April 16, 2012

Checklist for Form 20-F Filers

As non-U.S. SEC reporting companies prepare their annual disclosure to be included in their Annual Reports on Form 20-F, it is important to review relevant changes since the prior year's Annual Report was prepared. To assist reporting companies, we have prepared the following checklist of items, and also note certain items that are pending and are subject to final rulemaking. Note that for Annual Reports for fiscal years ended on or after December 15, 2011, the deadline for filing is four months after year-end.

XBRL Filing Deadlines

Unless required earlier, all foreign private issuers that prepare their financial statements in accordance with U.S. GAAP must include interactive data in the form of an additional exhibit in their annual reports on Form 20-F for fiscal periods ended on or after June 15, 2011. The SEC has published guidance on the eXtensible Business Reporting Language (XBRL) filing requirements, including those relating to "tagging" notes and schedules to financial statements, at http://xbrl.sec.gov/.

In April 2011, the SEC issued a letter stating that foreign private issuers that prepare their financial statements in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board ("IFRS") need not file XBRL exhibits until the SEC specifies a taxonomy for use by such foreign private issuers. As of the date of this memorandum, the SEC has not specified an XBRL taxonomy for IFRS-reporting issuers. The SEC's letter can be found at http://www.sec.gov/divisions/corpfin/cf-noaction/2011/caq040811.htm.

Similarly, foreign private issuers that prepare their financial statements in accordance with accounting standards other than U.S. GAAP or IFRS and reconcile to U.S. GAAP will not be required to file XBRL exhibits.

Requirement for Item 18 Reconciliation

For fiscal years ended on or after December 15, 2011, the SEC has eliminated the accommodation provided in Item 17 of Form 20-F that allows a foreign private issuer to report under home country GAAP and reconcile its home country GAAP financial statements to U.S. GAAP without providing the extensive footnote disclosure required by Item 18 of Form 20-F. As a result, except in certain limited cases, foreign private issuers reporting under home country GAAP, other than those preparing financial statements under IFRS, are required to provide a reconciliation that includes the footnote disclosures required by U.S. GAAP and Regulation S-X for fiscal years ended on or after December 15, 2011. Under Item 18 of Form 20-F, companies in the oil and gas industries are subject to additional disclosure requirements relating to reporting of their oil and gas reserves. For more information on the elimination of the Item 17 accommodations, see our memorandum at

http://www.paulweiss.com/files/Publication/4d2d84c4-1eab-442b-bafa-0358b820d5ce/Presentation/PublicationAttachment/7015d696-42aa-4c7c-8e59-0406d826ebca/30Sep08FIRE.pdf.

Dodd-Frank Mine Safety Disclosure Requirements

The SEC has adopted new rules outlining how mining companies are to disclose the information required by Section 1503 of the Dodd-Frank Act relating to mine safety and health in annual reports and other periodic reports filed with the SEC. Generally, Section 1503 requires non-U.S. as well as U.S. SEC-reporting companies that own or operate, or have a subsidiary that operates, a coal or other mine located in the United States to disclose information regarding specific health and safety violations, orders and citations, related assessments, legal actions and mining-related fatalities at such U.S. mines. The new SEC rules are effective. For more information on the new rules, see our memorandum at http://www.paulweiss.com/files/upload/23Dec11DF.pdf.

Cyber Security Disclosure Guidance

In October 2011, the SEC staff issued written guidance regarding disclosure obligations with respect to cyber security matters to assist companies in preparing their disclosures. The guidance directs companies to disclose cyber security issues or cyber security risks if they pose significant risks or if they have, or are reasonably likely to have, a material effect on them. Companies should consider the impact of any cyber attack on their ability to record and collect information, and possible impact on their disclosure controls and procedures. Companies, however, should avoid generic disclosure that could apply to any company, and tailor the disclosure to their particular circumstances. For more information regarding the cyber security disclosure, see our memorandum at http://www.paulweiss.com/files/Publication/3f7fce63-2443-4437-8984-7e7e93642f9a/Presentation/PublicationAttachment/668ffaf3-2f4c-4098-9b4c-80c55f53d0ad/19-Oct-11SEC.pdf.

Disclosure Relating to European Debt Exposures

In light of the ongoing sovereign debt crisis in Europe and concerns over the divergent disclosures made by financial institutions relating to their exposures to European countries, the SEC staff issued guidance to assist financial institutions in preparing their disclosure regarding European debt exposures. The guidance encourages financial institutions to provide (1) disclosures separately by country, segregated between sovereign and non-sovereign exposures, and by financial statement category, to arrive at gross funded exposure, (2) disclosure of the gross unfunded commitments made and (3) information regarding hedges in order to present an amount of net funded exposure. The disclosure guidance also reminds financial institutions of the requirement to provide disclosure regarding risks, including risk factors and market risk, and to avoid generic "boilerplate" disclosure and instead provide disclosures that are tailored to their particular facts and circumstances. For more information about factors that should be considered by financial institutions in determining the relevant and appropriate disclosure, see the SEC's disclosure guidance available at http://www.sec.gov/divisions/corpfin/guidance/cfguidance-topic4.htm.

Disclosure Relating to Activities in or with Iran

In July 2010, the U.S. Comprehensive Iran Sanctions, Accountability and Divestment Act became effective, providing for additional sanctions against the Islamic Republic of Iran and companies and individuals doing business with Iran. Since then, the U.S. government has implemented additional measures designed to limit economic and financial transactions with Iran. For example, in November 2011, the U.S. government issued an executive order to impose additional restrictions on such transactions, and designated Iran as a "primary money-laundering concern." In addition, the U.S. National Defense Authorization Act was enacted in December 2011, further restricting transactions with Iran. The SEC's Office of Global Security Risk is responsible for commenting on disclosures in SEC reports that describe business activities in or with Iran and other countries designated by the U.S. Department of State as State Sponsors of Terrorism.

Updated Financial Reporting Manual

On April 13, 2012, the SEC's Division of Corporation Finance published an updated Financial Reporting Manual, which is available at http://www.sec.gov/divisions/corpfin/cffinancialreportingmanual.pdf.

Modifications to SEC Review and Comment Process

Starting in January 2012, the SEC staff publicly release through the EDGAR system comment letters and response letters relating to disclosure filings reviewed by the Divisions of Corporation Finance and Investment Management "no earlier than 20 business days following the completion of a filing review." Previously, the SEC staff's stated goal was to release such correspondence no earlier than 45 days after the review of the disclosure filing is complete. For the SEC staff's announcement, see http://www.sec.gov/divisions/corpfin/cfannouncements/edgarcorrespondence.htm.

In addition, the SEC staff generally send their comment letters to companies *via* email and no longer send hard copies. Accordingly, companies should confirm that their contact information is up-to-date through the SEC's filing website at https://www.edgarfiling.sec.gov/.

Annual NYSE Letter to Foreign Private Issuers

On February 16, 2012, the New York Stock Exchange ("NYSE") published its annual letter to listed foreign private issuers summarizing their obligations regarding notifications to and filings with the NYSE. The letter is available at http://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_fpi_letter_-2012-_final.pdf.

A Reminder Regarding Statements of Opinion

In August 2011, the Court of Appeals for the Second Circuit in *Fait v. Regions Financial Corp.*, No. 10-2311-cv (2d Cir. Aug. 23, 2011) held that when statements are matters of opinion and not based on fact, a plaintiff alleging violations under the U.S. Securities Act of 1933 must plead either that the defendant did not believe the statements were true at the time they were made or that the statements were worded as guarantees. In determining whether statements

were matters of opinion, the Court of Appeals focused on whether certain financial figures reflected management's opinion or judgment rather than strictly objective criteria, and whether certain estimates were subjective.

In light of the *Fait* decision, to the extent statements are opinions, companies should try to emphasize in their disclosure wordings that the statements are based on opinions and are not guarantees. For more information regarding this matter, see our memorandum available at http://www.paulweiss.com/files/Publication/6f19643c-7182-4c70-a093-33c207c1b15a/Presentation/PublicationAttachment/eb886089-ca0f-40ee-98cd-5d34c0dc017d/26Aug11_Fait.pdf.

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SEC rule-making under the Dodd-Frank Act continued during 2011. The SEC has proposed or adopted more than three-fourths of the rules for which the SEC is responsible under the Act. The SEC publishes a status report on its Dodd-Frank Act rule-making on its website at http://www.sec.gov/spotlight/dodd-frank.shtml. The following is a summary of some of the proposed disclosure rules that foreign private issuers should consider when preparing annual reports on Form 20-F for fiscal 2011.

Proposed Requirements Relating to Compensation Committees

In March 2011, the SEC proposed rules that impose new compensation committee independence and other requirements and new disclosure requirements regarding compensation consultants. The proposed rules (1) direct the national securities exchanges to adopt certain listing standards related to the compensation committee of a company's board of directors, as well as its compensation advisers, and (2) require disclosure from companies concerning their use of compensation consultants and conflicts of interest. Under the proposed rules, foreign private issuers are expected to be exempt from the compensation committee independence requirements so long as they disclose in their respective annual reports the reasons for not having an independent compensation committee. The proposed rules relating to compensation consultants are expected to not apply to foreign private issuers (because they are not subject to the SEC's rules governing proxy statements). The SEC currently estimates that final rules will be adopted before June 2012. The proposed SEC rules are available at http://sec.gov/rules/proposed/2011/33-9199.pdf.

Proposed Disclosure Requirement Relating to Governmental Payments by Resource Extraction Companies

The Dodd-Frank Act requires disclosure of certain payments by SEC-reporting resource extraction companies to U.S. and non-U.S. governments for the commercial development of oil, natural gas and minerals, including taxes, royalties, fees, production entitlements, bonuses and other material benefits. In December 2010, the SEC published proposed rules to implement the relevant Dodd-Frank Act provision. The SEC currently expects that final rules will be adopted before June 2012. For a discussion of the proposed rules, see our memorandum available at http://www.paulweiss.com/files/upload/10Jan11Payments.pdf.

Proposed Disclosure Requirement Relating to Conflict Minerals

The Dodd-Frank Act also requires SEC-reporting companies to disclose annually whether "conflict minerals" that are necessary to the functionality or production of their products originated in the Democratic Republic of Congo ("DRC") or an adjoining country. If a company determines that conflict minerals used in its products originate in the DRC or an adjoining country, it will need to disclose additional information in an independently audited report, which must also be published on the company's website. In December 2010, the SEC published proposed rules to implement the relevant Dodd-Frank Act provision. The SEC currently expects that final rules will be adopted before June 2012. For a discussion of the Dodd-Frank Act requirement, see our memorandum available at http://www.paulweiss.com/files/Publication/fbac9245-3b84-4ff5-8a93-98302bf4fe13/Presentation/PublicationAttachment/77e0762f-5660-4a2b-a1dd-9956a1c190d0/27Sep10CM.pdf.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Any questions concerning the issues addressed in this alert may be directed to any of the following:

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