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The International Comparative Legal Guide to:
Corporate Governance 2011

A practical cross-border insight to corporate governance

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1 Setting the Scene - Sources and Overview

1.1 What are the main corporate entities to be discussed?

Because the majority of U.S. publicly-traded companies are incorporated in Delaware (more than 50% of all publicly-traded companies, and approximately 63% of the Fortune 500 companies, are incorporated in Delaware. Source: Delaware Department of State, Division of Corporations), this article focuses on Delaware corporations with shares registered with the U.S. Securities and Exchange Commission under the U.S. Securities Exchange Act of 1934, and listed and traded on NYSE Euronext ("NYSE"), the world's largest equity market, and/or the Nasdaq Stock Market ("Nasdaq"), the other major U.S. exchange.

1.2 What are the main legislative, regulatory and other corporate governance sources?

The U.S. regulatory scheme applicable to public companies is comprised of a mix of state and national legislation, as well as the rules and regulations of quasi-governmental institutions such as stock exchanges. The principal sources of corporate governance related requirements are as follows:

1. *State law of a company's state of incorporation*. U.S. corporations are incorporated under the laws of the individual states, and accordingly, every U.S. corporation is governed in the first instance by the laws of its state of incorporation and corresponding case law interpreting these laws. As noted above, this chapter will focus on the requirements of the Delaware General Corporation Law (the "DGCL") and the Delaware case law interpreting the DGCL because of the widespread use of Delaware as a state of incorporation. However, each state has its own distinct set of corporate statutes and case law, and in cases where the state of incorporation is other than Delaware, the law of that jurisdiction must be consulted.
2. *Federal statutes and the rules and regulations adopted pursuant to these statutes by the U.S. Securities and Exchange Commission (the "SEC")*. All public companies are subject to regulation by the SEC pursuant to two principal statutes: (i) the Securities Exchange Act of 1934 (the "Exchange Act"); and (ii) the Securities Act of 1933 (the "Securities Act"). The Exchange Act requires annual, quarterly and periodic reporting by public companies, requires stockholders of such companies to file reports upon crossing certain ownership thresholds, and regulates, in part, the process by which stockholder votes are solicited. The Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), which imposed additional corporate governance-related and other requirements on public companies, is part of the Exchange Act. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank") added provisions to the Exchange Act granting regulators broader discretion to regulate corporate governance matters, including executive compensation and proxy access. The Securities Act applies principally to the offer and sale of securities, and regulates the form and content of disclosure to investors in connection with a sale of securities to the public. The SEC issues rules and regulations under the Exchange Act and the Securities Act.
3. *A corporation's organisational documents*. An additional important source of corporate governance procedures and requirements is the organisational documents of the corporation. Each Delaware corporation will be governed by a minimum of two documents: the certificate of incorporation, or "charter", and the bylaws. Either or both of these documents will contain important provisions regarding board composition, annual meetings, stockholder rights, and other aspects of the entity's corporate governance. In addition, reporting companies with listed securities are required to have written charters for various committees of the board of directors that specify the functions of such committees in detail, and in some cases companies may have additional governing documents setting out additional rights and obligations of stockholders, such as the documents governing a particular class of shares or convertible securities.
4. *Other sources*. The NYSE and other exchanges require companies with securities that trade on these exchanges to abide by certain corporate governance standards and regulations. Additionally, industry groups, stockholder advisory services (which provide advice to large institutions regarding how to vote at stockholder meetings) and, in some cases, institutional investors may also publish non-binding corporate governance guidelines and recommendations.

1.3 What are the current topical issues, developments and trends in corporate governance?

Majority voting for directors. Most states' laws (including Delaware) provide for the election of director candidates by a plurality, where the winning candidates are those receiving the highest number of votes. Under this standard, directors who are running unopposed are elected regardless of how few votes they receive, and votes which are "withheld" (intended as votes against) have no effect on the outcome of the election. Shareholders have recently submitted proposals that would require directors be elected by at least a majority of the votes cast. To accomplish this, some companies have adopted policies that require a candidate who does

not receive majority support to submit his or her resignation to the board. The Delaware legislature recognised this trend, and in 2006, the DGCL was amended to provide that shareholder-adopted bylaws increasing the voting requirements to elect directors may not be amended or rescinded by the board.

Separation of chief executive officer and chairman positions. Historically, it has been common for U.S. companies to combine the roles of chief executive officer ("CEO") and chairman of the board ("Chair"). However, shareholders have increasingly supported proposals that seek to separate these two positions. Additionally, the SEC's disclosure requirements now require companies to disclose (and explain the reasoning behind) their decision to separate (or keep as one) the positions of Chair and CEO. Companies choosing not to separate the CEO and Chair roles must make additional disclosure relating to lead independent directors, and such independent director's role in the company.

Removal of anti-takeover devices. U.S. state law (including Delaware), as well as applicable federal regulations, generally allow companies to maintain a variety of anti-takeover "defences" that make it difficult for an acquiror to obtain control without the approval of the company's board. Among these defences are classified boards (providing that only one-third of the directors will be up for re-election in a given year); requirements that mergers be approved by more than a simple majority of shareholders; provisions giving companies authority to greatly dilute the interest of shareholders acquiring more than a threshold amount (generally 15%) of the shares (so-called "poison-pill" provisions); and restrictions on the rights of shareholders to call special meetings or to act without a meeting. Despite the primacy of these provisions over the past decades, there continues to be a substantial movement to eliminate these provisions and to shift power to shareholders.

2 Shareholders

2.1 What rights and powers do shareholders have in the operation and management of the corporate entity/entities?

Delaware law provides that the corporation shall be managed by or under the direction of a board of directors; accordingly stockholders generally have little direct influence over the operation and management of a corporation. The operation and management of a corporation is the responsibility of the corporation's officers, and such officers are in turn selected and overseen by the board of directors. Stockholders primarily impact the management of a corporation through their ability to elect directors at the corporation's annual meeting, including their ability to nominate their own slates of director candidates. Shareholder activists, after a brief hiatus during the economic crisis of 2008-2009, continue to nominate "minority" slates (for less than half of the director seats) as a way to influence the management and policies of the company.

In addition to the right to elect directors, stockholders are provided with certain statutory rights under the DGCL. These include the right:

- to approve an amendment to the certificate of incorporation, for example to increase or decrease the corporation's authorised capital stock (however, importantly, all charter amendments must be initiated by the board of directors);
- to approve a merger or consolidation of the corporation or a sale of all or substantially all its property or assets;
- to amend the bylaws of the corporation, subject to the board of directors' power to manage the corporation;
- to remove a director or directors, generally with or without cause (though this right may be limited by procedural impediments in the company's charter or bylaws); and
- if authorised in the charter or the bylaws, to call a special meeting of stockholders.

In general, U.S. federal law provides stockholders with few substantive rights. However, the Exchange Act does provide stockholders meeting certain minimum ownership thresholds with the right to compel a public company to include proposals for action in certain areas in the company's proxy statement. Rule 14a-8 of the Exchange Act effectively allows the proponents, if not successfully challenged by the company, to "free ride" on the company's proxy statement, and removes a major barrier to stockholder action - the costs associated with an independent proxy solicitation. Proposed amendments to Rule 14a-8 and the addition of new Rule 14a-11 would provide greater proxy access to stockholders, but effectiveness of these changes remains stayed pending ongoing litigation. Currently, the topics that are permitted to be addressed by stockholder proposals are somewhat circumscribed, and the rule provides companies with a number of grounds on which to challenge their obligation to include the stockholder proposals. Nevertheless, this rule can be a powerful tool for stockholder influence in certain areas, and is often used by state pension funds, unions, church groups and others to promote social and corporate governance issues.

NYSE and Nasdaq also mandate stockholder approval of certain corporate actions, including the issuance of securities representing 20% or more of the outstanding voting power of the company, with certain exceptions.

2.2 Can shareholders be liable for acts or omissions of the corporate entity/entities?

Generally, no: the basic premise of the corporate entity is that stockholders' liability for acts or omissions of the corporation is limited to the amount invested by each stockholder. There are limited circumstances in which the courts may hold stockholders personally liable for the acts or omissions of the corporation (the most common of which is referred to as "piercing the corporate veil"), but these are generally in the context of smaller, privately held companies.

2.3 Can shareholders be disenfranchised?

Corporations may issue non-voting stock, or use a dual class share structure, in which one class of shares is entitled to one vote per share while a second class, often owned by a founding family, is entitled to a greater number of votes per share. Generally corporations cannot take away voting rights once they have been granted. However, they can dilute the impact of those rights in some cases by the issuance of additional, including high vote, securities.

In limited instances, stockholders are not granted a vote on a major transaction. The most common example is the case of a "squeeze-out" or short-form merger, pursuant to which a parent corporation owning 90% or more of a subsidiary may acquire the minority interest without any vote by stockholders of the subsidiary.

2.4 Can shareholders seek enforcement action against members of the management body?

Yes, stockholders can seek enforcement against directors or officers through either a derivative claim or a direct claim.

A derivative claim is brought by a stockholder on behalf of the corporation to assert a claim belonging to the corporation. If successful, relief granted is awarded to the corporation, though the plaintiff stockholder is entitled to reimbursement for litigation expenses. Procedurally, the stockholder generally must first demand that the board of directors initiate the action before bringing a derivative claim.

A direct claim is brought by a plaintiff seeking to enforce rights based on his or her status as a stockholder. Direct claims are often filed as class actions.

In either case, claims against the board of directors are often unsuccessful, because of the protection afforded by the business judgment rule. As discussed in more detail in question 3.6, the business judgment rule is a legal presumption that business decisions are made by disinterested and independent directors on an informed basis and with a good faith belief that the decision will serve the best interests of the corporation.

2.5 Are there any limitations on, and disclosures required, in relation to interests in securities held by shareholders in the corporate entity/entities?

Yes. The Exchange Act has two sections that impose reporting requirements on stockholders of public companies upon crossing legally-mandated ownership thresholds.

Section 13(d) of the Exchange Act and the related rules requires any stockholder or group of stockholders that acquire beneficial ownership of 5% or more of a voting equity security of a public company to report the acquisition, and in some cases, the purpose of the acquisition and the acquirer's plans with respect to its investment, to the SEC (and thereby to the public) and the company. This disclosure must be amended on an ongoing basis to report material changes to the information reported, including the acquisition of additional shares or a change in the acquirer's plans.

In addition, Section 16 of the Exchange Act and the related rules require any stockholder or group of stockholders that beneficially own more than 10% of the outstanding stock of a public company to report the acquisition, and subsequent purchases and sales, to the SEC and to the company.

Section 766(b) of Dodd-Frank authorised the SEC to make new rules relating to beneficial ownership reporting requirements resulting from security-based swaps, but as of this writing the SEC has not yet done so. Section 929R of Dodd-Frank authorises the SEC to adopt rule changes shortening the ten-day period within which shareholders must report their beneficial ownership under the Exchange Act, and such a change, while not yet adopted, appears likely. Persons or groups subject to Section 16 are also prohibited from entering into short sales. Section 16 also applies to directors and executive officers of a public company regardless of their ownership level. Purchases and sales made within six months while subject to Section 16 may be subject to profit disgorgement (as discussed under question 3.4 below).

Further, the Exchange Act requires public companies to report and disclose the ownership of their shares by (i) each member of the board of directors, (ii) the five most senior executive officers, (iii) all directors and executive officers as a group, and (iv) holders of more than 5% of outstanding shares.

In addition to the disclosure requirements of the Exchange Act, other statutes may require disclosure of, or place limitations on, significant acquisitions of company securities. In particular, the Hart-Scott-Rodino Anti-Trust Improvements Act of 1976 requires prospective purchasers of publicly traded securities that exceed stated dollar or percentage thresholds to notify the Federal Trade Commission and the U.S. Department of Justice of the acquisition in order to give those agencies the opportunity to challenge the acquisition on anti-trust grounds. Separately, Section 203 of the DGCL may restrict an acquirer of 15% or more of a corporation's stock from engaging in a business combination with the corporation for a period of three years from the acquisition, unless the acquisition of the shares is pre-approved by the corporation's board of directors.

Furthermore, numerous public corporations have adopted "shareholder rights plans", also known as "poison pills". These plans drastically dilute the stock ownership of any stockholder or group of stockholders who makes purchases in excess of a stated threshold without the prior approval of the board of directors.

Lastly, companies in certain regulated industries, such as financial services companies or real estate investment trusts, are subject to statutes that prohibit or significantly regulate the acquisition of more than a specified percentage of company stock by any single stockholder or group of stockholders.

2.6 What shareholder meetings are commonly held and what rights do shareholders have as regards them?

A public company is typically required to hold an annual meeting of stockholders. Under Delaware law, special meetings of stockholders may be called by the board of directors, but not by stockholders unless they are so authorised in the corporation's charter or bylaws. In certain other states, state law gives stockholders owning in excess of a specified threshold the right to call special meetings. Stockholders have a right to attend the meetings and to vote their shares, or to vote by proxy.

3 Management Body and Management

3.1 Who manages the corporate entity/entities and how?

The board of directors is charged with the responsibility of overseeing the business of the corporation, while the officers of the corporation manage the business of the corporation on a day-to-day basis. The board appoints and supervises the officers.

Delaware law imposes few substantive restrictions or obligations on the board, beyond providing that the business and affairs of the corporation shall be managed by or under the direction of a board of directors and imposing certain fiduciary duties on directors. Nonetheless, significant substantive obligations and restrictions are imposed by the exchanges. In particular, the NYSE and Nasdaq require (with only limited exceptions) companies listed with either body to have a board of directors consisting of a majority of independent directors. Additionally, both major exchanges require the board to have certain committees composed entirely of independent directors. These committees are (i) a Nominating/Corporate Governance Committee, (ii) a Compensation Committee, and (iii) an Audit Committee. Dodd-Frank added Section 10C to the Exchange Act, giving the SEC authority to impose additional requirements regarding the independence of a company's Compensation Committee as a condition to listing. All such committees must have written charters that address, among other things, the committees' purpose and responsibilities.

Under NYSE rules, listed companies must adopt and disclose corporate governance guidelines that cover, at a minimum, director qualification standards and responsibilities, director access to management and independent advisors, director compensation, management succession and an annual performance evaluation of

the Board of Directors. Nasdaq requires companies with listed securities to adopt a code of conduct for all directors and employees.

3.2 How are members of the management body appointed and removed?

The board of directors is elected by stockholders, typically at a company's annual meeting. Voting is typically done by proxy, following distribution by a company of a proxy statement meeting the requirements of the Exchange Act. A company's charter or bylaws will often state that in cases of director resignation or removal, replacement directors can be named by the existing board to serve until the next election. And in some cases a charter or bylaw may authorise a board to expand the number of directors that comprise the board and to appoint directors to fill the new positions.

In some cases, a corporation may have a classified board consisting of two or three classes whereby directors serve for staggered terms of two or three years, and only one class of directors will be elected each year. As a result, it requires two or three annual elections to entirely change the composition of the board.

With certain exceptions, directors may be removed by holders of a majority of shares entitled to vote at an election, with or without cause. In the case of a classified board, directors may be removed only for cause (unless the charter otherwise permits). However, as a practical matter the right to remove directors may be difficult to exercise if stockholders are not permitted under the charter or bylaws to call special meetings of stockholders or to act by written consent without a meeting.

3.3 What are the main legislative, regulatory and other sources impacting on contracts and remuneration of members of the management body?

There are no limitations under Delaware law on the remuneration of directors. The DGCL provides that unless otherwise restricted by the charter or the bylaws, the board of directors shall have the authority to fix the compensation of directors.

Similarly, except as discussed below, there are no federal statutory limits on officer compensation. However, U.S. tax law generally limits the deductibility by a public company of executive compensation in excess of $1 million annually unless such excess compensation is tied to a performance standard. Furthermore, senior executives at companies that received funds under the TARP programme are subject to limitations on compensation.

The Exchange Act requires director compensation to be disclosed in detail, in tabular form, in the annual report or the proxy statement circulated by the corporation to stockholders prior to its annual meeting.

Management compensation has been an area of great public and institutional investor interest; Dodd-Frank responded to this interest by enacting significant changes and additions to the laws and regulations relating to management compensation. These include:

- the addition of new Section 14A to the Exchange Act requiring companies to conduct non-binding advisory votes on executive compensation ("say-on-pay" votes), requiring a similar non-binding vote ("say-on-golden-parachute" vote) and heightening the disclosure requirements relating to executive compensation in the context of a change in control;
- the addition of new Section 10C to the Exchange Act prohibiting national securities exchanges from listing companies that do not comply with independence requirements for compensation committees, fail to grant compensation committees authority to retain advisors, or withhold funding for compensation committee advisors;
- the addition of Sections 14(i) and (j) to the Exchange Act granting the SEC authority to increase disclosure requirements relating to executive compensation in a company's annual report; and
- the addition of Section 10D to the Exchange Act directing the SEC to prohibit national securities exchanges from listing companies that do not provide for the clawback of incentive-based executive compensation following a material non-compliance with financial reporting requirements.

3.4 What are the limitations on, and what disclosure is required in relation to, interests in securities held by members of the management body in the corporate entity/entities?

Directors of Delaware corporations are not required by Delaware law to be stockholders, unless so required in the charter or bylaws of the corporation.

The Exchange Act requires disclosure of share ownership by each director, as well as the number of shares held by directors and executive officers as a group, in tabular form. This disclosure is typically made in the proxy statement circulated by the company to stockholders prior to the annual meeting.

Directors and executive officers of public companies are subject to Section 16 of the Exchange Act. Section 16 requires, among other things, that information regarding transactions effected by directors in company shares be reported to the SEC and posted to the company website within two business days following the transaction. In addition, Section 16 provides a strict liability prophylactic rule against insider trading by directors, senior officers, and 10% owners: any two "opposite way" trades in company shares made within a rolling six-month period by a person subject to Section 16, including any director of such company, can be "matched" for statutory purposes, and the director can be compelled to disgorge the profit from any such matched trades, whether or not he or she made any actual profit. Lastly, Section 16 prohibits directors and executive officers from engaging in short sales of shares of the company of which he or she is a director or officer.

3.5 What is the process for meetings of members of the management body?

The DGCL generally places few requirements or limitations on meetings of the board, beyond expressly providing that, unless otherwise provided in the charter or bylaws, (i) action by the board may be taken without a meeting if all directors consent in writing to such action, and (ii) meetings may be held telephonically.

3.6 What are the principal general legal duties and liabilities of members of the management body?

Directors of Delaware corporations owe a fiduciary duty to the corporation and its stockholders. Under Delaware case law, a fiduciary duty consists of two components: a duty of care, and a duty of loyalty. The duty of care requires directors to exercise the skill and care that a reasonably prudent person in a like position would exercise under similar circumstances. The duty of loyalty prohibits self-dealing and requires the director to act in the best interest of the corporation.

A corollary to directors' fiduciary duties, however, is the business

judgment rule. Strictly speaking, this is a standard of judicial review of director conduct rather than a standard of conduct. It is a legal presumption that business decisions are made by disinterested and independent directors on an informed basis and with a good faith belief that the decision will serve the best interests of the corporation. If directors are sued with respect to a business decision, a court will examine the decision only to the extent necessary to determine whether the plaintiff has alleged and proven facts that overcome the business judgment rule presumption. If the presumption is not overcome, courts will not second guess directors by reviewing the merits of the business decision.

3.7 What are the main specific corporate governance responsibilities/functions of members of the management body?

The principal responsibility of the board of directors is to oversee the business and affairs of the corporation. As a general matter, this responsibility consists of identifying, hiring, and retaining senior management and overseeing long term corporate strategy. Sarbanes-Oxley and recent changes to the NYSE and Nasdaq rules have imposed specific, substantive duties on the board or directors, including the responsibility to retain and monitor the company's independent financial auditor. As discussed above, NYSE and Nasdaq rules require the board of directors to have an audit committee, a compensation committee and a corporate governance committee.

3.8 What public disclosures concerning management body practices are required?

Annual Disclosure. The Exchange Act requires public companies to disclose information about the directors and senior executive officers. This information includes:

- their names, ages, positions with the company, any family relationships with other directors or officers, and their business experience during the past five years;
- their annual compensation, including in the case of the five most highly compensated executive officers (including the CEO and CFO), extensive disclosure of all forms of compensation, as well as a compensation discussion and analysis section that explains the material elements of the company's compensation policies and practices;
- the ownership of company shares by directors, each senior executive officer, and all directors and executive officers, as a group; and
- information regarding transactions between the company and directors, officers, and members of their immediate family in excess of a stated dollar amount.

The company must also disclose certain information regarding its corporate governance practices, including (i) the total number of meetings held by the board of directors during the prior fiscal year, and (ii) the name of each director who attended fewer than 75% of such meetings and the meetings of any committees on which he or she was a member. The company is also required to disclose the company's policy with respect to board members' attendance at annual meetings, and to state the number of board members who attended the prior year's annual meeting.

In addition, a public company must disclose whether or not it has standing audit, nominating and compensation committees, as well as certain details of such committees' functions. As noted above, companies with securities traded on the NYSE or Nasdaq are required to have these committees, and to prepare and disclose written charters for each.

Interim/Ongoing Disclosure. The company is also required to make ongoing public disclosures with respect to the board of directors and senior executives. These disclosures include:

- changes to the composition of the board of directors or of certain senior executive officers;
- amendments to, or waivers granted under, the company's code of ethics; and
- any trades in company shares by directors, senior executive officers, or 10% owners, within two business days following the trade.

3.9 Are indemnities, or insurance, permitted in relation to members of the management body and others?

Yes. Delaware law explicitly permits the indemnification of directors, and others, by the corporation who are or are threatened to be a party to a lawsuit or similar proceeding by reason of the fact that such person is or was a director, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with the action.

The indemnity is available if the person acted in good faith and in a manner he or she reasonably believed to be in - or not opposed to - the best interest of the corporation, and with respect to any criminal action, if he or she had no reasonable cause to believe his or her conduct was unlawful.

Delaware law also expressly authorises the corporation to purchase insurance on behalf of a person who is or was a director, whether or not the corporation would have the power to indemnify such person.

4 Corporate Social Responsibility

4.1 What, if any, is the law, regulation and practice concerning corporate social responsibility?

There is little to no law or regulation concerning corporate social responsibility. However, many corporations choose to include statements of their positions regarding social responsibility in their annual reports. In addition, certain socially conscious investor organisations and labour unions have a practice of routinely submitting corporate social responsibility-related proposals to public companies, either directly or through the use of Rule 14a-8.

4.2 What, if any, is the role of employees in corporate governance?

There is no specific statutory or other legally mandated role for employees in corporate governance. For example, there is no requirement that an employee representative serve on the board of directors. Nonetheless, some companies may designate a particular officer, such as the Company Secretary or General Counsel, or other employee or group of employees, to be responsible for corporate governance compliance.

Some states other than Delaware have "other constituency" statutes that permit, but do not require, boards of directors to consider the interests of employees (and other non-stockholder constituencies) when considering whether to accept or reject a takeover proposal.

5 Transparency

5.1 Who is responsible for disclosure and transparency?

Disclosure and transparency are the responsibility of senior management and of the board of directors. Customarily, senior officers are responsible for preparing and filing the annual, quarterly and periodic reports with the SEC, under the general supervision of the board of directors.

Pursuant to amendments to the Exchange Act adopted under Sarbanes-Oxley, the CEO and the CFO are obligated to include in every periodic report containing financial statements filed with the SEC a written certification stating that the report fully complies with the Exchange Act and that all information contained in the report presents fairly, in all material respects, the financial condition and results of operations of the company.

In addition, the Exchange Act obligates management, with the participation of the CEO and the CFO, to evaluate the effectiveness of the company's disclosure controls and procedures, as of the end of each fiscal quarter. The CEO and CFO are required to disclose the conclusions of such evaluation in a separate certification.

Finally, Section 404 of Sarbanes-Oxley requires public companies to make disclosure regarding the scope and adequacy of their internal controls over financial reporting, and assessing their effectiveness.

5.2 What corporate governance related disclosures are required?

As noted above, a number of corporate governance related disclosures are required under U.S. law, and in particular under the Exchange Act and the provisions of the Exchange Act added by Sarbanes-Oxley and Dodd-Frank.

5.3 What is the role of audit and auditors in such disclosures?

The auditors of a public company must issue a report attesting to the adequacy and effectiveness of the financial reporting controls and procedures disclosed by the company under Section 404 of Sarbanes-Oxley. Also, in extreme circumstances, auditors must disclose certain information (such as significant accounting disagreements) directly to the public.

5.4 What corporate governance information should be published on websites?

As a matter of practice, many companies publish their annual and periodic SEC filings on their websites. Companies with securities traded on the NYSE or Nasdaq are required by the rules of these exchanges to post the charters of the Nominating, Compensation and Audit Committees to their websites, as well as, in the case of NYSE listed companies, their corporate governance guidelines. In addition, public companies are required to post their proxy materials to a public website.

Reports of trades in company shares affected by persons subject to Section 16 of the Exchange Act, such as directors and executive officers, must also be posted to the company website.

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