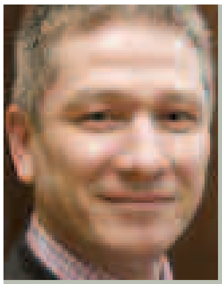
IN BRIEF

Conflicts of interest in securities offerings are under review by the International Organization of Securities Commissions (IOSCO). It is consulting on situations that may cause a conflict for market intermediaries, and considering the processes that should be in place to address these. Examples given include where an intermediary advises on a particular funding mechanism and has an interest in a route that generates fees for itself; where an intermediary underprices an issue to increase demand and maximise its own fees or allows its own proprietary trading desk to purchase the securities; where allocations are decided so as to favour particular clients, and so on. If nothing else, the IOSCO paper serves as a reminder for issuers and investors to be suitably alert to the issues. The ACT welcomes any feedback on market experiences or concerns.

An exposure draft of a statement on half-yearly financial reports has been published by the Accounting Standards Board (ASB). It is designed to provide guidance for any UK or Irish entities that are required or voluntarily choose to prepare half-yearly financial reports. This updates the ASB's 1997 interim reports statement, in particular following the implementation in the UK of the EU Transparency Directive through the Financial Services Authority's disclosure and transparency rules.

A review of narrative reporting by UK listed companies has been published by the ASB. It identifies areas where there could be improvements, including the description of the principal risks and uncertainties which should go beyond mere lists; identifying suitable key performance indicators; the description of the resources available to the entity, including intangibles such as brands; and the forward-looking information. This latter point could become even more important when the directors' duties and business review elements of the Companies Act 2006 come into force, which is expected to be 1 October 2007 and for periods starting after that.

Additional disclosures about liquidity were discussed at the IASB board meeting in February 2007. As part of the ongoing work on financial statement presentation, staff were asked to explore the notion of solvency; information about its liquidity management policy and processes; and additional disclosures on maturities of long and short-term assets and liabilities; and to note any differences from the existing IFRS 7 requirements.



INTRODUCTION

By Peter Matza
ACT Policy and Technical Officer

In a similar vein to last month's introduction, it is perhaps a good moment to re-introduce ACT members to the ACT's Policy and Technical Committee. The committee meets in person or by teleconference every six weeks or so to consider matters, well, technical, in the areas of treasury, risk and corporate finance.

The members of the committee, drawn from corporate treasurers and other finance professionals, offer guidance to the ACT staff team on the development of policy and technical issues that may affect ACT members and their employers, identify new technical issues which may be addressed by other ACT committees, and participate in representations of the ACT to governmental, regulatory, industry and other bodies. The committee welcomes new corporate treasurer members who wish to contribute to providing thought leadership for the profession.

Private equity comes under the microscope

With the various regulatory and industry bodies announcing independent initiatives to assess the impact of private equity on commercial and business activity, the field has suddenly become very crowded. The ACT Policy and Technical team is tracking the debate and where appropriate will participate in any public consultations.

■ The ACT has responded to the FSA discussion paper *Private Equity: A discussion of risk and regulatory engagement*. The paper is the culmination of a programme designed to assess whether the FSA's current approach to the regulation of private equity is appropriate. In its response, the ACT agreed with the FSA's identification of the principal risks and mitigation factors and in general supports the steps it is considering to ensure effective and proportionate regulation. The ACT argued that any developments in regulatory oversight should be as near as possible to existing FSA practice in regulating financial markets irrespective of their particular nature; therefore there is no need for a separate private equity regulatory regime. The FSA is currently reviewing the results of this consultation process. The FSA discussion paper and the ACT's response are available at: **www.treasurers.org/technical/papers/regulations.cfm**

■ The International Organization of Securities Commissions (IOSCO) is conducting a preliminary review to assess whether private equity is subject to sufficient regulatory overview. Much like the FSA, IOSCO has to consider issues that might affect participants in financial markets and, on this issue, the linkages between private equity and the public capital markets. This is especially relevant where excess leverage and potential default could disrupt financial market stability. More information at: **www.iosco.org/library/pubdocs/pdf/IOSCOPD239.pdf**

■ The British Venture Capital Association (BVCA) has set up a working party under the chairmanship of Sir David Walker to consider issues of transparency and disclosure. The intention is to draw up a voluntary code on a 'comply or explain' basis to address the transparency of the industry and levels of disclosure. The working group will recognise the very different types of investment and issues relating to different segments of the industry from startup financing to large buyouts. It will also take account of the size of the portfolio of companies concerned. It is not yet clear if the working party will opt for wider public consultation. See: **www.bvca.co.uk/**

■ The Treasury Select Committee also intends to undertake an enquiry into private equity funds. The committee will be seeking evidence on the regulatory environment, the taxation regime and the economic context. The ACT is considering a response. As usual, members' views would be appreciated.

See page 24, The big bad wolf. ■

Aaa bank furore

Credit rating agency Moody's has surprised the market by announcing a change of approach that has rerated dozens of banks as Aaa. The Icelandic bank Landisbanki Islands, for example, has been upgraded from A2 to Aaa. There is a logic and explanation for the changes but it requires an understanding of what risks each type of rating is designed to evaluate.

What has happened is that Moody's has incorporated a joint-default analysis (JDA) into its new rating methodology for banks.

The JDA methodology incorporates external sources of credit strength into the issuer and obligation ratings – in other words, is there some form of implied support from national or regional governments or from co-operatives or industry support groups and the like?

Governments may provide support directly via guarantees or through provision of emergency liquidity. They can also be a source of risk for bank depositors in that during times of crisis or market panic they may impose a deposit freeze or forced redenomination. This is factored in with a local currency deposit ceiling.

The JDA framework takes a sequential look at the sources of support and evaluates a willingness (or probability) of support combined with the capacity to support the issuer (or supporter's own credit strength). Allowance must also be made for the degree of dependence between issuer and supporter since the two parties will often share risk factors. These external factors are combined with the bank's standalone or intrinsic bank financial strength rating (BFSR) to arrive at the new currency deposit and debt ratings.

Moody's introduced BFSRs in 1995 but they have not been that visible or widely used, although they are the crucial first step in the rating process. BFSRs do not address the probability of default or loss given default, but measure the bank's intrinsic safety and soundness on an entity-specific basis. They are assigned to banks and not specific debt issues and measure the likelihood that a bank will require assistance from third parties.

To differentiate them from deposit or debt ratings, Moody's uses a scale from A to E with some +/- modifiers. As part of the new JDA approach, the BFSRs will be mapped into a baseline risk assessment which uses the conventional Aaa, Aa1… scale. This becomes the input into the JDA model, which will incorporate the external support elements to arrive at the local currency deposit and debt ratings.

Although the aim is to make the potential for support more transparent in the credit rating, many have been puzzled and confused. Often the external support is no more than implied, so its value is questionable, although through this process Moody's is using its expertise to give an opinion of that support, which could be helpful.

However if most leading banks have Aaa ratings some fundamental information as to the gradation of risk is lost. The implication is that many users of ratings will want to pay more attention to the BFSR than previously. This leaves treasurers having to hope that Moody's will give suitable prominence to the BFSR in all its public access information.

Although Moody's consulted with the market over its proposals for assigning BFSRs and incorporating the JDA, the outcome has still generated a backlash. Moody's is now looking at refinements to avoid an over-rigorous approach that gives results inconsistent with expectations.

An urgent review of company policy on counterparty limits would be in order. ■

Ratings one-upmanship?

Regulators and standards bodies are sending out mixed messages on the credit rating agencies.

On the one hand, the International Organization of Securities Commissions (IOSCO) has reported on the adoption of its code of conduct by the credit rating agencies and concluded that takeup and compliance is generally good.

On the other hand, the US Securities and Exchange Commission (SEC) has published its draft rules under the US Credit Rating Agency Reform Act 2006, which seem to head down the road of excessive interference with the independence and competitive position of the agencies in an area where there is no obvious market failure that needs addressing.

At the same time the German standards organisation DIN is proposing the creation of an international ISO standard for credit rating processes, again creating quasi-regulation apparently for the sake of it and covering much the same ground already dealt with by the IOSCO code for rating agencies.

The ACT has responded to both the SEC and the DIN expressing the view that new regulation and standardisation is unnecessary. ■

IN BRIEF

Electronic communications with shareholders is the subject of a new guidance note from the Institute of Chartered Secretaries and Administrators, given that the Companies Act 2006 allows wider use of electronic and website communications with shareholders.

Working with the European Union: A practical guide is a 52-page explanation of the EU from the DTI. It covers EU organisational structures and law-making processes, offers a glossary of terms and includes details of the numerous funding programmes available, along with contacts and useful cross-references to other organisations. See **www.dti.gov.uk/files/file31941.pdf**

The High Court has found that there were **no implied representations in an information memorandum** for a syndicated finance facility. In a memorandum the facility's investment bank stated that it had had not verified the information and took no responsibility, and the court upheld this. The only implied representation was that the bank was not knowingly putting forward misleading information. The bank did not know the information was misleading, so had no duty to investigate further. Case: IFE Fund SA v Goldman Sachs International [2006] EWHC 2887 (Comm).

The **ABI's responsible investment disclosure guidelines** have been revised and republished. They still call on boards of companies to confirm they have assessed and are managing environmental, social and governance risks, but now with an additional focus on forward-looking information. Recommendations include establishing a clear policy for risk management, publishing KPIs and a breakdown by business segment where appropriate, and describing how they actually handle environmental, social and governance risks of particular significance to the business.

A roundtable discussion on the new UK faster payments process will be held at the ACT office over lunchtime on 19 April for corporates. From November 2007 faster payments will create a near-real-time e-payment mechanism suitable for lower value or bulk payments. The details will be explained by a representative from Voca and be followed by a discussion among attendees of the implications, advantages and drawbacks. This will also be an opportunity for potential users to give feedback to Voca. Contact **modonovan@treasurers.org** if you are interested in attending or receiving more details.