Modernizing Disclosure in Canadian Securities Law:
An Assessment of Recent Developments in Canada and
Selected Jurisdictions

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Appendix 1: Country Charts (Australia, EU, Japan, UK, US & China)

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Information Current to January 31, 2006

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
1. Regulatory/Oversight	**3 Govt. Regulators**: Australia Securities and Investment Commission www.asic.gov.au "ASIC"; Australian Prudential Regulation Authority; Australian Competition and Consumer Commission; **Market**: Australia Stock Exchange ("ASX") www.asx.com.au, Sydney Futures Exchange ("SFE")	**3 Govt. Regulators**: Australia Securities and Investment Commission www.asic.gov.au; Australian Prudential Regulation Authority; Australian Competition and Consumer Commission; **Market**: Australia Stock Exchange ("ASX") www.asx.com.au, Sydney Futures Exchange("SFE")
2. Authority (i.e Statutes, Rules, Guidelines)	**Government**: Corporations Act (CA) and Regulations 2001, Financial Services Reform Act, 2001 (FSR Act), Financial Services Reform Amendment Act 2003 (FSR Amendment Act), Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act (1 July 2004) (CLERP 9 Act), Australian Securities and Investment Commission Act 2001, ASIC Policy Statements 58, 95, 157, 174 **Market**: Australia Stock Exchange Listing Rules, ASX Corporate Governance Council Principles of Good Corporate Governance and Best Practice	**Government**: Corporations Act (CA) and Regulations 2001, Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act (1 July 2004)(CLERP 9 Act), Australian Securities and Investment Commission Act 2001ASIC Policy Statements 58, 95, 157, 174 **Market**: Australia Stock Exchange Listing Rules, ASX Corporate Governance Council Principles of Good Corporate Governance and Best Practice, ASX Guidance Note 8 (Continuous Disclosure) and Note 10, *Building the CLERP 9 Adminstrative Framework: Policy to implement the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act - An ASIC Guide, Feb 2004* , Guide to the Review of Operations and Activities (Group 100)
3. Current Framework/ Key Features	The Corporations Act includes provisions which govern (among other things): the administration of companies, including financial reporting requirements; company mergers and acquisitions; disclosure of interests by shareholders in listed companies; licensing of dealers, advisers, trustees, market makers, etc.; conduct and disclosure requirements for participants in the financial services industry; trading in financial products by holders of inside information and other forms of prohibited conduct relating to financial products and services, and fundraising by companies and other entities. **Initial disclosure**: Regarding primary disclosure documents (s.9 of the Act), it sets out requirements for prospectuses in Part 6.D.2 and for Product Disclosure Statements in Part 7.9. A listed entity is required to observe the Listing Rules in addition to the requirements of the Corporations Act (as amended by the Financial Services Reform Act 2001and Financial Services Reform Amendment Act 2003).	**Continuous disclosure**: ASX listing rule 3.1 is the cornerstone. Companies listed on ASX, are also subject to a large range of corporate governance requirements in Australia. These requirements arise from four main sources: the Corporations Act; the ASX Listing Rules (Rules 4.10.3, 12.7); the ASX Corporate Governance Council's "Principles of good corporate governance and best practice recommendations" (31 March 2003), and other industry standards which are adopted voluntarily, often in line with those adopted in the United States (US) and the United Kingdom (UK). On 1 January 2003 ASX introduced listing rule amendments to enhance compliance with corporate governance best practice and to mandate audit committees for the top 500 companies in the All Ordinaries Index. ASX policy is that it is appropriate to focus on disclosure of corporate governance practices rather than prescribing particular practice(s), and allowing listed entities some flexibility to consider a range of ways to address specific governance issues and take account of evolving corporate governance principles.

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	**Government regulation**: The structure is based on 3 independent statutory agencies: the Reserve Bank of Australia (RBA); the Australian Prudential Regulation Authority (APRA); and the Australian Securities and Investments Commission (ASIC). In addition, the Australian Competition and Consumer Commission (ACCC) is a statutory authority responsible for ensuring compliance with competition, access and consumer protection laws. **Market**: Australia's 2 major financial market operators are self-regulating. The ASX and SFE monitor market participants' and companies' compliance with their business and listing rules (where relevant). Their role as front-line regulators is supported by ASIC, which has overall regulatory responsibility for securities and futures markets. The ASX Listing Rules include provisions requiring listed entities to: make regular reports and disclosures; undertake certain transactions only after making disclosure or seeking shareholder approval, and ensure that matters of administration and transactions (eg share buy-backs) conform to certain requirements and standards.	**The ASX Enhanced Disclosure Exposure Draft proposals** (Sept 2004) include amendment of Listing Rule 3.1 to provide further guidance and clarity concerning the fundamental disclosure obligation owed by ASX listed companies to all investors. The proposals emphasise the listed company's obligation to make disclosure necessary to avoid a false market. ASX's position has been that where there is rumour circulating or media speculation which is reasonably specific and credible and the rumour or speculation appears to be having an impact on the share price or would seem likely to do so, a clarifying announcement must be made by the company to the market for the benefit of all investors. Amendments to Rule 3.1 clarifying obligations will: clarify that information for the purposes of that Rule, includes information a reasonable person would expect the company to give ASX in order to prevent a false market in the company's securities; and include a false market element as a fourth limb of the carve-out to emphase that disclosure exemption will not apply if ASX actively requires the company to provide information to prevent a false market.
3. Current Framework/ Key Features (continued)	**ASIC**: ASICs primary function is to regulate the equity capital markets in order to promote confidence and integrity. A key part of this role is surveillance, enforcement and where appropriate prosecution of the Corporation Act and the ASIC Act. ASIC's Strategic Plan 2005 -10 identified 5 key goals and strategies: 1. Help consumers make better financial decisions 2. Strengthen the integrity of Australian corporations 3. Sustain confidence in our financial markets 4. Unlock new value from public information 5. Create a more flexible organization	The ASX has also focused on simplifying the reporting regime and reducing the burden of compliance on listed companies while retaining or enhancing the quality of information provided to the market and improving the timeliness of that provision. In relation to half yearly reporting, the minimum disclosures are those required by accounting standards, plus a list of additional disclosures developed by ASX in consultation with market users. For preliminary final reports, the ASX's preferred approach, is to require companies to submit a true results focused preliminary announcement that comprises an announcement of the results for the period with commentary. The ASX proposals examine highlighting and accelerating the obligation (now part of the annual report content requirements) to report on material differences between the statutory accounts and the preliminary final report or announcement. It is proposed that relevant disclosure would be required as soon as the information became available, and in any event no later than when the statutory full year accounts are given to ASX.

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	**Initial disclosure:** A prospectus or a Product Disclosure Statement (PDS) must be issued and lodged with ASIC. If ASX agrees, an information memorandum that complies with the requirements specified in the Listing Rules will be sufficient instead of a prospectus or a PDS. ASX will generally require the entity to send the information memorandum to all security holders. One of the central aims of the uniform disclosure regime introduced by the Financial Services Reform Act 2001 (FSR Act) is to ensure that consumers have sufficient information to help them make informed choices when considering the acquisition of financial products. Under this regime, PDSs must be provided to all retail clients who are being sold financial products, other than shares and debentures. This includes financial products such as banking, life and general insurance, superannuation, derivatives, unit trusts and other managed investment schemes. Shares and debentures continue to be sold using prospectuses. An offer information statement is not a prospectus and is generally used where capital is not being raised in the preceding or ensuing 3 months.	**Review of operations and activities**: CA Section 299 requires companies to include information about operations and activities in the annual report and the ASX Listing Rules require listed entities to include a review of operations and activities in the annual report (ASX listing rule 4.10.17). Under ASX Guidance Note 10 the review must: be comprehensive and include matters of likely significance to users; update material comments or disclosures in previous reports where outcomes warrant updating; clarify how any financial/non-financial KPIs (both key business drivers and outcomes), ratios or other information relate to the financial statements; discuss initiatives, events and transactions which can, at the time of preparing, be expected to affect future reporting periods (i.e. not holding over to the next reporting period); define and explain financial/non-financial measures in the Review, their sources, relevant assumptions and adjustments made in respect of information also included in the financial report; deal with the broader dimensions of the company's performance (eg. sustainability reporting) where relevant to users.
3. Current Framework/ Key Features (continued)	**Quality of disclosure:** ASIC has developed a set of outcome focused Good Disclosure Principles having regard to the purposes or objective underlying the FSR Act, regulatory experience; past and current point-of-sale disclosure practices; relevant overseas regulatory analogies; and the results of relevant Australian and overseas research (including the results of relevant consumer research and user testing). The issue of quality of disclosure is reflected in a number of the retail financial product Product Disclosure Statements requirements and related provisions, in particular: the requirement that, "the information included in the Product Disclosure Statement must be worded and presented in a clear, concise and effective manner"; and prohibitions on misleading or deceptive conduct or statements. Similar prohibitions exist in the Australian Securities and Investments Commission Act 2001 relating to misleading or deceptive conduct.	**Twice yearly financial reporting:** All listed entities must prepare and send to their investors an annual audited financial report and an audited or audit-reviewed half year financial report. These must comply with Australian accounting standards and also, in the case of many major corporations whose securities are listed in the US or the UK, with the accounting standards for those jurisdictions. All directors (executive and non-executive) are responsible for the entity's financial reports being accurate and complying with accounting standards. The Corporations Act requires that the Chief Executive Officer and the Chief Financial Officer of a listed entity sign off on the reports to the rest of the board of directors. Continuous disclosure - all listed entities (and some unlisted ones) must fully disclose price-sensitive information to the market (via announcements made to ASX) as soon as they become aware of the information. There are limited carve-outs available (e.g. for information that is incomplete and remains confidential). Directors of listed entities must disclose full details of trading in securities.

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	**ASX Market based approach:** The primary tools utilized by ASX to promote a culture of disclosure are: active dialogue with listed companies and intervention to require disclosure in appropriate circumstances; drawing matters to the attention of the market through the public release of relevant correspondence; requiring undertakings from the company or its officers in relation to specific disclosure requirements and suspension of securities from trading where ASX is concerned the market may be trading on an uninformed or disorderly basis. ASX's proximity to the market and its ability to engage in frank dialogue with its listed companies is integral to its ability to effectively administer the continuous disclosure requirements	**ASX Corporate Governance disclosure**: Under ASX Listing Rule 4.10.3, 2004 was the first year that listed trusts and companies were required to provide disclosure against the ASX Corporate Governance Council's Principles of Good Corporate Governance and Best Practice Recommendations in their annual report. The top 500 companies listed on ASX must also comply with the audit committee requirements of Listing Rule 12.7
		The Financial Services Reform Act 2001 (the FSR Act) largely came into effect on 11 March 2002. Parliament's financial services reforms broadened the scope of ASIC regulation, with the clear expectation that ASIC would raise standards of advice, conduct and disclosure. Among other things, it amended the provisions that regulate the on-sale of financial products within 12 months of their issue, specifically: (a) securities (under s707(3) and (4)); and (b) non-securities (i.e. other financial products) (under s1012C(6) and (7)). The on-sale provisions are designed to minimise the opportunity for issuers of securities or other financial products to avoid giving disclosure to retail investors by first issuing the financial products to an intermediary for whom disclosure is not required, who then on-sells them to retail investors. These provisions seek to ensure that, regardless of whether financial products are issued directly to retail clients or indirectly: (a) retail clients receive adequate disclosure for what is in substance an issue of financial products; and (b) the issuer is liable to retail clients for the efficacy of that disclosure.

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)		**'On-sale provisions':** Following representations to ASIC regarding difficulties related to the provisions requiring disclosure in a PDS or prospectus for the on-sale of securities or other financial products into the retail market merely because of an intention of the initial acquirer to on-sell, ASIC decided that relief from the on-sale provisions should be provided in specified circumstances where the relief facilitates fundraising and on-sales without compromising the investor protection that the on-sale provisions provide to retail clients. This seeks to balance the commercial considerations relevant to wholesale capital markets against the retail client protection provided by disclosure under the on-sale provisions. The 2 circumstances for relief are: Disclosure based relief where retail clients have, through some alternative means, the benefit of disclosure comparable to that which might otherwise have been contained in a prospectus or PDS, and Exemption based relief – where products issued to persons including retail clients under separate disclosure exemptions may be readily on-sold.
3. Current Framework/ Key Features (continued)		**On-sale provisions':** Further legislative amendments were made upon the commencement of the CLERP 9 Act to improve the practical operation of the placement market and the on-sale provisions in the Act. The ASIC relief provisions were designed to complement the legislative amendments which were not intended to inhibit ASICs ability to otherwise provide relief from the on-sale provisions. ASICs policy is that it is generally not appropriate to exercise their discretionary powers to make fundamental changes to the settings determined by the Parliament, but there is scope to exercise their powers to enable the legislation to operate more appropriately in particular circumstances that may not have been envisaged, or to ameliorate apparently unintended outcomes.

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes	**The CLERP 9 Act** increased focus on transparency and open communications, shareholder participation, continuous disclosure, audit reform, financial reporting, auditor independence and enforcement. Most of these changes affect listed companies and their directors, officers and auditors. Among the final amendments to the Bill prior to passage by the Senate were additional disclosures in directors' reports and auditors' reports. Under the existing Corporations Act, companies are required to include in the notes to the financial statements any additional information necessary to give a true and fair view of the company's financial position and performance. Under the CLERP 9 Act, the company's directors must set out their reason for forming the opinion that the inclusion of the additional information was necessary and to specify where that information is located in the report.	**Remuneration disclosure:** The CLERP 9 Act amended section 300A of the Corporations Act to require listed companies to provide details of remuneration paid to directors - the 5 highest paid company executives, and the 5 highest paid consolidated group executives. This must be in the Remuneration Report put to shareholders for non-binding vote. Listed entities must now describe their corporate governance practices in detail in their annual reports. From 2004, listed entities are *required* to report on whether they meet the ASX Recommendations issued by the ASX Corporate Governance Council and, if not, why not.
4. Recent developments & changes (continued)	**Environmental, social, ethical disclosure:** From March 2003, the Corporations Act amended pursuant to the FSR Act, 2001(effective March 2002), includes a provision that product issuers' (e.g. investment firms) product disclosure statements (PDSs) must include descriptions of "the extent to which labour standards or environmental, social or ethical considerations are taken into account" in the selection, retention or realization of the investment. This follows the precedent set by the UK Pensions Act 1995 that requires pension fund trustees to disclose the "the extent (if at all) to which social, environmental or ethical considerations are taken into account" in their investment decisions.	**Definitions:** Section 677 of the Corporation Act defines material effect on the price or value. As at 11 March, 2002, it said for the purposes of sections 674 and 675, a reasonable person would be taken to expect the information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell, the first mentioned securities. ASIC also proposes to clarify the Listing Rules requirements concerning confidentiality.
5. Mechanisms/ Procedures	ASIC policy is that the ultimate responsibility for a PDS rests with issuers consistent with the directed disclosure approach embodied in the PDS requirements which require disclosure in a PDS about a specific list of items in so far as those items are relevant to a particular financial product, together with any other information known to the product issuer which might reasonably influence a client's decision to acquire the product: Consistent with this obligation, ASIC will not pre-vet a PDS unless exceptional circumstances exist. PDSs for managed investment products that state or imply that the product will be able to be traded on a financial market must be lodged with ASIC prior to their release to consumers, other PDSs must be notified to ASIC as soon as practicable after a copy of the PDS is first given to consumers, and in any event not less than five business days after it is first given to someone in a recommendation, issue or sale situation. Notification is not required in advance of a PDS being given to consumers	**E/Web communication:** In 2000, ASX developed and implemented ASX Online to make the process of providing company announcements to ASX simpler, quicker and more secure. ASX Online is a secure electronic communications platform that enables elodgement and tracking of company announcements. Mandatory electronic lodgment of announcements by listed companies was introduced by the ASX from 1July 2003 to facilitate more efficient, secure and timely processing and dissemination of company information to all investors.

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
6. Remedies/ Penalties	**Market manipulation:** Australia has strict laws which prohibit manipulation of Australia's securities and financial markets. The operators of those markets are also required to actively monitor transactions in their markets and report any suspicious trading to the corporate regulator. Further, Australia applies an overriding rule to all financial transactions which prohibits any person from engaging in misleading or deceptive conduct. Directors face personal liability if they allow their company to trade if it cannot pay its debts as and when they fall due.	**Continuous disclosure:** CLERP 9 Act introduced a number of significant reforms for the enforcement of continuous disclosure obligations of listed companies. Under CLERP, ASIC has been empowered to penalize breaches of the continuous disclosure regime that requires listed companies to disclose to the market immediately any information that would impact on their share price. ASIC may issue infringement notices and fines for companies that do not immediately disclose information that could be reasonably expected to have an impact on their share price. There are new liabilities for individuals, including directors, executives and advisors of listed companies "involved in contravention" of the continuous disclosure obligations by a listed company.
6. Remedies/ Penalties (continued)		**Penalties:** The civil penalties for non-compliance with the continuous disclosure requirements have been increased and ASIC has been given powers to fine entities which have not complied with the requirements. Civil penalties have been increased to $1 million for companies and $200, 000 for individuals.
6. Remedies/ Penalties (continued)	Where ASIC detect or are made aware of valid prima facie disclosure concerns about a PDS, they may notify the issuer of concerns before serving an interim stop order. However, if delay could be prejudicial to the public interest, they will impose an interim stop order without consulting the issuer, pending resolution of concerns at a hearing. In deciding whether to take enforcement action on a particular PDS, ASIC will consider whether the PDS appears to: (a) be misleading or deceptive; (b) contain all relevant information; (c) meet the other general and specific content requirements of Part 7.9; and (d) be worded and presented in a clear, concise and effective manner. In their assessment, they will also take into account: (a) any changes that have occurred since the date of the PDS that could make it deficient; (b) the circumstances surrounding the preparation of the PDS; (c) the extent to which the ASIC Good Disclosure Principles have been followed; (d) the circumstances in which the PDS was given to the consumer; and (e) whether any industry standards or codes have been adhered to.	Section 674 of the Corporations Act imposes statutory liability for breach of the continuous disclosure rule (Listing Rule 3.1). Liability is extended under s. 674 (2A) to a person who is involved in a listing entity's breach. ASIC and ASX are parties to a MOU pursuant to which ASX takes primary responsiblity for monitoring and enforcing compliance with the disclosure requirements of the Listing Rules. ASIC has primary responsibility for enforcing section 674. Where ASX believes there has been a serious contravention of the Listing Rules or the Corporation Act, or is concerned that there has been a breach of the continuous disclosure obligation it may refer a matter to ASIC for further investigation. ASIC may pursue a variety of remedies in such cases, including possible civil or criminal, by referral to the Director of Public Prosecutions. For less serious alleged breaches of the continuous disclosure obligations, ASIC may issue the entity with an infringement notice to an entity for an alleged breach of s 674(2).

Jurisdiction:	Australia	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
6. Remedies/ Penalties (continued)		ASIC must have regard to ASX guidelines or Guidance Notes relating to an entity's continuous disclosure obligation and that entity's compliance will be relevant to the decision to issue a notice. The entity may satisfy the infringement notice within the compliance period by paying the specified penalty and disclosing to the market or lodging a document with ASIC about any information specified in the notice. There is no obligation on an entity to comply with an infringement notice, but if the notice is not withdrawn by ASIC following representations from the entity, then ASIC may pursue remedies including possible civil action in respect of the alleged breach. (ASX Guidance Note 8)
6. Remedies/ Penalties (continued)		The CLERP 9 Act includes a limited due diligence defence for individuals involved in a contravention of a listed companies disclosure obligations. The defence is available if all reasonable steps were taken to ensure the company complied and belief on reasonable grounds of ongoing compliance. Suspension is used as a mechanism to ensure an informed and orderly market rather than a penalty for non-compliance with listing rule 3.1. ASX uses this tool only where it believes there is a real risk that the market is trading on an uninformed basis. Where there is no concern of that type, suspension primarily has the effect of depriving investors, who are not party to the breach of the listing rules, of a market for their securities. The sanction of suspension in these circumstances can be seen as working to punish innocent parties where it is arguable that there is little regulatory benefit in the form of deterrence for the listed company.

Jurisdiction:	European Union ("EU")	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
1. Regulatory/Oversight	**Government/Regulators**: European Commission ("EC"), Committee of European Securities Regulators ("CESR"), European Parliament Committee on Economic and Monetary Affairs; Member State Government/Regulators; **Market**: Member State Stock Exchanges	**Government/Regulators**: European Commission ("EC"), Committee of European Securities Regulators ("CESR"), European Parliament Committee on Economic and Monetary Affairs; Member State Government/Regulators; **Market**: Member State Stock Exchanges
2. Authority (i.e Statutes, Rules, Guidelines)	European Commission (Internal Market & Financial Services) Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market "Transparency Obligations Directive" and amending Directive 2001/34/EC (Jan 2005), Directive 2001/34/EC of the European Parliament and the Council on the admission of securities to official stock exchange listing and on information to be published on those securities, Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, Directive 2003/71/EC of the European Parliament and of the Council on the prospectuses to be published when securities are offered to the public or admitted to trading "Prospectuses Directive", Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC as regards information contained in prospectuses, Commission Directive 2003/125/EC on the the fair presentation of investment recommendations and the disclosure of conflicts of interest, EU Corporate Governance Guidelines 2000	European Commission (Internal Market & Financial Services) Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market "Transparency Obligations Directive", EU Corporate Governance Guidelines 2000, Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse), Directive 03/124/EC implementing Directive 2003/9/EC as regards the definition and public disclosure of insider information and the definition of market manipulation, Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions, Commission Reg. (EC) No 2273/2003 implementing Directive 2003/6/EC as regards exemptions for buy-back programmes and stabilisation of financial instruments
3. Current Framework/ Key Features	The **Prospectuses Directive**, a major piece of the Financial Services Action Plan, aims to create a single European market in financial services, brings common, enhanced standards for issuers of securities across the "European Economic Area" (EEA) comprised of all EU Member States plus Norway, Iceland and Liechtenstein. Its final deadline for implementation was July 1, 2005. The Directive creates a pan-European definition of an "offer to the public" - seen as an important advance in the harmonization of financial services and in facilitating securities issues for EU and non-EU issuers. The Directive allows for automatic "*passporting*": of approved prospectuses throughout the EEA taking it to the next level because, instead of the previous need to ensure there was mutual recognition rules between the member states and having to comply with local laws for the prospectus to be issued, once a prospectus is approved in one EEA country it can be used to issue securities in any other EEA country.	**Directive 2003/6/EC of the European Parliament and of the Council on insider dealing and market manipulation (Market abuse Directive):** Introduced to address variance of legal requirements among Member States felt to leave economic actors often uncertain over concepts, definitions and enforcement. It combines rules to combat both insider dealing and market manipulation as a single Directive to ensure throughout the Community the same framework for allocation of responsibilities, enforcement and cooperation. Some Member States had no legislation addressing price manipulation and the dissemination of misleading information. Its introduction was in light of changes in financial markets and in Community legislation since the adoption of Council Directive 89/592/EEC of 13 November 1989 necessitating coordination of regulations on insider dealing to ensure consistency with legislation against market manipulation and to avoid loopholes in Community legislation which could be used for wrongful conduct and which would undermine public confidence and therefore prejudice the smooth functioning of the markets.

Jurisdiction:	European Union ("EU")	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	**Key Features of the Prospectus Directive**: Approval - single passport system of recognition; *Filing* - harmonization of principal conditions for offering securities to the public and for admission to trading; Content - harmonization of the principal disclosure standards in line with IOSCO; harmonization of exemptions *Format* - no 'one size fits all'; allows for choice either of a single document or as separate documents (a registration document, a securities note and a summary note), thereby allowing for future fast-track shelf offering; sets out requirements on publication and advertising.	**Market Abuse Directive** provides that Member States are able to choose the most appropriate way to regulate persons producing or disseminating research concerning financial instruments or issuers of financial instruments or persons producing or disseminating other information recommending or suggesting investment strategy, including appropriate mechanisms for self-regulation, which should be notified to the Commission. The competent authority in the Member States is permitted to issue guidance on matters covered by this Directive, e.g. definition of inside information in relation to derivatives on commodities or implementation of the definition of accepted market practices relating to the definition of market manipulation. This guidance is to be in conformity with the provisions of the Directive and the implementing measures adopted in accordance with the comitology procedure.
3. Current Framework/ Key Features (continued)	A **key concept** is the "home Member State" defined as the member state in which an issuer makes its first application to trading on the regulated market. An issuer is then locked into that national regulator for all future public offers and admissions to trading of equity securities and low denomination debt.	**Market Abuse Directive:** Member State interpretation and implementation of the Directive is required to be in a manner consistent with the requirements for effective regulation in order to protect the interests of holders of transferable securities carrying voting rights in a company (or which may carry such rights as a consequence of the exercise of rights or conversion) when the company is subject to a public take-over bid or other proposed change of control. The Directive does not in any way prevent a Member State from putting or having in place such measures as it sees fit for these purposes
3. Current Framework/ Key Features (continued)	17 July 2000, the Lisbon Council set up the **Committee of Wise Men on the Regulation of European Securities Markets**. In its final report, the Committee of Wise Men proposed the introduction of new legislative techniques based on a four-level approach, namely framework principles, implementing measures, cooperation and enforcement. Level 1, the Directive, confines itself to broad general "framework" principles while Level 2 contains technical implementing measures to be adopted by the Commission with the assistance of a committee. The Resolution adopted by the Stockholm European Council of March 2001 endorsed the final report of the Committee of Wise Men and the proposed four-level approach to make the regulatory process for Community securities legislation more efficient and transparent. In its Resolutions of 5 February 2002 and 21 November 2002, the European Parliament endorsed the four-level regulatory framework advocated in the Final Report of the Committee of Wise Men on the regulation of European securities markets.	**Market Abuse Directive:** Policy wise, *prompt and fair disclosure of information to the public* is considered to enhance market integrity, whereas selective disclosure by issuers can lead to a loss of investor confidence in the integrity of financial markets. The Directive provides that market operators should contribute to the prevention of market abuse and adopt structural provisions aimed at preventing and detecting market manipulation practices. Such provisions may include requirements concerning transparency of transactions concluded, total disclosure of price-regularisation agreements, a fair system of order pairing, introduction of an effective atypical-order detection scheme, sufficiently robust financial instrument reference price-fixing schemes and clarity of rules on the suspension of transactions.

Jurisdiction:	European Union ("EU")	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)		**Market Abuse Directive:** Identifies various other means contribute to market integrity such as the creation of "grey lists", the application of "window trading" to sensitive categories of personnel, the application of internal codes of conduct, the establishment of "Chinese walls", greater transparency of transactions conducted by persons discharging managerial responsibilities within issuers and, where applicable, persons closely associated with them. It states that such preventive measures may contribute to combating market abuse only if they are enforced with determination and are dutifully controlled and provides that adequate enforcement control would imply for instance the designation of compliance officers within the bodies concerned and periodic checks conducted by independent auditors
4. Recent developments & changes	**Company Law Action Plan - "Modernising Company Law and Enhancing Corporate Governance in the EU"" (June 2003 - the "Modernisation Directive").**The company law action plan was issued in May 2003 following concerns about corporate governance raised by Enron, Parmalat and other corporate collapses. Most of the short-term measures have been delivered or are under way.The Commission has now said the action plan should be looked at again in the light of efforts to make European industry more competitive. It also recognises that, under the EU's Better Regulation initiative, legislating at EU level is justified only when that is the best level at which to act and where, because the market alone cannot address concerns, legislation is the only possible way. Any proposal to legislate will be subject to an impact assessment. The Commission has published a consultation on its action plan with a deadline for response of 31 March 2006.	
4. Recent developments & changes	**Company Law Action Plan** - The Directive contains 24 measures and includes the requirement that large and mid-sized companies provide an analyis of the development and performance of their business in their annual reports, describing the principal risks and uncertainties they face and providing financial and non financial performance indicators. A proposal to amend the Fourth and Seventh Directives (Oct 2004) would confirm the collective responsibility of board members for the financial and other key information that they publish in their annual report and accounts and require that EU incorporated listed companies include a statement on corporate governance in their annual reports and accounts. Additional disclosure will be required in the notes to the financial statements regarding off-balance sheet arrangements, including on SPEs. The proposal applies to all EU incorporated companies, not just listed ones. Most of the short-term measures have been delivered or are under way.	The EC's *Recommendation on remuneration for directors of listed companies* (December 2004) advises that shareholders be kept informed about a company's policy on director's remuneration as well as how much individual directors are earning and in what form, and that they should have adequate control over these matters and over share-based remuneration schemes. It invites Member States to adopt meaures in 4 areas: an annual statement in relation ro remuneration policy, disclosure of the remuneration of individual directors should include detailed information such as remuneration and/or emoluments, shares or rights to share options, contributions to supplementary pension schemes and any loan advances or guarantees to each director. Equity based schemes are to be subject to prior shareholder approval at the AGM. The Recommendation is non-binding but Member States are invited to take the necessary measures, either through comply and explain approach or by legislation to promote its application by 30 June 2006.

Jurisdiction:	European Union ("EU")	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (continued)	The EC's *Recommendation on independent directors and Board Committees* includes the requirement of disclosure about directors' other time commitments and the requirement for a director to undertake to limit the number of any porfessional commitments including directorships held in other companies, to the extent that the proper performance of duties is assured. The Recommendation is expressed to apply to all companies with securities admitted to a regulated market including non-EU companies with a primary listing. The Recommendation is non-binding but Member States are invited to take the necessary measures, either through comply and explain approach or by legislation to promote its application by 30 June 2006.	*Dissemination of information* : As part of its plans to implement the **Company Law Action Plan** (CLAP), the EC published a consultation paper (September 2004) seeking views on key elements of a future directive regarding shareholders' rights, including: on the dissemination of information before the general meeting and the possible need for minimum standards to ensure that all shareholders, irrespective of where they are situated, receive information in time; criteria for participation in the meeting; possible mimum standards for the right to ask questions and table resolutions; possible measures to enable shareholders to vote by post, electronically or by proxy; the dissemination of information following the general meeting and the possible need for confirmation that votes have been cast as instructed. Although rejecting a requirement for institutional shareholders to exercise voting rights, the CLAP proposed to require them to disclose their investment and voting policies and, at the request of beneficiaries, their voting records in individual cases. The Proposals are expected in 2006 - 8.
4. Recent developments & changes (continued)		**European Commission (Internal Market & Financial Services) Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market "The Transparency Directive"** which must be implemented in EU Member States by January 20, 2007, establishes a minimum level of ongoing reporting requirements for issuers, including the publication of financial information. Upon implementation, Member States will be able to impose stricter regulations than the minumum. The choice of Home Member State becomes significant in that it requires an issuer to assess the liklihood that the member state will introduce more stringent rules over and above the mimimum when implementing the Transparency Directive.
4. Recent developments & changes (continued)	.	*Disclosure of shareholding* : The German government is planning to tighten the rules governing the disclosure of shareholdings in a bid to protect companies from aggressive hedge funds and avoid a repeat of last year's shock investor rebellion at stock exchange group Deutsche Börse. Under legislation being drafted by the new coalition government, and due to become law at the start of next year, officials said investors would have to report stakes as soon as they exceeded 3 per cent, down from the current 5 per cent. The change would put Germany out of step with much of continental Europe, where a 5 per cent threshold is the norm. But it would bring it into line with the UK, where the threshold is 3 per cent and every percentage point thereafter.

Jurisdiction:	European Union ("EU")	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (continued)		**Competition Policy:** The EC published its discussion paper on the reform of policy towards dominant companies in December, 2005. The paper outlines a policy framework for dealing with particular types of market abuses by dominant companies. The new approach is "based on the likely effects in the market" and aimed at "the protection of competition ... as a means of enhancing consumer welfare". Historically, the Commission's competition policy in general and control of dominance in particular has tended towards the more interventionist Germanic approach of fairness and equal opportunity, however, the paper indicates a possible shift toward the more Anglo--Saxon market efficiency approach in which competition law functions primarily as a shield against consumer harm than a means to intervene to achieve "fairness". The emphasis on "effects in the market" suggests that the Commission may be moving toward a substance rather than form effects-based approach, but this is counterest by various caveats including a heavy burden on companies to prove the benefits of any claimed synergies and to demonstate their net benefit.
4. Recent developments & changes (continued)		**Competition Policy (contd.):** Given the various qualifications and caveats in the paper, commentators suggest the Commission's competition policy direction will become clear in the cases the Commission chooses to pursue. Competition law enforcement is shared with Member State national competition authorities and courts. These will most likely take their lead from their Commission if the latter proceeds on sound economics, facts and market progressive policy.
5. Mechanisms/ Procedures		**Market Abuse Directive:** *Single competent authority for market abuse*: A common minimum set of effective tools and powers for the competent authority of each Member State is intended to guarantee supervisory effectiveness. Market undertakings and all economic actors are expected to contribute at their level to market integrity. The required designation of a single competent authority for market abuse does not exclude collaboration links or delegation under the responsibility of the competent authority, between that authority and market undertakings with a view to guaranteeing efficient supervision of compliance with the provisions adopted pursuant to this Directive.

Jurisdiction:	European Union ("EU")	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
5. Mechanisms/ Procedures		January 1 2005 was the advent of harmonised accounting across the European Union under the International Financial Reporting Standards (IFRS) for company financial statements. The aim in introducing IFRS across the European Union, was to make accounts easier to produce and compare and therefore increase transparency. However, IFRS requires companies to publish previously unreported figures and disclose many other numbers in a different way and early indications are that investors are finding that accounts had not "converged" because companies were given more leeway under IFRS to make different accounting choices and executives have struggled to explain the significance of a host of new numbers. Costs of the transition in new systems and staff training have been significant. That said, IFRS have delivered better disclosure on important items such as pension deficits and derivatives, and accounts across the EU look more similar than they used to.
6. Remedies/ Penalties	Both the Tranparency Obligations Directive and the Amendments to the Fourth and Seventhe Directives require Member States to have appropriate sanctions and liability rules for failure to comply with accounting rules.	*Strengthened enforcement of the Community rules* is identified by the Lamfalussy report as level 4. This is primarily the responsibility of the European Commission but the report pointed out that Member States, regulators and the market participants have an important role in supplying information to the European Commission about any potential infringement of Community rules

Jurisdiction:	Japan	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
1. Regulatory/Oversight	**Government/Regulators**: Financial Supervisory Agency (FSA) www.fsa.go.jp, Securities and Exchange Surveillance Commission (SESC) **Market**: Tokyo Stock Exchange (TSE) www.tse.org.jp	**Government/Regulators:** Financial Supervisory Agency (FSA) www.fsa.go.jp, Securities and Exchange Surveillance Commission (SESC) **Market**: Tokyo Stock Exchange (TSE) www.tse.org.jp, Japan Securities Dealers Association (JSDA)
2. Authority (i.e Statutes, Rules, Guidelines)	**Government**: The Securities and Exchange Law (Law No.25, April 13, 1948) and Regulations, Commercial Code of Japan,Ministerial Ordinance with respect to the disclosure of corporate information" (hereinafter referred to as the "Ministerial Disclosure Ordinance"), **Market**: Security Listing Regulations, Criteria for Listing Examination of Stock (and Supplementary Rules), Rules (and supplementary Rules) on Timely Disclosure, Criteria for Delisting of Stock (and Supplementary Rules), Trading Participant Regulations of the Tokyo Stock Exchange Inc., TSE Principles of Corporate Governance for Listed Companies (16 April 2004) **New:** Corporate Law (enacted June 29, 2005) incorporating Commercial Code (Part II), Yugen Kaisha Law, and Law for Special Provisions for the Commercial Code Concerning Audits, etc., among others expected to become applicable Spring, 2006.	**Government**: The Securities and Exchange Law (Law No.25, April 13, 1948) and Regulations, Commercial Code of Japan, Ministerial Ordinance with respect to the disclosure of corporate information" (hereinafter referred to as the "Ministerial Disclosure Ordinance"), **Market**: Trading Participant Regulations of the Tokyo Stock Exchange Inc., Rules and Regulations on Issuers' Corporate Information Disclosure, Rules of Timely Disclosure of Corporate Information by Issue of Listed Security and the Like (and Supplementary Rules), Criteria for Delisting of Stock of Tokyo Stock Exchange Inc. (and Supplementary Rules), Regulations for Notice or the Like by Issuer of Listed Security, TSE Principles of Corporate Governance for Listed Companies (16 April 2004)
3. Current Framework/ Key Features	**Oversight**: Japanese financial and securities regulation is spread among multiple agencies. The Securities and Exchange Surveillance Commission (SESC) investigates and monitors the financial industry, but has no rule making or enforcement power. The Financial Services Agency actively oversees the securities markets and administers the primary securities regulatory and anti fraud law.	**Continuous disclosure obligations** include: filing Annual Securities, Semi-annual and current Reports with the FSA; filing copies of those reports, and documents filied with home country authorities (as applicable), documents sent to beneficial shareholders in Japan and home country, notice of key dates and infomation significantly affecting investors' decision with the TSE; delivering (via agent) Annual report, Interim and Quarterly Report, Proxy statements and solicitation materials to beneficial shareholders; and announcements of business results and material corporate information to public investors. A listed company must hold a meeting for its shareholders and analysts in Japan twice annually in the 3 years immediately following the day of listing. Following the Action Program for the Disclosure of Quarterly Financial Information (June 2002), the TSE includes quarterly business overviews - consisting of operating results from the preceding quarter and any changes in financial condition - in its timely disclosure system. This took effect for companies with fiscal year end at the end of March 2003.

Jurisdiction:	Japan	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	A corporation applying for listing shall undergo a listing examination by the TSE. When the Exchange determines it appropriate to list stock of the applicant in accordance with TSE rules and regulations after the examination, it will announce the approval of listing. Once the listing is approved the applicant must file a Securities Registration Statement with the Minister of Finance. Following the filing and announcement by the Exchange, the applicant's stock will be listed and traded. When listing, the applicant shall enter into the "Listing Agreement" with the Exchange required from every listed company for compliance with TSE rules and regulations.	**Continuous disclosure obligations:** TSE requires listed companies to disclose immediately to the public any information that might be expected to materially affect the prices of its stocks. Major items with respect to the business results and the material corporate information that need to be disclosed to the public include: business results (annual, interim, quarterly); decisions by the company (eg. share/bond issues, share splits, merger, change of a director); occurrence of a material fact (eg. major change to shareholders, legal action or decision, bankruptcy or reorganization proceedings, change of laws in home jurisdiction (where appplicable) that has significant influence for shareholders or business results, tender offer). All disclosure documents must be prepared in Japanese.
3. Current Framework/ Key Features (continued)	**TSE Listing requirements**: On the day of listing a listed company must publicise an outline of business plan where the business plan and its verification will show that the company will record a sales of JPY100 million or more in the current business year in which the listing takes place, or be profitable in the current business year or will not meet the criteria for delisting.	**Corporate governance:** Starting with companies that end their fiscal year at the end of March 2003, listed companies are *required* to submit a report on the condition of corporate governance within their organization. Companies must report information on: their corporate governance systems, any interest that outside directors and auditors have in the company, what the company has been doing to fulfill corporate governance standards over the past year.
4. Recent developments & changes	**Details of major revisions to the Commercial Code prior to enactment of new Corporate Law:** Clarification of responsibility of executive officers (2002.5), Strengthening of the responsibilities of the auditing system (2002.5), Introduction of a system of outside board members (2003.4), Introduction of corporate system for establishment of committees (2003.4), Allowability of paperless business documents (2002.4), Paperless notification of General Shareholders Meetings and digital voting at such meetings (2002.4), Abolition of restrictions on corporate bond issuance limit (1993.10), Abolition of par value stock requirement (2001.10), Lift of ban on treasury stock (2001.10), Abolition of limits on maximum authorized stock at time of establishment and limits on new stock issuance (2002.4), Introduction of corporate bonds with subscription warrants (2002.4), Introduction of tracking stocks (2002.4), Abolition of a foreign company's obligation to establish office in Japan (2003.4). Abolition of the fixed stipulations and approval system (new Corporate Law (pending spring 2006))	**Details of major revisions to the Commercial Code prior to enactment of new Corporate Law:** Lifting of the ban on holding group companies and creating a pure holding company (Amendment to the Anti-monopoly Law (1997.12)); Lifting of the ban on financial holding companies which have banking, equity, or insurance businesses as subsidiaries (Establishment of two laws pertaining to financial holding companies (1998.3)); Creation of system for stock swaps (exchange and transfer) (Amendment to the Commercial Code (1999.10)); Facilitating business restructuring and joint business restructuring, etc. (Establishment of Law on Special Measures for Industrial Revitalization (1999.10)); Enabling M&As to improve profitability (Creation of Civil Rehabilitation Law (2000.4)); Creation of corporate divestiture systems to enable organization of operations among subsidiaries and make it easier for specific business divisions to become subsidiaries (Amendment to the Anti-monopoly Law (2001.4)); Enabling cash payment or transfer of stock of the acquiring company's parent company (Amendment of the Law on Special Measures for Industrial Revitalization (2003.4)).

Jurisdiction:	Japan	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (continued)		**Revisions to the Securities and Exchange Law in 1999 included:** imposing an obligation on public companies to compile and disclose consolidated financial statements and to apply tax effective accounting. In 2002, revision to Corporation Tax Law requires the application of corporate tax on consolidated basis to corporate members of a corporate group. Also, the emerging hostile takeover market has prompted authorities to consider further regulatory changes to reduce information asymmetries and increase transparency in the system. Currently, on mergers and share swaps Japanese companies are required to file only a brief report containing no detailed disclosure of up-to-date financial information, risk factors and other material information.
4. Recent developments & changes (continued)		A 1999 Revision to Regulations on Financial Statements impose the obligation to incorporate costs incurred in R&D activities into accounting statements. In 2000, "Accounting standards for financial products" was announced by the Business Accounting Council of the Financial Services Agency requiring the application of mark-to-market accounting for financial products, such as publicly traded securities. Also in 2000, "Opinions Concerning the Setting of Accounting Standards for Retirement Benefits" were announced by the Business Accounting Council established a rule that the sum of retirement benefit obligations exempt from external reserve pension assets shall be reflected in a retirement reserve allowance.) In 2001, mark-to-market accounting to common stock and other securities owned was introduced in "Accounting Standards for Financial Products" announced by the Business Accounting Council. In 2005, "Guidelines for Application of Accounting Standards for Asset Impairment of Fixed Assets" were announced by the Business Accounting Council Introduction of asset impairment accounting for fixed assets.
4. Recent developments & changes (continued)		**Proposed Disclosure rules**: Existing rules require institutional investors and other professional investors who buy more than 5 per cent of a company to disclose the holding after 90 days. Non-professional investors must do so after five business days. The FSA's proposed changes to the country's disclosure rules would force professional investors to disclose such a transaction after two weeks rather than three months. The changes to the rules stem form concerns that activist Japanese investment funds used their status as professional investors to avoid disclosing they had taken more than 5 per cent of a company they were interested in taking over. This let potential acquirers build up large, undisclosed stakes in target companies. The FSA suggested the changes because it thought they would make any takeover activity by investment funds more transparent and allow target companies to defend themselves more effectively. The ACCJ on February 7, 2006 published an official demand for the regulator to withdraw the proposed rule changes.The planned changes go against international practice in the US and UK.

Jurisdiction:	Japan	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (continued)		The TSE is considering tightening rules on margin trading in a move that could significantly curb trading by retail investors. The bourse is considering tightening the rules amid concern that margin trading – which enables investors to trade shares in amounts exceeding the cash or stock they have on hand – was causing the market to become speculative. The exchange has held hearings with leading brokerages on whether their systems could cope with tighter margin trading regulations. It said it would take action if necessary but nothing had been decided.
5. Mechanisms/ Procedures	Establishment of The Office of Trade and Investment Ombudsman (OTO) in the Cabinet Office to receive and process complaints concerning government restrictions and other policies that may be viewed as barriers to imports to or investments in Japan and implements instructions concerning reform measures, etc.	
6. Remedies/ Penalties	**False/inconsistent information:** If a securities registration statement contains a false statement in any of the major elements, a fine will be applicable pursuant to the Securities and Exchange Law whereby such securities issuers will be considered to have committed a "false statement" under the Act. The Securities and Exchange Law established liability for discrepancies between a prospectus and the issuer's registration statement.	
6. Remedies/ Penalties	The SESC investigates and monitors the financial industry but has no rulemaking or enforcement power. The FSA actively oversees the securities markets and administers the primary securities regulatory and antifraud law.	

Jurisdiction:	United Kingdom	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
1. Regulatory/Oversight	**Government/Regulators**: Department of Trade and Industry (DTI) www.dti.gov.uk, Financial Services Authority (FSA) www.fsa.gov.uk, Financial Reporting Council (FRC), Financial Reporting Review Panel (FRRP), Takeover Panel **Market**: London Stock Exchange www.lse.co.uk; Institutional Shareholders' Committee (ISC), Association of British Insurers (ABI), National Association of Pensions Funds (NAPF)	**Government/Regulators**: Department of Trade and Industry (DTI) www.dti.gov.uk, Financial Services Authority (FSA) www.fsa.gov.uk, Financial Reporting Council (FRC), Financial Reporting Review Panel (FRRP), Takeover Panel **Market**: London Stock Exchange www.lse.co.uk, Institutional Shareholders' Committee (ISC)
2. Authority (i.e Statutes, Rules, Guidelines)	**Government**: The Companies Act 1985 and Regulations, Financial Services and Markets Act 2000, Company Law Reform Bill (March 2005), Companies (Audit, Investigations and Community Enterprise) Act 2004 ("C(AICE)A"), Directors' Remuneration Report Regulations 2002 ("DRRR"), The Companies Act 1985 (Operating and Financial Review and Directors' Report etc.) Regulations 2005, Takeover Code, EU Directives via national implementing legislation, **Market**: Listing Rules (pursuant to Part VI of the Financial Services and Markets Act 2000), Combined Code (revised) and Turnbull Guidance on internal control systems (July 2003)	**Governmen**t: The Companies Act 1985 and Regulations, Financial Services and Markets Act 2000, Company Law Reform Bill (March 2005), Companies (Audit, Investigations and Community Enterprise) Act 2004, Directors' Remuneration Report Regulations 2002, The Companies Act 1985 (Operating and Financial Review and Directors' Report etc.) Regulations 2005, Takeover Code, EU Directives via national implementing legislation, **Market**: Listing Rules (pursuant to Part VI of the Financial Services and Markets Act 2000), Combined Code (revised) and Turnbull Guidance on internal control systems (July 2003)
3. Current Framework/ Key Features	**Government**: The Combined Code (revised by the FRC in 2003 following the Higgs Review and the Smith Report and guidance on audit committees) is the cornerstone of corporate governance in the UK. The "comply or explain" principles applies to UK incorporated listed companies and is embedded in Listing Rule 9.8.6R(5)-(7). Government policy is to encourage companies to report on topics such as Corporate Social Responsiblity (CSR) on a voluntary basis, Dept. of Environment, Food and Rural Affairs General Guidelines on Environmental reporting (Nov 2001 - voluntary guidelines in effect June 27, 2005 and with company non-observance likely leading to compulsory reporting by 2008). **Market**: There are a growing number of disclosure guidelines including: ABI's *Disclosure Guidelines on Social Responsibility* (Oct 2001), FORGE *Guidance on Corporate Social Responsibility Management and Reporting for Financial Services Sector* (Nov 2002), PIRC's environmental reporting guidelines (in *Shareholder Voting Guidelines* latest Feb 2005), Business in the Community's "Indicators that Count" (July 2003)	Although the FSA has not extended the "comply or explain" obligation (vis the combined Code) to non-UK incorporated companies with primary listing, Listing Rule 9.8.7R requires such companies to disclose, in their annual report and account, whether or not they comply with the corporate governance regime of their country of incorporation and the significant ways in which their corporate governance practices differ from those set out in the Combined Code. Appended to the Combined Code are related guidance and good practice suggestions, including the Turnbull and Smith Guidance, guidance for the Chair and for Non Exec Directors (NEDs). Disclosure requirements have also been imposed on investors pursuant to the Occupational Pension Schemes (Investment, Assignment, Forfeiture, Bankruptcy etc.) Amendment Regulations 1999 which require pension funds to disclose in their Statement of investment Principles the extent to which they take into account social, ethical or environmental issues into account in their investment decisions replaced by a similar disclosure obligation in the Occupational Pension Schemes (Investment) Regulations 2005.

Jurisdiction:	United Kingdom	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	The Turnbulll Guidance (2000) which supplements the Combined Code is the equivalent of SOX, but is wider ranging, covering operation as well as financial controls and uses a principles rather than rules based approach. The Guidance is the outcome of a review of internal controls that reported in September 1999 (before the scandals that triggered SOX came to light). It advises companies to carry out effectiveness tests, but does not oblige them to disclose the results. A recent review, however, recommends that boards confirm when action has been taken to remedy significant failings. The updated guidance is expected to come into effect for financial years on or after 1 January, 2006 but is likely in the future to be overtaken by new EU legislation that could be less flexible.	
3. Current Framework/ Key Features (continued)	Combined Code Provision c3.2 sets out the main role and responsibilities of the audit committee, including: requirement to monitor the integrity of the company financial statements and any formal announcements relating to the company's financial performance, reviewing significant financial reporting judgments contained in them; reviewing the company's internal controls and (unless separately addressed) risk management systems.	The FRC has published a guide for UK and Irish companies registered with the SEC on using Turnbull Guidance to comply (for reporting years on or after 15 July 1006) with SEC requirements under SOX 404 (Dec. 2004). An FRC committee has concluded that it would not be appropriate to require directors to make a statement in the annual report and accounts on the effectiveness of the company's internal control system, similar to SOX 404.
3. Current Framework/ Key Features (continued)	**Initial disclosure:** The London Stock Exchange Admission and Disclosure Standards (the 'Standards') contain admission requirements and continuing obligations for companies seeking admission, or already admitted, to trading on the LSE markets for listed securities. They do not apply to companies seeking to be admitted to Alternative Investment Market for smaller, growing companies (AIM). The principles underlying the Standards, are: . to provide companies with access to the Main Market . to promote investor confidence in the market as a whole . to maintain the quality and attractiveness of the LSE markets to companies and investors . to operate orderly markets . to minimise any overlap with the rules of an issuer's EEA competent authority	**Continuing obligations:** The Standards relating to disclosure of information to the Exchange are outlined in 'Continuing Obligations' and include a requirement for an issuer to inform the Exchange of the timetable for any corporate action affecting the rights of existing shareholders.To ensure that it operates orderly markets. The LSE requires that companies publish price sensitive information on a timely basis and in accordance with the rules of the UKLA, which impose a general obligation on companies whose securities are admitted to trading on a regulated market to release information of this type.

Jurisdiction:	United Kingdom	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	**Initial Prospectus:** A prospectus is generally required to be published prior to admission to trading by the LSE and can be valid for 12 months after its publication. The rules governing the publication of a prospectus are those of the UK Listing Authority, part of the FSA. To ensure that it operates orderly markets. The LSE requires that companies publish price sensitive information on a timely basis and in accordance with the rules of the UKLA, which impose a general obligation on companies whose securities are admitted to trading on a regulated market to release information of this type.	**Continuing obligations:** A prospectus may also be required where a company is making an offer of its transferable securities to the public.Companies seeking to make further issues of securities already admitted to trading must assess whether a prospectus or listing particulars are required. If a prospectus or listing particulars are required, these must be submitted to the UKLA for review and approval in accordance with its rules.
4. Recent developments & changes	The Myners Report "Institutional Investment in the UK: A Review" (March 2001) recommended that those responsible for pension scheme investment should: adopt on a comply or explain basis codified principles of best practice for investment decision making, actively monitor & communicate with investee management, exercise shareholder votes where these would enhance the investment value. In reponse the Govt. proposed a statutory duty to use shareholder power to intervene in investee companies where in the pension scheme's best interests. However, following the publication of strengthened responsiblities of institutional shareholders and agents and best practice in October 2002 by the ISC and individual investment funds (e.g. Hermes), the HM Treasury issued a review of progress (Dec. 2004) concluding that the non-legislative approach is beginning to work but that the Myners Principles need to be strengthened and amplified (including to align the objective standard of expertise imposed on trustees by the Pension Act 2004 and to require investors to comply with the ISC Statement of Principles.	**Combined Code review:** The FRC launched a formal review of the Combined Code (July 2005) inviting views on issues such as the overall quality and level of dialogue between board (esp. NEDs) and investors ,whether the comply or explain approach is working successfully and whether companies have experienced any practical difficulties implementing the new requirements. The FRC is seeking views on specific proposals for amendments to the Combined Code to; require inclusion of a "vote withheld" box on proxy voting forms for the AGM and publication of the total number of votes withheld as well as for and against when declaring results; public disclosure on company websites (w/i 21 days) of audit engagement letters relating to the report given in respect of the UK statutory audit.
4. Recent developments & changes (continued)	**Government:** NWS, the non-statutory nature of the Combined Code, there has been some shift toward statutory codification (e.g. DRRR). The proposed statutory codification of directors' duties in the Company Law Reform Bill includes a requirement for directors to act to promote the success of the whole company for the benefit of its members as a whole. In deciding what would be most likely to promote that success, directors are required to take account of the long term and wider factors such as employees, suppliers, customers and environmental impact (the same principles "enlightened shareholder value" in the OFR Regulations. These new duties on directors are expected to be challenged when the Bill is debated in the house of Lords.	A series of recent initiatives in the UK centered on the core principle of maintaining market transparency, while avoiding undue onerous regulation and avoiding impairing market competitiveness. A number of these developments highlight the increasing scrutiny by regulators of market participants involved in two of the most active areas of financial activity: mergers and takeovers and the significant increase in the number of foreign (non-UK) companies listed in the UK. There are also proposed statutory amendments that would give the government the power to require institutional investors, including pension scheme trustees, to disclose how they voted on corporate actions.

Jurisdiction:	United Kingdom	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (continued)	**Best practice'/ Market Guidelines**: While there also continues to be an overlay by institutional investors principles and guidelines they are helpfully referenced to the Combined Code. A DTI publication on the *UK approach to EU company law and corporate governance* (July 2005) outlines the DTI's objectives in relation to the Company Law Action Plan and encourages UK stakeholders to participate in shaping the future EU agenda.	**Best practice'/ Market Guidelines:** The DTI has called on prominent institutional investor groups (i.e. the Associate of British insurers "ABI", National Association of Pension Funds "NAPF") and the Confederation of British Industry "CBI" to work towards providing a common set of guidelines on directors' contracts by the end of 2005. The DTI consultation paper "Rewards for Failure" Directors Remuneration - Contracts, Performance and Severance was published (June 2003) to deal with concerns about directors receiving excessive compensation on departing a poorly performing company. In January 2005 it published its findings based on an assessment of compliance with the DRRR over the 2004 AGM season. DRRR (now in Schedule 7A CA 85) applies to quoted companies (i.e. UK, EU, or NASDAQ/NYSE listed companies) requiring them to publish a report on directors' pay as part of the annual reporting cycle on which shareholders will vote at each AGM. The vote is advisory only.
5. Mechanisms/ Procedures	UK companies generally do not have US-style disclosure committees although Listing Principle 2 set out in 7.2.1R supplemented by 7.2.2G of the Listing Rules requires a listed company to take reasonable steps to establish and maintain adequate procedures, systems and controls to enable it to comply with its obligations, in particular in relation to the timely and accurate disclosure of information to the market. In practice the audit committee may fulfill the role of the disclosure committee. Provision C3.2 of the Combined Code provides that the audit committee should monitor the integrity of a company's financial statements and any formal announcements relating to financial performance, reviewing significant financial reporting judgments contained in them.	**Disclosure relating to mergers and takeovers:** In November 2005, the Takeover Panel, which oversees mergers and takeovers brought in new rules forcing the disclosure of stakes built up during bids using derivatives called contracts for differences (CFDs). These sometimes very large holdings had previously gone unreported. It is considering whether to force public announcements from investors with big holdings who comment on bids in the media.
5. Mechanisms/ Procedures (continued)	**OFR:** The operating and financial review (OFR) introduced in 2005 to be applicable to quoted companies in Britain for financial years beginning on or after 1 April 2005, introduced a new requirement in CA85 for directors of UK incorporated listed (UK, EU, NASDAQ/NYSE) companies to publish a review giving a balanced and comprehensive analysis of a company's development and performance, position at the year end and the main trends and factors governing past and future development, performance and position to enable shareholders to assess those strategies and the liklihood of their success. It was to require disclosure of previously undisclosed information such as internal controls relating to principal risk. Relevant considerations would encompass environmental matters, employees, social and community issues, customers and suppliers, significant stakeholder relationships and KPIs. In December 2005, Chancellor Gordon Brown announced an unheralded U-turn on the OFR (described as a 'recalibration), stating its repeal effective January 12, 2006	**Harmonised accounting:** January 1 2005 was the advent of harmonised accounting across the European Union under the International Financial Reporting Standards (IFRS) for company financial statements. The aim in introducing IFRS across the European Union, was to make accounts easier to produce and compare and therefore increase transparency. However, IFRS requires companies to publish previously unreported figures and disclose many other numbers in a different way and early indications are that investors are finding that accounts had not "converged" because companies were given more leeway under IFRS to make different accounting choices and executives have struggled to explain the significance of a host of new numbers. Costs of the transition in new systems and staff training have been significant. That said, IFRS have delivered better disclosure on important items such as pension deficits and derivatives, and accounts across the EU look more similar than they used to.

Jurisdiction:	United Kingdom	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
5. Mechanisms/ Procedures (continued)	**OFR:** Reasons cited for the decision to repeal the OFR differences in opinion with key market stakeholders investors over corporate communication, the need to balance the burden of regulation with the need for market competitiveness and efficiency through reduced red-tape and the "business review" under the EU Modernisation Directive (June 2003) requiring similar, but less prescriptive content. The repeal has had negative reaction from key stakeholders, institutional investors and business. Some of this reaction has raised the point that, although the EU Directive is said to be similar, that disclosure will not contain the forward looking information required by the OFR on business prospects, nor will it encourage full discussion of those business drivers and risks that are not captured by historic cost accounting. Under threat of imminent legal action (settled out of court) further consultation on the rules will now take place until 24 March. In face of continuing uncertainty and substantial investment in process, some companies are expected to proceed with producing OFRs voluntarily.	
6. Remedies/ Penalties	**Shareholder rights of action, indeminfication, liability:** The Company Law Reform Bill will place common law derivative action rights on a statutory basis and will allow a shareholder to apply to the court to pursue a claim, on behalf of the company against a director for negligence, default, breach of duty or breach of trust. Sections 19 and 20 C(AICE)A amend CA 85 to permit companies to indemnify directors in respect of proceedings brought by 3rd parties and to permit payment of director's legal costs as they are incurred, addressing concerns as to the adequacy of some D&O insurance policies. The government has also invited views on permitting companies to exempt directors from liability for negligence, or to limit their liablit with prior shareholder consent, with or without a statutory floor (Regulatory Impact Assessment in relation to directors' liability accompany the Company Law reform White Paper). The Combined Code contains a number of provisions relating to the independence requirements of NEDs and guidance on their liability is set out in Schedule B.	**Regulatory review:** The Government has commissioned a review of regulatory sanctions to report by autumn, 2006 pursuant to the Hampton report, which set out a new risk-based approach to regulation and which underpins the sanctions review. The Macrory review team is looking at a radical revamp of the current regime, toughening up the penalties for the worst offenders while bringing in a range of administrative sanctions to complement the existing criminal law, allowing regulators to bypass the courts in imposing fines and other penalties. Offences could take account of the company's recklessness or negligence, rather than the existing predominant "strict liability" approach when the punishment is imposed regardless of whether the regulatory breach was accidental or intentional. The recommendations are expected to be fairly radical, triggering an overhaul of the sanctions regime for a broad swathe of regulators over everything from trading standards to companies investigations and environmental regulations.

Jurisdiction:	United Kingdom	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
6. Remedies/ Penalties (contd.)	**LSE enforcement:** The LSE monitor compliance with their Standards in order to ensure the operation of high quality and orderly markets and that there is suitable protection for all market participants, including companies and investors. To this end, they enforce the Standards. As far as possible, action is taken on a timely basis. In particular, they are able to suspend trading in a company's securities and, in extreme circumstances, to cancel the right of a company's securities to be traded. They can also censure a company (privately or publicly) if it has breached the Standards.	**Regulatory reform:** In January 2006, the government agreed to omit the statutory powers needed to shake up the enforcement regime from the soon to be published 'better regulation bill' after the Confederation of British Industry warned that allowing regulators to impose instant fines on business would "circumvent justice and accountability". The head of the government commissioned review, however, indicated that business would have to be given a right to appeal against any regulator-imposed penalties via an independent mechanism, such as the tribunals system, and stated that any reforms would need checks and balances to ensure regulators were not given incentives to punish industry just for the sake of it. One of the most contentious issues under review is the question of whether some offences, such as environmental damage or health and safety breaches, are so serious in their consequences that they should attract criminal penalties, even if the cause was not management failure but an accident.
6. Remedies/ Penalties (contd.)		**The Competition Commission** has warned (28/12/05) companies that hold back potentially damaging information from the competition regulator that they are likely to face fines and embarrassing publicity. This tougher stance stems from signs that some companies in merger or market inquiries are resisting disclosing documents that could weaken their cases. The Commission has long operated an informal process, believing it is the best way to gain co-operation from businesses. However, with pressures to meet strict time limits and the increasing likelihood of legal challenges to Commission decisions, formal demands backed up by potential sanctions, have been suggested as the only way forward. The Commission has powers in the [2002] Enterprise Act to impose penalties for non-provision or late provision of information. These powers haven't been used as yet. This stance is similar to that of the new OFT chairman regarding potential criminal sanctions against companies that fail to disclose requested information and demonstrates a more combative attitude from the regulators in an increasingly litigious environment.

Jurisdiction:	United States	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
1. Regulatory/Oversight	**Government/Regulators**: Securities and Exchange Commission www.sec.gov **Market**: New York Stock Exchange ("NYSE"), Nasdaq Stock Market, Inc. ("NASDAQ"), Council of Institutional Investors (CII), Public Company Accounting Oversight Board (PCAOB)	**Government/Regulators**: Securities and Exchange Commission www.sec.gov **Market**: NYSE, NASDAQ, Council of Institutional Investors (CII), Public Company Accounting Oversight Board (PCAOB)
2. Authority (i.e Statutes, Rules, Guidelines)	The Securities Act 1933, Federal and State Company law, The Securities Exchange Act 1934, United States of America Congress (2002) The Sarbanes-Oxley Act, 2002, Law HR 3763, 107th Congress, 2nd Session (Washington D.C.,USA: Library of Congress), ("SOX") see www.sarbanes-oxley.com **Market**: NYSE Listing Rules, NASDAQ Marketplace Rules	The Securities Act 1933, Federal and State Company law, Securities Exchange Act 1934, United States of America Congress (2002) The Sarbanes-Oxley Act, 2002, Law HR 3763, 107th Congress, 2nd Session (Washington D.C.,USA: Library of Congress), ("SOX") see www.sarbanes-oxley.com **Market**: NYSE Listing Rules, NASDAQ Marketplace Rules
3. Current Framework/ Key Features	**The Securities Offering Reform Rules** (effective 1 Dec, 2005) mark major changes to regulations governing offerings which are expected to make the offering process faster and less costly. They cover 3 areas: communications related to registered securities offerings; timely delivery of information to investors without mandating unneccessary delays in the offering process; and improving the registration and other procedures in the offering and capital formation process. One measure creates a new class of "well-known seasoned issuers" (WKSIs) comprised of issuers that are presumed to be the most widely followed in the marketplace. Another loosens the "quiet period" rules that govern what companies can say before and during a registered offering. In addition, under the new rules, communications by issuers more than 30 days before filing a registration statement will be permitted without violating the "gun jumping" provisions so long as they do not refer to a securities offering that is the subject of a registration statement.	**SOX Certification**: SOX Section 404 requires all SEC-registered companies to include in their annual report a statement by management and the external auditors on the effectiveness of the company's internal controls over financial reporting. SEC Rules addressing SOX certification requirements (section 302) extend to "disclosure controls and procedures". It has recommended establishing a disclosure committee to assist in establishing controls and procedures as well as to oversee the preparation of disclosure (members might include the general counsel, head of major subsidiaries, head of investor relations and risk management staff). The SEC has provided that issuers may establish qualified legal compliance committees as an alternative means to address "reporting requirements" for attorneys mandated by SOX. These QLCC's would receive reports from attorneys obliged to report evidence of material violation of US securities laws or breach of fiduciary duty or the like by an officer, director, employee or agent of the company.

Jurisdiction:	United States	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	**The Securities Offering Reform Rules** - *Prospectus rules* : The new rules provide that for prospectus delivery, access equals delivery (e.g. an electronically filed and accessible final prospectus does not need to be physically delivered). They also permit the use of a "free-writing prospectus" - a written communication, including an electronic communication, that constitutes an offer outside the statutory prospectus. WKSIs can use an FWP at any time, while other eligible issuers and other offering participants have to wait until the filing of a registration statement to use a FWP and in some circumstances the FWP must be filed with the SEC.	**Material change disclosure**: SOX section 409 requires issuers to disclose information about material changes in their financial condition or operations on a "rapid and current" (real time) basis. The SEC rules (August, 2004), required companies to report (Form 8K) within deadlines shortened to 4 business days. This provision currently only affects US public companies. With significant breadth as to what might or might not be considered to fall within the scope of the rules, in practice companies have been erring on the side of caution and including minor announcements that do not materially impact financial statements, such as related to news releases. One area, in particular, that has seen significant increase is in relation to executive compensation. **Other disclosure:** SOX also significantly shortened the deadlines under which directors, officers and major shareholders of SEC-reporting companies (other than foreign private issuers) must report transactions in the company's shares under section 16 of the Securities Exchange Act of 1934. Such reports must now be filed electronically and must be posted on the company's website.
3. Current Framework/ Key Features (continued)	**The Securities Offering Reform Rules** - *Shelf registration* : WKSIs can use a new "automatic shelf registration" process, which allows them to register unspecified amounts of specified types or classes of securities on immediately effective registration statements, without allocating between primary and secondary offerings. WKSIs can also exclude more information from the base prospectus than from a regular shelf registration statement (e.g. description of securities, plan of distribution). The shelf registration is effective immediately upon filing giving much easier quicker access to market. WKSIs with existing (i.e. pre-1 Dec, 2005) shelf registration statements must file new registration statements (i.e. not convert existing shelf registrations) as a new designator is needed to differentiate those that are automatically effective from those that are not.	**Other disclosure**: SEC Rules (Nov. 2003) require US listed companies to provide robust disclosure of nominating committee processes in their annual proxy statements to shareholders. **Market**: NYSE rules require listed companies to adopt and disclose a code of business conduct and ethics, formal corporate governance guidelines which address director qualification standards, director responsibilities, access to management and independent advisors, director orientation and continuing education, succession planning as well as board evaluation. Annual certification as to compliance with NYSE listing standards is required. NASDAQ Rules require companies to adopt codes of business conduct and ethics. NYSE/NASDAQ Rules require independent committees to play a greater role in remuneration policies and a compensation committee report must be included in the company's annual proxy statement or annual report. Additional shareholder involvement is also called for with equity compensation plans being subject to a shareholder approval requirement.

Jurisdiction:	United States	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
3. Current Framework/ Key Features (continued)	**The Securities Offering Reform Rules** - *Other changes* include: replacing a requirement that issuers register only securities they intend to offer within 2 years with a requirement that the issuer update the registration statement every 3 years; permitting a wider latitude for business and financial information released in a registered offering. Broader scope for post-filing written communication so that communications won't be caught by the definition of "prospectus" and incur potential prospectus liability. Certain entities like shell companies and penny stock issuers are excluded from the new rules as are those covered by separate regulatory structures (e.g. investment companies, business development companies, merger and acquisitions transactions). While non-WKSIs cannot take advantage of the new automatic shelf registration, under the new rules they can use a prospectus supplement rather than a post-effective amendment to revise their plan of distribution which is intended to make the registration process faster and more efficient.	**Merger/acquisition**: SOX also heightens the level of due diligence required in any merger or acquisition involving at least one company subject to US jurisdiction and alters the disclosure dynamic applicable to acquisitions. US companies must be certain that any company they intend to acquire can and does live up to the letter and spirit of SOX or risk exposing themselves to SOX non-compliance. This includes ensuring that the acquired company can be compliant with the company's SOX Section 404 process by year end, making appropriate disclosures in accordance with **Regulation Fair Disclosure** and other critical SEC rules and regulations. Foreign entities that acquire US companies may, as a result of the purchase, become subject to US jurisdiction and required to comply with SOX.
3. Current Framework/ Key Features (continued)	Registration statements and annual reports are required to include "*Operating and Financial Review and Prospects*". Additional disclosure regarding liquidity and capital resources and critical accounting policies and estimates is typically included (SEC Rules 2002 & guidance issued Dec 2003). SOX imposes additional disclosure requirements for financial statements being filed with the SEC, including material -off-balance sheet arrangements and known contractual commitments (SOX 401, SEC Rules Jan 2003), reconciliation of pro forma figures to GAAP (SOX 401(b) and SEC Rules Jan 2003), management report on internal controls over financial reporting, including their effectiveness and auditors must attest management's assessment (SOX 404 and SEC Rules June 2003 and Feb 2004). Rules promulgated under SOX require disclosure of non-GAAP financial information (SEC rules adopted Jan 2003).	**Corporate Governance**: NYSE/NASDAQ Rules allow certain accommodations/exemptions exist for non-US issuers, but impose requirements that: an audit committee satisfy the requirements of SOX, there is annual disclosure of any significant differences between the corporate governance practices and the NYSE/NASDAQ listing standards, prompt notification if the company becomes aware of any material non-compliance with relevant standards, an Annual Written Affirmation with respect to the company's governance practices (and Interim Written Affirmation on each audit committee change).

Jurisdiction:	United States	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes	The SEC has proposed (Dec 14, 2005) a reform of the *financial reporting rules applicable to foreign (ie non-US) companies* by way of new tests that should make it easier for companies to stop filing reports in certain circumstances. *Existing* listing rules require companies to continue to report to the SEC even if they have delisted from US exchanges, if there are more than 300 US shareholders. This test applies regardless of the size of the company and regardless of the relative significance of US shareholders compared to total shareholders. For bigger companies the proposed test would be if 10% or less of its total shares are held by US investors so long as trading volume in its shares is low compared to the rest of the world. For smaller companies, the test would focus solely on the percentage of shares held by US investors. In these circumstances, the SEC would stress the importance of the company filing reports in its home jurisdiction which US investors could then access.	**Proxy voting disclosures**: SEC Rules (Jan 2003) require SEC-registered investment advisors with authority over client proxies to disclose voting policies to clients. SEC-registered management investment companies are also required to disclose proxy voting policies and procedures as well as voting records. SEC Rules (Nov 2003) require enhanced disclosure regarding shareholder communications with directors, including whether a company has a process for communications by shareholders to directors and, if not, why not. (Non-US issuers are exempt from this requirement).
4. Recent developments & changes (continued)		**Executive Compensation**: In October 2004, SEC staff called for more transparency with respect to executive compensation disclosure and in 2005, the new SEC Chairman gave notice that the issue of executive pay is high on his priorities. Other areas on the SEC's radar include compensation committee report disclosure requirements and related-party disclosure. **Market**: The CII adopted a revised executive compensation policy in October 2004 going beyond what the SEC then required in terms of disclosure. Specifically, it calls for more transparent disclosure in relation to benchmarking, executive salaries, annual as well as long-term incentive compensation, dilution, stock options, perquisites, employment contracts, retirement arrangements and stock ownership requirements.
4. Recent developments & changes (continued)		**Executive Compensation Disclosure -** *Draft regulations*: The SEC issued draft regulations in January 2006. The SEC's first update of its disclosure rules on executive pay in more than a decade stem from concerns that investors do not receive adequate information about compensation. Executives' pensions and options are an important focus and companies could be required to include valuations in the compensation tables that companies must compile about the pay of their top 5 executives and place them in proxy statements. Foreign companies with New York stock market listings could be granted exemptions from planned US rules on disclosure of executive pay only having to make similar data available if they already did so in their home countries. Only a limited number of jurisdictions in Europe and Asia, including France and the UK, Australia and Hong Kong, require companies to outline the pay of named executives. Germany and Japan do not.

Jurisdiction:	United States	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (continued)		**Ethics disclosure**: The SEC issued rules under SOX 406 (January 2003) requiring companies to disclose whether they have adopted a code of ethics for senior financial and CEOs, and if not why not.
4. Recent developments & changes (continued)		**E/Web communication**: In December 2005, the SEC proposed a plan that public companies should be able to choose to provide shareholders with proxy statements via the company's website, thus informing shareholders about issues for voting an annual meetings via the internet rather than mail. Companies have been required to mail the proxy statements and annual reports to shareholders although investors can agree to receive them electronically. The SEC plan would give shareholders the same ability as companies to cut costs by placing rival slates on websites. Both company and investor proxy communications would have to be preceded by postcards giving written notice of the website communication. The SEC is expected to seek public comment on the plan before it would become effective in 2007.
5. Mechanisms/ Procedures		Cases have been brought under the **Alien Tort Claims Act of 1789** calling for corporations to adopt minimum international standards throughout their operations. The Act gives US Courts jurisdiction to hear civil actions by non-US citizens for torts committed in violation of the law of nations or a treaty of the US and is increasingly being relied upon in class actions against US companies accused of committing torts outside the US (e.g. against Unocal, Exxon Mobil, Shell, Chevron, Texaco).

Jurisdiction:	United States	
	Fundamental and Primary Market	**Secondary Market (Continuous disclosure)**
6. Remedies/ Penalties	*The Federal Sentencing Guidelines for Organizations* (1 Nov. 1991) provide for offending corporations to pay appropriate restitution and fines for criminal behaviour. The institution and maintenance of "effective" compliance programs which prevent and deter violations of law potentially reduce the penalties and are often used by courts as a term of probation. Securities laws require regulated entities (e.g. broker-dealers, investment advisors, transfer agents and investment companies) to adopt measures to prevent internal violations although neither federal nor state rules set forth the specific compliance procedures to be adopted. **Market**: NYSE and NASDAQ Rules contain provisions regarding requirements and responsibilities with respect to compliance and internal controls.	Following Enron, Global Crossing and others, the SEC expanded the rules governing *public company disclosure* and in 2004 issued interpretive guidance and warned that it would continue to bring enforcement actions on alleged MD&A violations. In August 2005, for example, the Commission levied civil fraud charges against 2 Kmart executives alleging that they are responsible for making materially false and misleading disclosure about the company's liquidity and related matters in the MD&A section of KMart's 10-Q for the 3rd quarter of 2001 and in a November 2001 earnings conference call with analysts and investors.
6. Remedies/ Penalties (continued)		The SEC and the Federal Department of Justice have stepped up enforcement of a federal law banning bribery of foreign officials pursuant to the **Foreign Corrupt Practices Act**. The Act has been in effect since the 1970s, but recently has been more aggressively enforced attributed in part to SOX self-disclosure provisions (there have been at least 6 cases in the 10 months to August, 2005). Potential sanctions include disgorgement (i.e. fines equal to the amount of ill-gotten gains). FCPA issues have also cause a number of mergers and acquisitions to unravel with potential suitors/targets being deterred by the existence of enforcement actions.
6. Remedies/ Penalties (continued)		*Financial penalties*: On 4th January, 2006, the SEC responded to criticism of big fines imposed on companies hit by accounting fraud by publishing a set of principles it will follow in dealing with future cases. The main considerations will be whether a company directly benefited from a fraud and whether a fine will compensate investors or cause them further harm. The move appears to address some concerns about the large fines imposed in some recent fraud cases which critics say sometimes penalized the very shareholders who were hurt by the original offence. In addition to the two principal considerations of fairness to investors, the SEC said it would look at a number of other factors when determining fines including deterrence, the egregiousness of the harm done, the degree of complicity and the company's co-operation with the SEC. The SEC Chairman indicated that the new framework is not intended to make it more or less likely that fines would be imposed.

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
1. Regulatory/Oversight	**Government/Regulators:** The State Council, The Securities Policy Committee of the State Council, the Ministry of Finance, State Economic and Trade Commission, China Securities Regulatory Commission (CSRC) www.csrc.gov.cn, China Banking Regulatory Commission (CBRC), China Insurance Regulatory Commisssion (CIRC) **Market**: Shanghai Stock Exchange, Shenzhen Stock Exchange	**Government/Regulators**: China Securities Regulatory Commission (CSRS) www.csrc.gov.cn, China Banking Regulatory Commission (CBRC), China Insurance Regulatory Commisssion (CIRC) **Market**: Shanghai Stock Exchange, Shenzhen Stock Exchange
1. Regulatory/Oversight (contd.)	**Division of responsibilities**: Pursuant to the "Memorandum of Understanding on Division of Responsibilities and Cooperation in Financial Supervision and Regulation among the CBRC, the CSRC and the CIRC", the supervision of financial business in China is coordinated between 3 supervisory agencies: the CSRC, the CBRC and the CIRC. The CSRC is responsible for the supervision and regulation of the national securities and futures markets in China. The CBRC is responsible for supervising and regulation of banks, financial asset management companies, trust investment companies and other deposit-taking financial institutions in China. The CIRC is responsible for supervising and regulating the insurance market in China. The supervision of a financial holding company follows this principles of separate supervision such that the supervision of the parent company is determined by reference to the nature of the company's principal business. The different subsidiaries of the financial holding company are under separate supervision according to the nature of each subsidiary's business activities.	
2. Authority (i.e Statutes, Rules, Guidelines)	**Securities & Futures**: The "Collection of Laws and Regulations of Securities and Futures of the People's Republic of China (2002)" compiled by the China Securities Regulatory Commission (CSRC) is comprised of 71 documents including: the laws and administrative regulations of securities and futures markets (The Securities Law of the People' Republic of China, Provisional Rule on the Administration of Equity Issuing and Trading, Provisional Rule on the Administrtion of Futures Trading and Circular of the General Office of the State Councilon the Functions, Internal Organization and Staffing of the China Securities Regulatory Commission), departmental regulations and regulatory documents issued by CSRC in 2002, 19 regulations and regulatory document issued by other state departments and commissions.	

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
2. Authority (i.e Statutes, Rules, Guidelines) (contd.)	**Other:** The Company Law of the People' Republic of China, Code of Corporate Governance for Listed Companies in China (issued 7 January, 2001). Provisional Code of Corporate Governance for Securities Companies (efffective 15 January, 2004). Preparation Criteria of Information Disclosure by Companies Offering Securities to the Public No. 18 - Specific Regulations on Information Disclosure by Commercial Banks	
3. Current Framework/ Key Features	The CSRC's principal functions include: • Formulating policies and strategies, drafting regulations, licensing and approvals or verifications • Regulating the offering, trading, custody and settlement of equities, convertible bonds, and securities investment funds, approving the listing of corporate bonds, and supervising trading activities listed government and corporate bonds • Regulating the listing, trading, and settlement of domestic futures contracts, and supervising domestic institutions engaged in overseas futures businesses • Supervising issuers of public offerings and their securities trading activities, listed companies, securities and futures exchanges; regulating the securities registrations and settlement companies and futures clearing houses; • Licensing and supervising securities and futures market intermediaries, securities investment fund management companies, securities and futures investment advisors, and credit rating agencies; supervising law firms, accounting firms, asset appraisal firms engaged in securities and futures intermediary businesses	The CSRC's role in the secondary market and beyond includes:• Supervising information disclosure in securities trading; regulating information dissemination in relation to securities and futures • compiling market statistics and resources management • Overseeing the activities of Securities Association of China and the Futures Association of China • Investigating and taking actions against violations of securities and futures laws, rules and regulations • responsibility for overseas liaison and international cooperation affairs in securities and futures industries
3. Current Framework/ Key Features (contd.)	• Supervising securities investment fund custodian business of financial institutions. • Formulating and implementing rules regarding the qualification and requirements of the employees and the administration of senior executives of securities and futures firms and securities investment management companies; formulating the qualification criteria and code of conduct for securities and futures practitioners, and to ensure their compliance; • Supervising the employees and senior executives of securities and futures exchanges and registration and clearing institutions • Supervising direct or indirect overseas offerings and listings by domestic enterprises; • Supervising overseas securities establishments by domestic institutions; and supervising the establishment of securities intermediaries and operations in China by overseas institutions	

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes	**E/Web communication**: From 2001, companies undertaking IPOs are required to conduct on-line road shows. On listing, financial statements, interim announcements and other relevant documentation of companies are required to be entirely disclosed on the websites of the stock exchanges. While the use of internet based disclosure has increased rapidly and resulted in an significant expansion of the amount of information disclosure, the CSRC Chairman (in a 2001 address to IOSCO) acknowldeged that the technological advances also amplify the risks in the market and present new challenges such as problems of data quality, reliability and the potential to use the internet to "disseminate misleading information, to provide false advice, defraud investors and manipulate the market". Further, asymmetries in infrastructure contribute to differentials in timeliness and inequality in accessiblity between internet and non-internet users.	**Corporate Governance disclosures**: The Code of Corporate Governance for Listed Companies in China (7 January 2001) requires that listed companies disclose information regarding its corporate governance in accordance with laws, regulations and other relevant rules, including but not limited to: 1) the members and structure of the board and supervisory board; 2) the performance and evaluation of the board of directors and the supervisory board; 3) the performance and evaluation of independent directors, including their attendance at board of directors' meetings, their issuance of independent opinions and their opinions regarding related party transactinos and appointments/removals of directors and senior management; 4) the composition and work of the speacilized committee of the board of directors; 5) the actual state of corporate governance of the company, the gap between the companys corporate governance and the Code, and the reasons for the gap; 6) specific plans and measures to improve corporate governance.
4. Recent developments & changes (contd.)	On 1 January 2006, amendments to the **Company Law of the People's Republic of China (1993)** by the Standing Committee of the National People's Congress made on 27 October, 2005 came into effect. These amendments to the Company Law - the backbone of corporate activities in China - are expected to have significant impact on (1) how companies in China can be capitalized, and on (2) how companies are governed. The specific and immediate consequences to these amendments are awaited.	**Governance disclosures (contd.)**: The Code of Corporate Governance for Listed Companies in China (7 January 2001) - Disclosure of Controlling Shareholders' interests: Companies are required to make timely detailed disclosure of information about each shareholder who owns a comparatively large % of shares of the company, the shareholders who actually control the company when acting in concert and the company's actual controllers in accordance with relevant regulations. Listed companies are to learn about and disclose in a timely manner, changes in the shareholding of the company and other important matters that may cause changes in the company shareholding. The company and its controlling shareholders are required to make timely and accurate disclosure of information to all shareholders when controlling shareholders increase or decrease their shareholding or pledge the company's shares, or when the actual control of the company is transferred.

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (contd.)	**New capitalization requirements under Company Law amendments**: The registered capital under Chinese law is the amount of capital that will be invested into a company, and which that company will use to run its operations. With the amendments, the minimum registered capital necessary to establish a company under Chinese law for limited liability companies has been reduced to RMB 30,000. Previously, the statutory minimum was fixed at RMB 500,000 if engaging in manufacturing or wholesale, RMB 300,000 in commercial retail, and RMB 100,000 in consulting activities. Installment contributions will be permitted within 2 years of the company's establishment, or 5 years if a holding company (Article 26) intended to attract smaller investors to enter the market, including foreign SMEs.The amendments also introduces the concept of one-shareholder companies. However, they are subject to a RMB 100,000 minimum registered capital, with further limitations to protect their counterparts from extensive risks (Article 59). The minimum registered capital of joint stock companies has been reduced from RMB 10 million to RMB 5 million. (Article 81)	**Governance disclosures** (contd.): The Code of Corporate Governance for Listed Companies in China (7 January 2001) requires that the board of directors and the supervisory board report (and disclose) to the shareholder meeting on the performance of the directors and the supervisors, the results of the assessment of their work and their compensation. The board of directors is required to approve the performance assessment for management which must be explained and disclosed at the shareholders' meetings. In terms of ongoing disclosure, the Code states that in addition to disclosing mandatory information, a company shall also voluntarily and in a timely fashion disclose all other information that may have a material effect on the decisions of shareholders and stakeholders, and shall ensure equal access to information for all shareholders. Companies are to ensure economical convenient and speedy access to information through means such as the Internet.
4. Recent developments & changes (contd.)	**Non-cash contributions under Company Law amendments:** Previously, non-cash investment for any companies could amount to a maximum of 20% of the total registered capital. Under the amended Company Law, contribution in cash must be at least 30% of a company's total registered capital, while the remaining 70% can be contributed in non-cash assets such as machinery and materials, intangible property (intellectual property rights) and land use rights. 3 (Article 27) (This change, as yet, will not be implemented for FIE's which will likely continue to be bound by the 20% the maximum). Investment by limited liability companies Before amendment and except for Holding Companies, the Company Law limited the investments of a company into one or more other companies to 50% of its net assets. The amended law no longer holds this limitation, but only requires a limited liability company to refrain from providing joint or several guarantees for debt of its invested companies. (Article 15)	**Provisional Code of Corporate Governance for Securities Companies in China** (15 January 2004) immediate in writing notification of shareholders is required where: 1) the company or senior management is suspected of being involved in major illegal activities; 2) the company's financial status continues to deteriorate, which is not consistent with the standards prescribed by the CSRC; 3) the company has incurred heavy losses; 4) the company proposed to change the chairman of the board of directors, chief supervisors or general manager; 5) the occurrence of emergencies poses unfavourable effect on the interests of the company and clients; 6) other events may affect the company's going concern.

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (contd.)	**Corporate governance - A number** of the **Company Law amendments** are designed to enhance corporate governance using a two-pronged approach: strengthening the rights and obligations of shareholders, and making amendments to the functioning of a company's Board of Directors. **Shareholder obligations:** One important amendment is the inclusion of a rule on "piercing the corporate veil". Where a shareholder of the company abuses the latter's independent status and uses its own limited liability towards that company to evade debts, thereby seriously harming a creditor's interests, the shareholder shall be held jointly and severally liable for such debts. (Article 20) Furthermore, shareholders and other senior persons of a company, including directors, supervisors and senior managers, are prohibited from using affiliated relationships to cause damages to the company. (Article 21)	
4. Recent developments & changes (contd.)	**Shareholder rights pursuant to Company Law amendments**: Besides existing rights to consult the minutes of shareholder's meetings and financial/accounting reports of the company, the shareholder of a limited liability company has now also been given the right to copy these minutes and financial reports, to copy and consult the minutes of meetings of the Board of Directors and the Board of Supervisors, and to request for consulting the account books. (Article 34) Minority shareholders rights have been strengthened. For example, minority shareholders may request the company buy back their shares at a reasonable price where majority shareholders vote against distribution of profits in cases where a limited liability records profits for five consecutive years and meets other legal conditions for distributing profits (Article 75).	
4. Recent developments & changes (contd.)	**Shareholder rights pursuant to Company Law amendments (contd.)**: Where a company is in serious operational difficulty and its continued existence is causing major loss to the interests of the shareholders, and if no alternative exists, then shareholders with 10% or more voting power may apply to the competent people's court for dissolution of the company (Article 183). This is designed to ensure that even minority shareholders can break a deadlock.	

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
4. Recent developments & changes (contd.)	**Company Law amendments - Functioning of the Board of Directors**: After the shareholder's meeting, the Board of Directors is the highest decision-making organ of a company. While the directors individually are appointed by the investors, they should represent the company's interests and not those of shareholder(s). Normally, the Board Chairman calls board meetings, but if he fails to do so the vice-Chair or a director elected by more than half the directors may convene such a meeting. (Article 48) Under the amendedmets, the stipulation that the Chairman was automatically the legal representative of the company has been omitted. This allows others such as a managing director or manager to serve as the legal representative (Article 13). This reduces the considerable potential for the Chair to influence the company's operations and gives investors a new option to balance power.	
4. Recent developments & changes (contd.)	The Company Law is strictly applicable to Chinese-invested companies, it is only applicable to foreign-invested enterprises (FIE's) in so far as it does not contradict special provisions of the Law of the People's Republic of China on Wholly Foreign-owned Enterprises (WFOE's), the Law of the People's Republic of China on Equity Joint Ventures (EJV's), the Law of the People's Republic of China on Contractual Joint Ventures (CJV's), and their implementing rules. In the future, these laws and rules are likely to be amended or abolished in light of China's commitments when acceding to the WTO to give equal treatment to foreign and Chinese investors. In terms of foreign Investors, questions include whether they can rely on the provisions of new Company law, whether they will be allowed to establish companies with the new minimum in registered capital, and when non-cash capital contributions in foreign-invested will companies be allowed to reach 70%. Other issues include how courts will deal with lawsuits from (minority) shareholders.	
4. Recent developments & changes (contd.)	The "Preparation Criteria of Information Disclosure by Companies Offering Securities to the Public No. 18 - Specific Regulations on Information Disclosure by Commercial Banks" outlines specific detailed disclosure requirements for commercial banks with respect to the offering of securities to the public and ongoing disclosure.	

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
5. Mechanisms/ Procedures	**Regulatory focus**: CSRC put its emphasis on 3 aspects: strengthening the supervision of disclosing information in the listed companies; making efforts to increase frontline supervision on the market by establishing inspection substations in nine regulatory securities offices throughout the country; improving the securities market supervisory system and putting strict restrictions and administering punishments on illegal issues like manipulating stock prices and malicious speculation. Investigation, handling and enforcement of cases of securities wrongdoing and fraud has been made more difficult with the advent of internet technology, domestically and with respect to cross border financial activity. The CRSC has acknowledged the imprtance of enforcement officers receiving continous updating to IT and technology methods to enable them to monitor activity and the nature of information disclosed and otherwise disseminated. It has set up an IT committee to coordinate activities across departments.	
5. Mechanisms/ Procedures (contd.)	3 categories of disclosure exist under Chinese Securities Law: listing documents, continuous disclosure after listing, and important events that may affect share prices. **Listing disclosure** requires companies to provide certain documents to regulating bodies and the public when registering to issue stock publicly. Companies must provide the following documents to the CSRC: a listing report, a resolution passed at the shareholders' meeting concerning the listing application, the company's articles of association, the company's business license, financial reports from the previous three years or since establishment, a legal opinion and recommendation from a securities company, and the most recent prospectus. After the securities exchange agrees to list the company, the company must make documents related to the approved share listing available for public inspection five days prior to listing. The Securities Law is intended to correspond to the Company Law	CSRC regulations include provisions for **continuous disclosure** of company information through semiannual, annual, and material event reports. Companies with publicly traded stocks must release semiannual reports within 2 months after the first half of every fiscal year. Information that companies should submit to the State Council regulators and the stock exchange includes: the financial reports and business situation, major litigation involving the company, the particulars of any changes in the shares or corporate bonds already issued, any major matters submitted for consideration by the shareholders' general meeting, and other matters as required by the State Council's regulatory authority. Within 4 months of the end of the fiscal year, companies must submit an annual report to State Council regulators and the stock exchange.

Jurisdiction:	China	
	Primary Market	**Secondary Market (Continuous disclosure)**
5. Mechanisms/ Procedures (contd.)	CSRC regulations on listing disclosure requirements go beyond those of the Securities and Company Law in their breadth and specificity. In particular, CSRC regulations dictate required content and form of the prospectus. They also specify numerous types of information to be included in the main text of the prospectus, e.g.: company background, information related to the public offering, financial statistics, the interpretation section, the names of relevant parties in the issue, the investment risks, an explanation of how the capital is to be utilized, the policies on the allocation of share interests, an abstract of the company articles, information regarding the issuer's directors, advisors, and high-level managers, past company performance, an asset valuer's report, financial and accounting information, litigation involving the company, verification of other investments, and development plans. The Securities Law requires a company to make a listing announcement prior to the public issue. CSRC regulations promulgated prior to the Securities Law, prescribe the content and form of the listing announcement	The CSRC has announced administrative regulations regarding annual reports in recent years, which, like the requirement for documents required to issue shares, are more detailed than provisions in the Securities Law. The CRSC rule stipulates the form and content of annual reports. Some of the required information includes: an introduction of the company; a summary of accounting and business statistics; changes in the shareholding of the company; a brief overview of shareholding; a report from the directors and advisors; a business report; a report on the company's financial situation; a financial statement; a report on the use of capital; and major events.
5. Mechanisms/ Procedures (contd.)		**Material event**: Securities Law requires a company to disclose any material event that may affect the price of the stock and give an explanation of the event to CSRC and the stock exchange. 11 types of material event are listed: a major change in the business policies or scope of business; decisions regarding a major investment or capital purchase; an important contract signed by the company that may have a substantial impact on the assets, liability, rights, interests, and performance of the company; any incurrence by the company of a major debt or default on a major debt; any incurrence by the company of a major loss exceeding 10% of the net capital of the company; any major change in the external production or business conditions of the company; any change in the board chairman, more than 1/3 of the directors, or the manager of the company; any relatively major change in the shareholding of a 5% or more shareholder; any company decisions to reduce capital, merge, divide,dissolve the company or file for bankruptcy; major litigation involving the company or Court overturned company decision.
6. Remedies/ Penalties	**Shareholder rights of action pursuant to Company Law amendments (contd.)**: Shareholders may file a lawsuit to revoke any resolution made at a board of directors or shareholders meeting if the convening procedures or voting methods used in such a meeting, or the contents of the resolution violates the law or the company's articles of association. (Article 22) A shareholder can also file a lawsuit, in the company's name or in its own name, against directors, supervisors or company management for job-related acts that violate the law or the company's articles of association and cause damages to the company, or against 3rd parties for acts that cause damage to the company (Article 152). For damage to the shareholder's own interests by non-job related acts of directors or managers in violation of laws, regulations or the company's articles of association, the shareholder has the right to sue such persons. (Article 153)	