

UKLA Publications

UPDATE



March 2009

The following text was sent to all List! subscribers on the 30th March 2009.

Annual Financial Report: dissemination of information

We have received some queries on various aspects of the production and announcement of the Annual Financial Report as required by the Disclosure & Transparency Rules (DTRs). Here, we provide clarification on how we interpret these requirements.

a) Announcing in 'unedited full text' and the audit report)

DTR 6.3.5 (1) requires issuers to publish regulated information in unedited full text. While announcing the annual financial report is exempted from this, issuers must still announce key information in unedited full text (as set out in DTR 6.3.5(2)(b)). We believe the information 'of a type' required under this rule includes: those financial statement line items required under the half-yearly report, a management report and responsibility statements. Further to this, under obligations arising from elsewhere in DTR6 and DTR2, issuers should announce this information no later than they make the annual financial report public. Issuers must also provide an indication of which website the annual financial report is available.

We have been asked how we view the publication of audit reports within the above framework, and in the context of 'information of a type that would be required to be disseminated in a half yearly report' (DTR 6.3.5.(2)(b)). We understand there may be a tension between provisions in the UK Companies Acts 1985 and 2006, which may restrict issuers from publishing audit reports with non-statutory accounts.

In our opinion it is for the issuer and its advisers to decide whether the information it should release in unedited full text under DTR 6.3.5(2)(b) comprises statutory accounts under the Companies Act requirements. If, in their opinion, they do not, then we would not expect issuers to breach their statutory obligations by including the annual audit report in the unedited full text.

Issuers have also asked how they should deal with a responsibility statement in this context. We would remind issuers that when disseminating key financial information, or for that matter any regulated information, they must take all reasonable care to ensure that it is not false, misleading or deceptive and does not omit anything likely to affect the import of the information (DTR 1.3.4). Taking into account this requirement we will leave to an issuer's judgement how a responsibility statement is best incorporated into the key information that is presented in unedited full text.

b) Sequencing of announcements

We are conscious that a number of issuers have sought to retain their pre-Transparency Directive (TD) annual financial reporting procedures, by announcing their preliminary statement (now a voluntary obligation), followed by their Annual Report and Accounts up to two months later. We have previously reminded issuers (see www.fsa.gov.uk/pubs/ukla/ukla_update.pdf) that this method does not necessarily fully comply with DTR financial reporting obligations, even when the annual report is made public within the timescale required by the DTRs.

However, we accept that an issuer may comply with its obligation under DTR 6.3.5(2)(b) by including the information required by that rule, in unedited full text in its preliminary statement and that any information announced in that way does not need to be repeated when the company announces the release of its annual financial report. It may be useful if issuers refer to the preliminary statement when they make the later announcement. The Company Monitoring team may contact issuers following such a pre-TD approach; we may need to ascertain whether the issuer has met DTR obligations and, additionally, whether the issuer has announced sufficient financial information to the market to prevent a suspension of listing being required. We continue to take a risk-based approach in our monitoring of issuers' compliance in this area.

c) Use of PDFs

Before the TD was implemented, we required issuers to announce certain aspects of their financial information in free text in the preliminary statement. We have understood that many of those using such information, including investors making time-critical decisions, will benefit from this format.

We are aware of the desire of some issuers, their professional bodies and advisers, to promote the greater use of secure documents, (e.g. PDFs), as well as hyperlinks to websites, to disseminate a variety of financial information to the market.

We have no objection to issuers using such methods for annual reports, (issuers of course should check with their RIS about any IT issues that may arise). However, we have not altered our approach regarding regulated information. So issuers must continue to announce the information required by DTR 6.3.5 in unedited full text. We would not see the use of a PDF as fulfilling this obligation.

We will however, continue to consider advances in technology, and the opportunities this may bring to promote efficiency of information dissemination, as part of our ongoing work on the implementation of the National Storage Mechanism. We may need to consult on any change in our policy approach, requiring cost benefit analysis, and will need to adequately incorporate the nature of the UK's Regulated Information Service regime as well as developments elsewhere in the EU.

d) Choice of headline categories

We also understand that issuers may be uncertain about which Primary Information Provider (PIP) Headline Categories should be used when announcing annual reports. We are amending these and issuers should employ them as follows:

Headline Category	Description
<i>Annual Financial Report</i>	<p>This newly re-named headline category replaces the previous Annual Report & Accounts headline. This 'new' headline should be used for:</p> <ul style="list-style-type: none">a) the unedited full text announcement required under DTR 6.3.5(2)(b),b) the indication of which website the report can be found and,c) where applicable for announcements regarding the publication of the Annual Report through the Document Viewing Facility (LR 9.6.1). <p>NB: All of these requirements could be met within one announcement if necessary.</p>
<i>Final Results</i>	<p>This headline should only be used when announcing a Preliminary Statement, (now a voluntary disclosure obligation).</p>