It contributes to the respect of the principle of equal access to information. By thus displaying its willingness to maintain a dialog with all players in the financial market, on an equal basis for all and known to all, the issuer contributes to responsible financial communications and thereby strengthens its image and, in the long term, investor loyalty.

There can be no positive relationship with the market without transparency, confidence and responsibility. It is in that perspective, that the *Observatoire de la Communication Financière* will continue its work.

## SAMPLE CORPORATE DISCLOSURE POLICY

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As a listed company, the Group is bound to respect market regulations, most notably in the management of privileged information, which is to say, any information which, if it were known, would have a material impact on the share price.

That obligation makes it necessary to respect a Code of Conduct which is applicable to all professions, subsidiaries and countries in which the Group operates.

This Code of Conduct is based upon a certain number of principles:

### 1 ■ The financial disclosure policy objective

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The Group's financial disclosure policy has the objective of ensuring the simultaneous, complete and effective dissemination of relevant information which is accurate, true and fair and consistent with previous disclosures and disseminated on a timely basis.

### 2 ■ Management of information disclosed

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Outside of the planned financial communication calendar (annual and half-yearly results, quarterly sales), the Group is constantly in possession of information whose importance and materiality to the market may widely vary. It is strongly recommended to abstain from providing quantitative information not yet disclosed or to provide prospective information. If in doubt, it is preferable to review the sensitivity of the information with executive management or the Investor Relations Officer.

### 3 ■ Designated persons

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Only persons specifically designated by executive management are authorized to provide information to the market either directly or indirectly through the press and any other media. A list of authorized individuals is contained in the annex.

### 4 ■ Information validation process

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Executive management carries the final responsibility for information disclosed to the market and should validate disclosures when sensitive and non-public. A validation process should therefore be put in place with the appropriate "Disclosure Committee" given the nature of the disclosure. Such committee should consist of the Chief Executive Officer, the Chief Financial Officer, and the Corporate Communications and Investor Relations Officers.

### 5 ■ Quiet period

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The "quiet period" is the period immediately preceding the disclosure of results during which the Group shall, in general, abstain from any contact with the financial community. Its purpose is to avoid any accidental dissemination to the market of financial information related to results, information which, by nature, is sensitive. At the beginning of each year, a "quiet period" calendar to respect will be distributed throughout the Group and should be respected by all functions in all countries.

# Annex

## Relating to the reference document

All issuers of securities admitted to trading on a regulated market or on an organized multilateral trading facility (Article 524-1 of the AMF's General Regulations) may prepare a reference document every year<sup>1</sup>. The purpose of this document is to disclose all information required by investors to form an opinion on the business, financial position, results and outlook of the issuer. It contains all the legal, economic, financial and accounting information required for an exhaustive presentation of a company for a given year.

Although it is not mandatory, it has become a standard practice to file a reference document, as more than half the companies listed on Euronext Paris do so and such a document may now be prepared by companies listed on Alternext Paris. This document offers several advantages:

First, the reference document facilitates financial transactions on the market. It may form part of the prospectus, in which case the issuer only has to prepare a securities note and, where appropriate, a summary note. Also, the prospectus preparation process is fastened and the deadline for approval is shortened to five days.

Second, the reference document meets the financial community's information quality requirements:

- Financial analysts can use the information to make industry and multi-year comparisons,
- It is an appreciated source of information for institutional investors,
- Individual shareholders and journalists have access to complete and up-to-date information on a company at almost no cost.

Nevertheless, compiling a reference document is a difficult and time-consuming task. In view of the numerous regulations to be considered and the quantity of information to be provided, it requires the involvement of several departments within the company and the implementation of a coordinated preparation, review and approval process.

### Prevailing regulations

The content of the reference document and the filing or registration requirements are defined by instruction no. 2005-11 of December 13, 2005 of the Autorité des Marchés Financiers (AMF) (the French securities regulator). This instruction is based on the following regulations:

- Commission Regulation (EC) 809/2004 of April 24, 2004 ("Prospectus Regulation"), with some items supplemented by the AMF's interpretations and, where appropriate, recommendations,
- The AMF General Regulations, in particular Article 212-13.

The AMF General Regulations require that the reference document include the Chairman's report on corporate governance, risk management and internal control procedures, and the statutory auditors' report related thereto (Article 222-9).

In the event of a change in the scope of consolidation that affects the financial statements by more than 25%, the issuer must issue pro forma information in the reference document (Article 222-2). This pro forma information must be included in the reference document if it is not included in the IFRS financial statements and in practice, when the change in the scope of consolidation occurs after the latest balance sheet date and before the filing of the reference document.

<sup>1</sup> - Article 212-13 of the AMF General Regulation

These regulations are supplemented by the recommendations of the Committee of European Securities Regulators (CESR).

The CESR<sup>2</sup> is an independent committee whose role is to improve coordination among securities regulators. It has published a series of recommendations for the consistent implementation of the Prospectus Regulation in Europe. These recommendations were updated by the ESMA in March 2011 and are regularly supplemented by answers to frequently asked questions.

The AMF takes up these recommendations in Article 212-7 of its General Regulations and in its guide for compiling reference documents.

The AMF has published two guides for compiling reference documents (RD):

- The guide of January 27, 2006, updated on December 10, 2009, which provides a summary of the prevailing laws and regulations that must be complied with when compiling reference documents, the applicable CESR recommendations and relevant AMF interpretations and recommendations,
- The guide of January 9, 2008, updated on December 10, 2009, specifically drafted to assist small- and medium-capitalized companies (companies listed on segment B or C of Eurlist) in compiling their reference documents.

The AMF also integrated four new recommendations into the update:

- Compensation of corporate officers (which replaces the previous recommendation dated December 22, 2008);
- Risk factors (which replaces the previous recommendation dated October 29, 2009);
- Description of the issuer's main activities and markets;
- Description of ownership structure;
- Off-balance-sheet commitments (already published on December 6, 2010).

The recommendation concerning compensation of corporate officers is the only recommendation applicable to all companies regardless of their listing segment.

The AMF also published a list of answers to frequently asked questions related to compiling reference documents, relationship with other annual publications, statements of the person responsible for the reference document, etc<sup>3</sup>.

## Content of the reference document

The information to be included in the reference document varies according to the type of securities listed on the regulated market of Euronext Paris.

Issuers whose shares (or other securities redeemable, exchangeable, convertible or otherwise exercisable for shares) are listed must comply with the minimum disclosure requirements set out in Annex I of the Prospectus Regulation. The minimum disclosure requirements set out in this Annex, which is broken down into 25 items, are more extensive than those set out in the other Annexes to the Prospectus Regulation.

These other Annexes may be used by issuers with only the following listed securities:

- Debt and derivative securities with a denomination per unit of less than €50,000 (Annex IV),
- Asset-backed securities (Annex VII),
- Debt and derivative securities with a denomination per unit of at least €50,000 (Annex IX).

2 - On January 1, 2011, the Committee of European Securities Regulators (CESR) officially became the European Securities and Markets Authority (ESMA).

3 - Questions and answers to compiling reference documents, put online December 10, 2009.

## Guides for compiling reference documents

***The AMF published an update on December 20, 2010 to the guide for compiling reference documents (first published on January 27, 2006) including its interpretations and recommendations on the following issues:***

- Interpretations :
  1. Voting rights restrictions and multiple voting rights
  2. Parent-subsidiary relationships
- Recommendations :
  1. Creation of shareholder value
  2. Insurance and risk hedging
  3. Pledges, guarantees and collateral
  4. Risks and disputes: provisioning method.
- To these recommendations are added the following new recommendations:
  1. Compensation of corporate officers (which replaces the previous recommendation dated December 22, 2008);
  2. Risk factors (which replaces the previous recommendation dated October 29, 2009);
  3. The recommendation dated December 10, 2009 regarding the description of the issuer's main activities and markets;
  4. The recommendation dated December 10, 2009 regarding the description of ownership structure;
  5. The recommendation n°2010-14 of December 6, 2010 regarding off-balance-sheet commitments.
  6. The recommendation Nr 2010-13 dated December 2, 2010 concerning information disclosed by listed companies regarding social and environmental responsibility ;
  7. The recommendation Nr 2011-18 dated December 20, 2011 concerning disclosures about financial results ;
  8. The recommendation Nr 2012-02 dated February 9, 2012 concerning corporate governance and managers compensations.

***This update had no impact of the guide regarding the elaboration of the reference document for small and mid-caps that was initially published on January 9, 2008 and updated on December 10, 2009.***

This guide contains all the regulations applicable to compiling a reference document for small and mid caps. For such companies, it replaces the guide for compiling reference documents published on January 27, 2006.

The AMF defines small and mid-cap companies as companies having a market capitalization of less than €1 billion (segments B and C of Euronext Paris). However, if a company exceeds this threshold or falls below it, the change of rules applying to the company will only apply as from the financial year following that in which the threshold was crossed.

This guide proposes the following simplified measures for small and mid caps:

- Exemption from application of the AMF's recommendations and interpretations, other than the AMF's recommendation of December 22, 2008 concerning compensation of executives and corporate officers,
- Extensive use of cross references to information set out in other sections,
- Information on thresholds to enable these companies to assess the importance of the information to be disclosed.

## Relationship with other annual publications

The reference document may take the form of a **specific document** or an **annual report to shareholders**, provided it contains all of the information required and that the promotional presentation of the issuer does not compromise the requisite objectivity of the information supervised by the AMF<sup>4</sup>.

The reference document does not have to be published within a specific period. However, if it is published within four months following the end of the financial year and includes all the information required in the annual financial report, **the reference document may be used as the annual financial report**. Issuers are then exempt from having to publish a separate annual financial report provided they meet the conditions relating to the regulated information's publication and storage requirements.

In addition to the mandatory content of the reference document set out above, issuers may add optional information at their discretion to derive maximum benefit from their annual publications.

The table below lists all the documents that may be included in the reference document, differentiating between mandatory and optional documents.

	Mandatory documents	Optional documents
RD <sup>5</sup>	<p>Content described in the "content of the reference document" section above, such as:</p> <ul style="list-style-type: none"> <li>• The consolidated financial statements of the last three years (with the possibility to incorporate those of years Y-2 and Y-1 by reference<sup>6</sup>) and related statutory auditors' reports</li> <li>• The Chairman's report on corporate governance, risk management and internal control and related statutory auditors' report</li> </ul>	<ul style="list-style-type: none"> <li>• The issuer's financial statements for the past year</li> <li>• The full management report – French commercial code (Code de commerce)</li> <li>• The report on the environmental impacts of the issuer's business</li> <li>• Annual information document</li> <li>• Disclosure of statutory auditors' fees</li> <li>• Description of the share buyback program</li> <li>• Documents for the shareholders' meeting</li> </ul>

4 - AMF instruction no. 2005-11 of December 13, 2005

5 - RD: reference document

6 - The financial statements of previous years may be incorporated by reference, provided they have already been published in a document filed with the AMF

Depending on the documents which are included in the reference document, said document is referred to as:

- "2-in-1" when it is also used as the annual financial report (AFR), or
- "3-in-1" when it includes the AFR and the full management report, or
- "4-in-1" or "annual report to shareholders" when it includes all the information required for the shareholders' meeting.

The table below summarizes these differences:

	Documents	Content
"2-in-1" RD	<ol style="list-style-type: none"> <li>RD</li> <li>AFR</li> </ol>	RD content supplemented by the following: <ul style="list-style-type: none"> <li>The issuer's financial statements for the past year</li> <li>Items of the management report required in the annual financial report (when the company must comply with Annex I, information on the share buyback program and items that may have an impact in the event of an offer of securities to the public)</li> </ul>
"3-in-1" RD	<ol style="list-style-type: none"> <li>RD</li> <li>AFR</li> <li>Full management report</li> </ol>	"2-in-1" RD content supplemented by information from the management report not expressly required in the RD+AFR, such as: <ul style="list-style-type: none"> <li>The social and environmental impact of the company's activities</li> <li>Employee profit sharing</li> <li>Summary of currently valid authorizations delegating power to increase the share capital</li> <li>Description of any installations covered by the Seveso rules</li> <li>Crossing of disclosure thresholds and ownership structure</li> <li>Summary of trading in the company's shares by senior managers</li> </ul>
"4-in-1" RD	<ol style="list-style-type: none"> <li>RD</li> <li>AFR</li> <li>Management report</li> <li>Information required for the shareholders' meeting</li> </ol>	"3-in-1" RD content supplemented by the information required for the shareholders meeting, such as: <ul style="list-style-type: none"> <li>Five-year financial summary (CCom R225-102)</li> <li>Appropriation of income/loss (D135)</li> <li>Agenda and proposed resolutions</li> <li>Comments of the supervisory board on the management board's report (CCom L225-68)</li> <li>The statutory auditors' special reports (on related-party agreements, stock options, bonus shares, share buyback programs, cancellation of pre-emptive subscription rights, etc.)</li> </ul>

Some companies also issue an **annual brochure** (or corporate brochure), at the time their annual shareholders' meeting is held. As a document presenting the entity, the annual brochure usually includes general information on the group, a business review and a section on the annual financial statements and consolidated financial statements containing information from the management report.

Since the layout of the reference document is not regulated, the annual brochure may be included at the beginning of the reference document, where the information required in items 3 (selected financial information), 5 (information about the issuer), and 6 (business overview) of Annex I of the Prospectus Regulation is usually presented. It must be supplemented by the other information required in the reference document but this information may be included in a separate regulatory document. This allows issuers to reduce their publication and distribution costs since the annual brochure may be distributed separately to a larger number of people than the reference document (which represents 2 volumes). However, it is necessary to check that each document is clearly identifiable. The annual brochure should not be treated as a reference document: its title should be different and it should not include a concordance table, an AMF visa number, or information relating to its filing with the AMF.

## Structure of the reference document

According to market practices, issuers on Euronext Paris mainly use three types of structure for their reference document:

- a structure following the order of the 25 items of Annex I of the Prospectus Regulation,
- a two-part structure: (1) the annual brochure and (2) the management report drawn up in accordance with the French Commercial Code, supplemented by all the other information required,
- a topic-based structure.

When the structure of the reference document does not follow the order of the 25 items of Annex I, a concordance table between the items of the Annex of the Prospectus Regulation and the items of the reference document must be provided. This table must list all the items and sub-items of Annex I as well as the corresponding page numbers<sup>7</sup>.

Regardless of the structure used, and given the extent of the information required, companies may incorporate information by reference to other sections, thereby avoiding duplication – provided that these cross-references do not interfere with the readability of the document).

## Responsibility for the reference document

The person(s) responsible for the reference document must declare that **having taken all reasonable care to ensure that such is the case, the information contained in the reference document is to the best of their knowledge in accordance with the facts and contains no omission likely to affect its import.**

They must also declare that they have obtained a statement from the statutory auditors affirming that they have read and verified the financial information contained in the reference document (called “lettre de fin de travaux”) and include the auditors’ observations, if any.

When the statutory auditors’ reports incorporated by reference in the document include one or more reservations or observations, the person(s) responsible for the document must mention this and indicate the pages where these reports appear.

The statement by the person responsible for the reference document may only be signed by **the chief executive officer, the chairman of the board of directors, the chairman of the management board or** – when the securities are issued by a foreign company – **the legal representative of the issuer.**

The AMF has published samples of such statements corresponding to the following situations (AMF inst. no. 2005-11 of December 13, 2005 amended and AMF Position of October 11, 2007):

- Statement accompanying a single reference document;
- Statement accompanying a reference document containing an annual financial report;
- Statement accompanying a reference document (or update thereto) containing a half-yearly financial report.

## Audit by the statutory auditors

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In addition to their reports on the financial statements and consolidated financial statements, the statutory auditors certify that the **forecast, estimated or pro forma information**, if any, presented in the document and disclosed to the public or the updates or corrections thereto have been properly reported and that the accounting basis used complies with the accounting methods applied by the issuer.

As regards the **other information contained in the reference document**, the statutory auditors examine the document for any information deemed inconsistent based on their general knowledge of the issuer acquired during the engagement.

The statutory auditors draw up a “letter de fin de travaux” in which they refer to the reports issued by them and contained in said document or the updates or corrections thereto and state any observations based on their examination of the document as a whole and any verifications made in accordance with professional accounting standards. This statement is drawn up at a date just before the certification of the AMF. As it is a private document, it is not published in the document but is provided to the issuer which forwards a copy to the AMF.

## Review of the reference document by the AMF

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The reference document must be filed with the AMF. If the issuer has not yet submitted three consecutive reference documents to the AMF, the draft document is reviewed by the AMF, which can request changes or additional investigations before its registration and publication. If the issuer has already submitted three consecutive reference documents to the AMF, the document is reviewed by the AMF after publication.

If the AMF finds a significant omission or inaccuracy in the content of a published reference document, it informs the issuer who must file the corrections made to the reference document with the AMF. These corrections are disclosed to the public. The AMF considers as significant any omission or inaccuracy that may alter an investor’s assessment of the organization, business, risks, financial position and results of the issuer. The other observations made by the AMF are disclosed to the issuer who will take them into account in the reference document of the following year.

## Updates of the reference document

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After the publication of the reference document, the issuer may update it on a regular basis. These updates relate to published accounting data and new facts on its organization, business, risks, financial position and results.

When an update of the reference document is disclosed to the public within 45 days following the end of the first and third quarters or within two months following the end of the first half-year and includes quarterly financial information or the half-yearly financial report, the issuer is exempt from having to publish this information separately.

## Dissemination and storage of the reference document

The day following its filing or registration at the latest, the reference document is made available free of charge to the public at the registered office of the issuer and at the offices of the organizations engaged as paying agent for the issuer's securities. A copy must be sent free of charge to any person at his or her request.

The electronic version of the reference document is sent to the AMF to be posted on its website.

When the reference document is also used as the annual financial report, it is subject to the dissemination and storage requirements applicable to regulated information<sup>8</sup>, i.e.,:

- "Full and effective" dissemination by electronic means. A press release announces the availability of the reference document (an example of a press release is set out in Annex 11 to the guide related to the filing of regulated information with the AMF and its dissemination).
- The requirement to store the reference document on the issuer's website for five years is no longer applicable. As from January 6, 2009, the AMF sends the document to the Direction des Journaux Officiels (DJO) (French Directorate of Official Journals) which is responsible for storing it via its website [www.info-financière.fr](http://www.info-financière.fr).

When the reference document includes regulated information, for example the Chairman's report on corporate governance, risk management and internal control, as well as the amount of the statutory auditors' fees, the description of share buyback programs or the documents for the shareholders' meeting, the press release announcing that the reference document is available must list the regulated information included in the document<sup>9</sup>.

To ensure equal treatment of shareholders, a number of large companies with international shareholders prepare at the same time a translation of the reference document in a language commonly used by the financial community – usually English. The translation must be available on line at the same time as the original version of the reference document.

The reference document can be incorporated in a prospectus for up to 12 months, provided it has been updated on a regular basis. The prospectus can benefit from the European Passport in the event of an offer of securities to the public or admission to trading on the regulated market of a Member State of the European Community other than France.

8 - Article 221-3 of the AMF General Regulations

9 - Guide to the filing of the regulated information with the AMF and its dissemination

# Index

## Regulatory Texts

### REGULATORY TEXTS FINANCIAL DISCLOSURE:

#### I. Regulatory Texts concerning offers of securities to the public

##### A. Community sources

1. **Directive 2003/71/EC** of the European Parliament and of the Council dated November 4, 2003 on the prospectus to be published when securities are offered to the public or admitted to trading, and amending directive 2001/34/EC ("Prospectus Directive"). Amended by Directive 2010/73/UE dated November 24, 2010 (ultimate transposition date July 1<sup>st</sup>, 2012)
2. **Regulation (EC) N° 809/2004** of the Commission dated April 29, 2004 implementing Directive 2003/71/EC of the European Parliament and the Council concerning information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and the dissemination of information of advertisements. Amended by European Regulation dated March 30, 2012 (entry into force July 1<sup>st</sup>, 2012)
3. **Recommendations - March 2011** - Update by the ESMA of the CESR recommendations in preparation of a coherent application of the European Commission's Ruling on Prospectus n°809-2004
4. **Commission recommendation dated April 27, 2004**, concerning certain components of the simplified prospectus described in schedule C of Annex I of Council Directive 85/611/EEC (text with EEA relevance) (referenced under number C(2004) 1541/2 (OJEU L 144 of April 30, 2004, p. 45-58)
5. **Q/A:** Positions that are commonly accepted by the Members of the CESR (12<sup>th</sup> version)

##### B. French national sources

1. **Articles L. 411-1 to L. 412-4 et articles L. 621-8 to L. 621-8-3 of the Monetary and Financial Code** (amended by order no. 2009-80 of January 22, 2009 on public offerings of securities, including miscellaneous financial provisions)
2. **Decree n° 2006-557 dated May 16, 2006** transposed in the regulatory section of the Monetary and Financial Code, articles D.411-1 to D. 411-4 (list of qualified investors)
3. **AMF General Regulations**, article 211-1 et seq. Title 1 (Offer of securities to the public or admission to trading of securities on a regulated market) of Book II (Issuers and financial disclosure).
4. **AMF Instruction n° 2006/06** dated April 4, 2006 relating to the data base of qualified investors in application of article 211-2-1 of the AMF's General Regulations
5. **AMF Instruction n° 2005-11** dated December 13, 2005 (updated January 20, 2011) disclosure requirements for public offers of securities to the public or admission to trading of securities on a regulated market, pursuant to Title 1 of Book II of the AMF's General Regulations
6. **AMF Recommendation of October 4, 2007** on the prospectus summary
7. **Recommendation** on the preparation of financial transactions submitted for AMF approval, posted online on June 8, 2009
8. **AMF Position, July 10, 2006**, Implementation of European Regulation n° 809/2004 dated April 29, 2004 concerning information contained in a prospectus, "relative to the notion of forecasts."
9. **Questions/Answers** dated October 23, 2007 illustrating the position of the AMF of July 10, 2006 "Clarification relative to the notion of forecasts."
10. **AMF Position, January 27, 2006**, Guide to preparing reference documents: Regulations in force, interpretations and recommendations of the AMF (updated December 20, 2010)

11. **AMF Position, December 27, 2005**, General principles concerning communications of a marketing nature related to the issuance of financial instruments and indexed financial instruments or those having an optional component
12. **AMF Press release dated April 11, 2007**: French Financial Markets Authority releases a guide on the prospectus for issuing financial instruments to the public
13. **AMF Position n°2010-04 from October the 15<sup>th</sup> 2010**: Q/A of the AMF regarding the elaboration of bond prospectus and the requirements for the procurement of a visa
14. **AMF Position/Recommendation n°2010-03 of September 16, 2010**: Q/A of the AMF regarding the transfer to Alternext of a company listed on Euronext

## II. Regulatory Texts concerning ongoing disclosures

### A. Community sources

1. **Directive 2003/6/EC** of the European Parliament and the Council dated January 23, 2003 on insider dealing and market manipulation (“Market Abuse Directive”)
2. **Directive 2003/124** of the Commission dated December 22, 2003 related to the application of Directive 2003/6/EC of the European Parliament and the Council concerning the disclosure of privileged information and the definition of market manipulation
3. **Directive 2004/72/EC** of the Commission dated April 29, 2004 implementing Directive 2003/6/EC of the European Parliament and Council concerning accepted market practices, the definition of privileged information for derivative on commodities, the drawing up of lists of insiders, the disclosure of transactions made by executive management and the notification of suspicious transactions

### B. French national sources

1. **AMF General Regulations**, articles 221-1 et seq., included in the Chapter I (Common provisions and dissemination of regulated information) of Title II (Periodic and ongoing disclosure obligations) of Book II (Issuers and financial disclosure); articles 223-1 et seq. included in Chapter III (On-going disclosures) Title II of Book II; articles 611-1 et seq. of Book VI (Market abuse: Insider dealing and market manipulation)
2. **AMF Instruction n° 2007-03 dated April 27, 2007** (updated May 31, 2007) relative to the methods of filing regulated information and the functioning of the press release database
3. **AMF Recommendation, January 20, 2007** on written financial communications of companies listed on a regulated market (updated December 20, 2007)
4. **AMF’s Practical guide (relating to the filing of regulated information at the AMF and to its dissemination dated November 28, 2007 and updated March 2, 2010)**
5. **AMF recommendation dated July 28, 2009** on financial information disclosed by companies in financial difficulty
6. **AMF Position/Recommendation n°2010-11 of November 17, 2010** regarding companies’ communication on their financial indicators

## III. Texts relating to periodic disclosures

### A. Community sources

1. **Directive 2004/109/EC** of the European Parliament and Council of December 15, 2004 on the harmonisation of transparency requirements concerning disclosures about issuers whose securities are admitted to trading on a regulated market and amending directive 2001/34/EC. Amended by Directive Nr 2011/0307 dated October 25, 2011.

2. **Directive 2007/14/EC** of March 8, 2007 on the implementation of certain provisions of Directive 2004/109/CE on the harmonisation of transparency requirements concerning disclosures by issuers whose securities are admitted to trading on a regulated market

## B. French national sources

1. **Articles L. 451-1 et seq. of the Monetary and Financial Code** deriving from law n°2005-842 of July 26, 2005 for the modernisation and confidence in the economy
2. **Implementing decree Nr 2012-557, dated April 24, 2012 relating to information regarding social and environmental matters** (Management report, articles R.225-104 and R.225-105).
3. **Articles L. 225-100 to L. 225-100-3, articles L.225-102 to L. 225-102-2 and article L 233-6 of the Commercial Code** (Management report)
4. **Article 243 bis of the Tax Code** (information related to dividends included in the management report)
5. **Articles L. 225-37 paragraph 6 and L. 225-68 paragraph 7 of the Commercial Code amended by law no. 2008-649 of July 3, 2008 containing various provisions adapting company law to Community law** (The Chairman's report on the Board's work and on internal control procedures) then modified by the law n°2011-103 of January 27, 2011 regarding the principle of equal representation of men and women within the Board
6. **Article L. 621-18-3 of the Monetary and Financial Code** (disclosing the Chairman's report on the Board's work and on internal control procedures)
7. **Articles L. 232-1 to L. 232-8 of the Commercial Code** (Annual financial statements)
8. **Articles L. 225-184 and L. 225-197-4 of the Commercial Code amended by law no. 2008-1258 of December 3, 2008 promoting income from work** (Special report related to shares attributed for free and share purchase options) and Articles R.225-34 and R.225-60 of the Commercial Code (notice on the granting of deferred compensation to executives)
9. **Articles R. 225-102 and R. 225-104 of the Commercial Code** (Management report)
10. **Article R. 232-11 of the Commercial Code** (Periodic publications in the BALO)
11. **AMF's General Regulations**, articles 221-1 et seq., included in Chapter I (Common provisions and dissemination of regulated information) of Title II (Periodic and ongoing disclosure obligations) of Book II (Issuers and financial disclosure); articles 221-1 et seq. included in Chapter II (Periodic disclosures) of Title II (Period and ongoing disclosures) of Book II (Issuers and financial disclosures)
12. **AMF Instruction n° 2007-05** of October 2, 2007 relative to the reporting of pro forma financial information
13. **AMF Instruction n°2007-03** of April 27, 2007 relative to the methods of filing regulated information and to the functioning of the press release database
14. **AMF Instruction n° 2006-10** of December 19, 2006 relative to the disclosure of fees paid to statutory auditors and to members of their network (updated April 6, 2009)
15. **AMF Recommendation n°2010-14** of December 6, 2010 regarding off-balance-sheet commitments
16. **AMF Recommendation n°2010-13** of December 2010: Report on the information regarding social and environmental responsibility that is published by listed firms
17. **AMF Recommendation dated February 9, 2010** on the presentation of assessment items and real-estate assets of listed companies
18. **AMF Recommendation dated February 5, 2010** on the financial communication of listed companies for the publication of their results
19. **AMF Recommendation dated December 10, 2009** on the description of the ownership structure
20. **AMF Recommendation dated December 10, 2009** on the description of the issuer's main activities and markets
21. **AMF Recommendation dated October 29, 2009** on risk factors

22. **AMF Recommendation dated December 17, 2008** on the communication of annual sales data of listed companies
23. **AMF Recommendation, dated December 22, 2008** on the information to be provided in reference documents on the compensation of corporate officers
24. **AMF Recommendation of July 22, 2010** regarding the internal risk management and social control plans: reference framework
25. **AMF Recommendation, dated January 20, 2007** on written financial communications by listed companies on a regulated market (updated December 20, 2007)
26. **AMF Position dated January 9, 2008** on the report of the work group chaired by Yves Mansion on adaptations of financial regulations for small and medium sized companies (updated on December 10, 2009 for the reference document and July 22, 2010 for risk management and internal control)
27. **AMF Position dated October 11, 2007**: Model declarations for annual and half-yearly financial reports and reference documents
28. **AMF Position dated July 17, 2007**: Clarification on the half-yearly information for issuers of debt instruments
29. **AMF Position dated March 23, 2007**: Disclosure requirements on ex-dividend dates
30. **AMF Position dated January 27, 2006**, updated on December 20, 2010: Guide to compiling reference documents: Regulations in force and AMF Interpretations and Recommendations
31. **AMF Recommendation of July 22, 2010** regarding the report of the workgroup concerning the audit committee
32. **AMF News release dated December 10, 2009** on the publication of a Q&A on compiling reference documents
33. **AMF Press release dated February 14, 2007** (updated October 3, 2008): Questions - Answers on the new disclosure requirements for companies listed on Euronext Paris
34. **AMF Press release dated January 22, 2007**: (update of February 12, 2007): Transposition of the Transparency Directive in the AMF Regulations: Periodic disclosure requirements of companies on the methods of dissemination and subsequent availability of regulated information
35. **AMF Press release dated October 16, 2006**: The French financial markets authority provides the effective date of periodic disclosure requirements imposed by the Transparency Directive

#### IV. Texts relating to certain specific cases in which the dissemination of financial disclosures is required

##### A. Takeover bids

1. **Directive 2004/25/EC** of the European Parliament and Council of April 21, 2004 concerning takeover bids
2. **Articles L. 433-1 to L.433-4 of the Monetary and Financial Code** (partly deriving from law n° 2006-387 of March 31, 2006 relative to takeover bids and modified by the law n°2010-1249 of October 22, 2010 on the banking and financial regulation)
3. **AMF General Regulations**, articles 223-32 et seq. (Statement of intent in the event of preparation of a takeover bid); articles 231-1 et seq. included in Title III (Takeover bids) of Book II (Issuers and financial disclosures)
4. **AMF Instruction n° 2006-07** of July 25, 2006 relative to takeover bids, pursuant to Title III of Book II of the AMF's General Regulations (updated May 16, 2007)
5. **Instruction no. 2009-08 of September 22, 2009** on the oversight of public offers, in accordance with Articles 231-46 and 231-51 of the AMF's General Regulations

##### B. Crossing of shareholding thresholds

1. **Directive 2004/109/EC** of the European Parliament and Council of December 15, 2004 on the harmonisation of transparency requirements concerning disclosures about issuers whose securities are admitted to trading on a regulated market and

amending directive 2001/34/EC. Amended by Directive 2010/73/UE dated November 24, 2010 (ultimate transposition date July 1<sup>st</sup>, 2012).

2. **Articles L. 233-7 to R. 233-15 of the Commercial Code** (amended by order no. 2009-105 of January 30, 2009 on share buybacks, major holding notifications and statements of intent)
3. **Articles R. 233-1 and R. 233-2 of the Commercial Code**
4. **AMF General Regulations**, articles 223-11 et seq. included in Section II (Crossing of shareholding thresholds) of Chapter III (Ongoing disclosures) of Book II (Issuers and financial disclosures)
5. **Questions/Answers** on the new methods of calculating shareholding thresholds dated July 17, 2007

### C. Reporting of transactions made in shares of listed companies by executives

1. **Articles L. 621-18-2 and R. 621-43-1 of the Monetary and Financial Code**
2. **AMF General Regulations**, articles 223-22 et seq.
3. **Instruction n° 2006-05** of February 3, 2006 relative to transactions by executives and persons mentioned in article L. 621-18-2 of the Monetary and Financial Code in company shares (pursuant to articles 223-22 to 223-26 of the AMF's General Regulations (previously articles 222-14 to 222-15-3 of said regulations))
4. **AMF Position dated September 28, 2006** relative to the reporting of transactions made on shares of listed companies by executives, assimilated persons and their relations
5. **Q&A** on the reporting obligations for transactions carried out by executives, their relatives and assimilated persons, posted online on July 26, 2009

### D. Share buyback programmes

1. **Regulation EC n° 2273/2003** of the Commission dated December 22, 2003 on the implementation of Directive 2003/6/CE of the European Parliament and Council concerning exemptions for share buyback programmes and stabilisation of financial instruments
2. **Articles L. 225-209 and L. 225-211 of the Commercial Code** (special annual report on the implementation of a buyback program) and Article L. 225-212 of the Commercial Code (amended by order no. 2009-105 of January 30, 2009 on share buybacks, major holding notifications and statements of intent)
3. **AMF General Regulations**, articles 241-1 et seq. (description of a buyback, weekly and monthly information on the implementation of a share buyback)
4. **Instruction n° 2005-06 of February 22, 2005** relative to information that must be reported and disclosed by issuers with a share buyback programme is in process and the methods reporting for transactions for the stabilisation of financial instruments
5. **AMF Press release dated February 1, 2008**: the French Financial Markets Authority reminds listed companies of the filing and disclosure requirements related to the execution of a share buyback programme
6. **Decision of March 22, 2005** concerning the adoption by the AMF of the acquisition by a company of its own shares for the purpose of being held in treasury and subsequently delivered as payment or exchange for external growth transactions, as accepted market practice
7. **AMF Position on share buyback programs** posted online November 19, 2009
8. **Decision of October 1, 2008** on the adoption by the AMF of liquidity contracts as accepted market practice

### E. Disclosure of shareholder agreements

1. **Article L. 233-11 of the Commercial Code**
2. **AMG General Regulations**, article 223-18 (information relative to shareholder agreements)

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## OCF Achievements

Since its creation in 2005, the achievements of the *Observatoire de la Communication Financière* have aimed at promoting best practices in the field of financial communication in compliance with regulatory requirements.

### Monitoring and analysing financial communication trends

resulting in the publication of several surveys and research studies:

- The impact of the transition to IFRS
- The stakes of the Transparency Directive
- An analysis of press releases of the SBF 120 companies
- The benchmarking of European executive compensation

### Interfacing between issuers and the market opinions

within the framework of the “2006 OCF forum” event on “The risks and stakes of the new transparency measures” or the round table on “Financial communication practices” which took place in July 2007 as part of the Paris-Europlace international forum.

### Supporting issuers

through the organisation of workshops-debates:

- Stock options and the calculation of earnings per share
- Comparables model
- The AMF’s General Regulations
- Cash-flow statements, etc.

through the publication of several reference works

- Glossary of financial communication terms
- Financial Communication: Framework and Practices.

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For a listed company, communicating with the market is of strategic importance.

Increasing requirements in terms of transparency and the growing complexity of regulatory constraints in the field have highlighted the need for a document setting out the general guidelines for issuers.

The *Observatoire de la Communication Financière* has thus taken the initiative to meet the challenge and capitalise on the expertise of its members for the preparation of this guide:

### **“Financial Communication: Framework and Practices”**

In addition to serving Investor Relations professionals as a tool for decision making, this document also has the objective of encouraging executives to reflect upon the stakes involved in their relationship with the market. It also aspires to contributing to enhancing Paris' reputation as a financial centre.

The Annual Workshop that takes place in July. That are available in electronic format on the website [www.observatoirecomfi.com](http://www.observatoirecomfi.com) as well as on the members' websites. It is updated regularly and is available in both English and French.

The founding members of the OCF, Bredin Prat, the CLIFF, PricewaterhouseCoopers and the SFAF – as well as NYSE Euronext, who also participated in the preparation of this guide, sincerely hope that it will serve issuers as a genuine source of reference.