

The Stock Exchange Corner

Disclosures required by the Securities Industry Act

by George Edwards

In recent times the duty of disclosure by issuers has been in the news. Today's contribution reveals some of the regulations that issuers have to meet.

The Securities Industry Act 1998 is the Act that governs the participants of the securities industry and their activities. It seeks to provide a set of rules for the behaviour of participants with a view toward protecting investors. These rules are set out in Regulations Nos. 4 – 10 of 2002 and No. 5 of 2003. Among these regulations is No.8 of 2002 which covers the "Disclosure by Reporting Issuers". Following are some of the disclosures, quoted from the Regulations, required to be made by issuers:

Disclosure Obligations

4. (1) An issuer shall, generally and apart from complying with all the requirements of these Regulations, notify the securities exchange, the Council, and its members and other holders of its securities without delay of any major new developments in its sphere of activity which are not public knowledge and which information –
 - (a) is necessary to enable them and the public to appraise the financial position of the issuer and its subsidiaries;
 - (b) is necessary to avoid the establishment of a false market in its securities; or
 - (c) would be likely to bring about a material change in the price of its securities.
- (2) Paragraph (1) shall not apply with regard to information about impending developments or matters in the course of negotiation where the securities exchange is satisfied by the issuer that disclosure to the public of such information might prejudice the issuer's legitimate interests and the securities exchange grants a dispensation from the requirement of paragraph (1).
5. The issuer shall send to –
 - (a) the securities exchange;
 - (b) the Council;
 - (c) every member of the issuer; and
 - (d) every holder of securities issued by the issuer,

a copy of the issuer's annual accounts, auditor's report and directors' report for the previous financial year of the issuer, not less than twenty-one days before the date of the issuer's annual general meeting nor more than six months after the end of that financial year.

6. The issuer shall include in or with the directors' annual report –

- (a) a description of the principal activities of the issuer and its subsidiaries and, where two or more such activities are so described, a statement giving in respect of each such activity the turnover and contribution to operating profit;
- (b) a geographical analysis of consolidated turnover and contribution to trading results of trading operations carried on by the issuer and its subsidiaries outside of Guyana;
- (c) a statement showing –
 - (i) the name of every subsidiary, its principal country of operation, its country of incorporation and its main business;
 - (ii) particulars of the issued share capital and debt securities of every subsidiary, provided that if, in the opinion of the directors of the issuer, the number of subsidiaries is such that compliance with this paragraph would result in particulars of excessive length being given, compliance shall not be required except in the case of subsidiaries carrying on a business the results of which, in the opinion of the directors, materially affected the amount of the profit or loss of the issuer or the amount of the assets of the issuer; and
 - (iii) the financial year of a subsidiary where this is different to that of the issuer;
- (d) a statement as at the end of the relevant financial year showing -
 - (i) the interests of each director and chief executive of the issuer in the equity or debt securities of the issuer or any subsidiary, and of the associates of such director and chief executive in so far as is known or may be ascertained by reasonable enquiry; and
 - (ii) the details of any right to subscribe for equity or debt securities of the issuer granted to any director or chief executive of the issuer, and of the associates of such director and chief executive in so far as is known or may be ascertained by reasonable enquiry; and of the exercise of any such right;

- (e) the statement required by paragraph (d) must –
 - (i) distinguish between beneficial and non-beneficial interests; and
 - (ii) specify the company in which securities are held, the class to which those securities belong and the number of such securities held;
- (f) in the event of operating results shown by the accounts for the period under review differing materially from any published forecast made by the issuer, an explanation for the difference;
- (g) a statement by the directors as to the reasons for any significant departure from applicable standard accounting practices in Guyana;
- (h) a statement as at the end of the financial year showing as regards, first bank loans and overdrafts and, secondly, other borrowings of the issuer and its subsidiaries, the aggregate amounts repayable –
 - (i) on demand or within a period not exceeding one year;
 - (ii) within a period of more than one year but not exceeding two years;
 - (iii) within a period of more than two years but not exceeding three years;
 - (iv) within a period of more than three years;
- (i) in respect of the financial year, a statement of the amount of interest capitalised by the issuer and its subsidiaries during the year;
- (j) a statement as to the unexpired period of any service contract, which is not determinable by the employer within one year without payment of compensation (other than any statutory compensation), of any director proposed for election at the forthcoming annual general meeting or, if there are no service contracts, a statement of that fact;
- (k) summary particulars of any contract of significance subsisting during or at the end of the financial year in which a director of the issuer is or was materially interested, either directly or indirectly, or if there has been no such contract, a statement of that fact;

- (l) summary particulars of any contract of significance between the issuer, or one of its subsidiary companies, and a controlling shareholder or any of its subsidiaries;
- (m) summary particulars of any contract of significance for the provision of services to the issuer and its subsidiaries by a controlling shareholder or any of its subsidiaries;
- (n) with effect from 1st January, 2002 a summary, in the form of a comparative table, of the financial results and of the assets and liabilities of the issuer and its subsidiaries, for the last two financial years, with any necessary explanations or adjustments for changes in capital to make the figures fully comparable one year with another.

Next week: More Disclosures required by the Securities Industry Act

N.B. – More information may be accessed on our website: www.gasci.com