

COMMITTEE ON THE FINANCIAL ASPECTS OF
CORPORATE GOVERNANCE

Companies with Debt Listings

1. Paragraph 3.1 of the Report states that the Code of Best Practice is "directed to the boards of directors of all listed companies registered in the UK....". It therefore effectively includes all companies with debt listings. The Stock Exchange does not exempt debt listed companies from adherence to paragraph 12.43 (j) of the Yellow Book which deals with the statement of compliance with the Code, although other exemptions from continuing obligations are listed in paragraph 9.46.
2. The main purpose of the Code and the need for companies to make a compliance statement is to empower the shareholders in a company by providing as much information as possible on the corporate governance of the company. The majority of debt listed companies are wholly owned subsidiaries of listed companies, and no third party is involved.
3. Although no formal monitoring has been done to date, it appears that some companies with debt listings are not making any compliance statement at all, and others are presuming that they would be covered by the parent company's statement. (This would be the case if the subsidiary did not have a listing in its own right.) Interestingly, when either of these circumstances arise, the company's auditor has not commented on it.
4. In a letter to my predecessor on 4 September 1992, the Chairman of the Stock Exchange stated that "... where a company seeks access to the public markets, be it for preference or ordinary shares, it should try to meet the standards generally required of public companies, particularly with regard to the information to be given to shareholders.full compliance may well be inappropriate for a number of smaller public companies and for private companies with only certain classes of shares listed, but ... it would be wrong to exempt these companies from the requirement for disclosure.". This does not refer specifically to companies with debt listings.
5. This letter has been used as the basis of responding to any queries regarding compliance with the Code, often in response to smaller companies who are seeking exemption. A case was referred to the Committee by the Stock Exchange's Head of Listing which related to a foreign-owned parent company with a UK subsidiary with a debt listing. It was agreed at that time that it would be inappropriate for the subsidiary to make a full compliance statement but that they should state that all their equity was owned by the overseas parent and therefore a compliance statement was not appropriate.

6. In the absence of guidance to the contrary, in January of this year I advised a parent company which had a subsidiary with a debt listing that, provided that the only holder of the subsidiary company's equity was the parent company, and that the boards of directors of both companies were identical, that there would be little to be gained from the subsidiary company making a separate compliance statement.

7. The Stock Exchange is currently taking the matter up with those companies that only have debt listed where there is no reference to corporate governance or an inadequate statement of compliance, or merely a cross reference to the parent company's statement.

8. This paper was considered by the Monitoring Sub-Committee when it met on 1 November 1994, and it was agreed that it should be referred to the full Committee for a decision. The Committee are asked to consider whether there is a need for this area to be clarified or exemptions permitted. Possible courses of action include:-

- (a) The Committee could advise its successor body to amend the Report and specifically exclude from its remit debt listed companies which were wholly subsidiaries of listed companies.
- (b) The Stock Exchange could be asked to amend the Listing Obligations by adding paragraph 12.43 (j) to the list of exemptions granted to debt listed companies, providing all the equity was held by a listed parent company.
- (c) No formal action taken, but practice allowed to develop on an ad hoc basis.

Gina Cole
Secretary
30 November 1994