II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

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

(82/121/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 54 (3) (g) and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas 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) seeks to ensure improved protection of investors and a greater degree of equivalence in the protection provided, by coordinating requirements as to the information to be published at the time of admission ;

Whereas, in the case of securities admitted to official stock-exchange listing, the protection of investors requires that the latter be supplied with appropriate regular information throughout the entire period during which the securities are listed ; whereas coordination of requirements for this regular information has similar objectives to those envisaged for the listing particulars, namely to improve such protection and to make it more equivalent, to facilitate the listing of these securities on more than one stock exchange in the Community, and in so doing to contribute towards the establishment of a genuine Community capital market by permitting a fuller interpenetration of securities markets ;

Whereas, under Council Directive 79/279/EEC of 5 March 1979 coordinating the conditions for the admission of securities to official stock-exchange listing (5), listed companies must as soon as possible make available to investors their annual accounts and report giving information on the company for the whole of the financial year ; whereas the fourth Directive 78/660/EEC (6) has coordinated the laws, regulations and administrative provisions of the Member States concerning the annual accounts of certain types of companies ;

Whereas companies should also, at least once during each financial year, make available to investors reports on their activities ; whereas this Directive can, consequently, be confined to coordinating the content and distribution of a single report covering the first six months of the financial year ;

Whereas, however, in the case of ordinary debentures, because of the rights they confer on their holders, the protection of investors by means of the publication of a half-yearly report is not essential ; whereas, by virtue

(1) OJ No C 29, 1. 2. 1979, p. 5 and OJ No C 210, 16. 8. 1980, p. 5.
(2) OJ No C 85, 8. 4. 1980, p. 69.
(3) OJ No C 53, 3. 3. 1980, p. 54.
(4) OJ No L 100, 17. 4. 1980, p. 1.
(5) OJ No L 66, 16. 3. 1979, p. 21.
(6) OJ No L 222, 14. 8. 1978, p. 11.

of Directive 79/279/EEC, convertible or exchangeable debentures and debentures with warrants may be admitted to official listing only if the related shares are already listed on the same stock exchange or on another regulated, regularly operating, recognized open market or are so admitted simultaneously ; whereas the Member States may derogate from this principle only if their competent authorities are satisfied that holders have at their disposal all the information necessary to form an opinion concerning the value of the shares to which these debentures relate ; whereas, consequently, regular information needs to be coordinated only for companies whose shares are admitted to official stock-exchange listing ;

Whereas the half-yearly report must enable investors to make an informed appraisal of the general development of the company's activities during the period covered by the report ; whereas, however, this report need contain only the essential details on the financial position and general progress of the business of the company in question ;

Whereas, in order to take account of difficulties resulting from the current state of laws in certain Member States, companies may be allowed a longer period to implement the provisions of this Directive than that laid down for the adaptation of national laws ;

Whereas, so as to ensure the effective protection of investors and the proper operation of stock exchanges, the rules relating to regular information to be published by companies, the shares of which are admitted to official stock-exchange listing within the Community, should apply not only to companies from Member States, but also to companies from non-member countries

HAS ADOPTED THIS DIRECTIVE :

SECTION I

General provisions and scope

Article 1

1. This Directive shall apply to companies the shares of which are admitted to official listing on a stock exchange situated or operating in a Member State, whether the admission is of the shares themselves or of certificates representing them and whether such admission precedes or follows the date on which this Directive enters into force.

2. This Directive shall not, however, apply to investment companies other than those of the closed-end type.

For the purposes of this Directive 'investment companies other than those of the closed-end type' shall mean investment companies :

— the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk spreading, and

— the shares of which are, at the holders' request, repurchased or redeemed, directly or indirectly, out of those companies' assets. Action taken by such companies to ensure that the stock-exchange value of their shares does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption.

3. The Member States may exclude central banks from the scope of this Directive.

Article 2

The Member States shall ensure that the companies publish half-yearly reports on their activities and profits and losses during the first six months of each financial year.

Article 3

The Member States may subject companies to obligations more stringent than those provided for by this Directive or to additional obligations, provided that they apply generally to all companies or to all companies of a given class.

SECTION II

Publication and contents of the half-yearly report

Article 4

1. The half-yearly report shall be published within four months of the end of the relevant six-month period.

2. In exceptional, duly substantiated cases, the competent authorities shall be permitted to extend the time limit for publication.

Article 5

1. The half-yearly report shall consist of figures and an explanatory statement relating to the company's activities and profits and losses during the relevant six-month period.

2. The figures, presented in table form, shall indicate at least :

— the net turnover, and

— the profit or loss before or after deduction of tax.

These terms shall have the same meanings as in the Council Directives on company accounts.

3. The Member States may allow the competent authorities to authorize companies, exceptionally and on a case-by-case basis, to supply estimated figures for profits and losses, provided that the shares of each such company are listed officially in only one Member