Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities

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of 28 May 2001

on the admission of securities to official stock exchange listing and on information to be published on those securities

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 44 and 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the Economic and Social Committee(1),

Acting in accordance with the procedure laid down in Article 251 of the Treaty(2),

Whereas:

(1) Council Directive 79/279/EEC of 5 March 1979 coordinating the conditions for the admission of securities to official stock exchange listing(3), Council Directive 80/390/EEC of 17 March 1980 coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing(4), Council Directive 82/121/EEC of 15 February 1982 on information to be published on a regular basis by companies the shares of which have been admitted to official stock-exchange listing(5) and Council Directive 88/627/EEC of 12 December1988 on the information to be published when a major holding in a listed company is acquired or disposed of(6) have been substantially amended several times. In the interests of clarity and rationality, the said Directives should therefore be codified by grouping them together in a single text.

(2) The coordination of the conditions for the admission of securities to official listing on stock exchanges situated or operating in the Member States is likely to provide equivalent protection for investors at Community level, because of the more uniform guarantees offered to investors in the various Member States, it will facilitate both the admission to official stock exchange listing, in each such State, of securities from other Member States and the listing of any given security on a number of stock exchanges in the Community; it will accordingly make for greater interpenetration of national securities markets by removing those obstacles that may prudently be removed and therefore contribute to the prospect of establishing a European capital market.

(3) Such coordination must therefore apply to securities, independently of the legal status of their issuers, and must therefore also apply to securities issued by non-member States or their regional or local authorities or international public bodies; this Directive therefore covers entities not covered by the second paragraph of Article 48 of the Treaty.

(4) There should be the possibility of a right to apply to the courts against decisions by the competent national authorities in respect of the application of this Directive, concerning the admission of securities to official listing, although such right to apply must not be allowed to restrict the discretion of these authorities.

(5) Initially, this coordination of the conditions for admission of securities to official listing should be sufficiently flexible to enable account to be taken of present differences in the structures of securities markets in the Member States and to enable the Member States to take account of any specific situations with which they may be confronted.

(6) For this reason, coordination should first be limited to the establishment of minimum conditions for the admission of securities to official listing on stock exchanges situated or operating in the Member States, without however giving issuers any right to listing.

(7) This partial coordination of the conditions for admission to official listing constitutes a first step towards subsequent closer alignment of the rules of Member States in this field.

(8) The market in which undertakings operate has been enlarged to embrace the whole Community and this enlargement involves a corresponding increase in their financial requirements and extension of the capital markets on which they must call to satisfy them; admission to official listing on stock exchanges of Member States of securities issued by undertakings constitutes an important means of access to these capital markets; furthermore exchange restrictions on the purchase of securities traded on the stock exchanges of another Member State have been eliminated as part of the liberalisation of capital movements.

(9) Safeguards for the protection of the interests of actual and potential investors are required in most Member States of undertakings offering their securities to the public, either at the time of their offer or of their admission to official stock exchange listing; such safeguards require the provision of information which is sufficient and as objective as possible concerning the financial circumstances of the issuer and particulars of the securities for which admission to official listing is requested; the form under which this information is required usually consists of the publication of listing particulars.

(10) The safeguards required differ from Member State to Member State, both as regards the contents and the layout of the listing particulars and the efficacy, methods and timing of the check on the information given therein; the effect of these differences is not only to make it more difficult for undertakings to obtain admission of securities to official listing on stock exchanges of several Member States but also to hinder the acquisition by investors residing in one Member State of securities listed on stock exchanges of other Member States and thus to inhibit the financing of the undertakings and investment throughout the Community.

(11) These differences should be eliminated by coordinating the rules and regulations without necessarily making them completely uniform, in order to achieve an adequate degree of equivalence in the safeguards required in each Member State to ensure the provision of information which is sufficient and as objective as possible for actual or potential security holders.

(12) Such coordination must apply to securities independently of the legal status of the issuing undertaking; this Directive applies to entities to which no reference is made in the second paragraph of Article 48 of the Treaty.