

July 4, 2005

Update for Non-EU Companies Seeking a Luxembourg Listing

On July 1, 2005, the European Union Prospectus Directive (“PD”) became applicable across all member states of the European Union (“EU”). The PD requires an issuer to publish an approved prospectus in connection with a listing on a regulated market in the EU or a public offering within the EU. The provisions of the PD are far reaching; they apply to any company (including non-EU companies) accessing the European capital markets. This will include the EMTN and high yield bond markets, because typically such instruments are listed on a stock exchange within the EU (even though the offerings generally are made only to institutional investors on a private placement basis). A prospectus must meet detailed disclosure requirements in order to qualify under the PD.

The Luxembourg Stock Exchange, where many EMTN programs and European high yield bond issues traditionally have been listed, has substantially amended the listing rules of its regulated market to reflect the new PD requirements. The new rules applicable to listings on the regulated market are expected to come into effect on or around July 11, 2005.

In recognition of the fact that a number of issuers will be unable, or unwilling, to comply with the new PD requirements, the Luxembourg Stock Exchange has announced that concurrently with the implementation of the PD, it is establishing an “alternative market” (in effect, a listed but (from the EU perspective) unregulated market) for which the requirements of the PD and the Transparency Directive (“TD”), another key legislative element of the new EU disclosure regime (requiring issuers to publish annual and semi-annual financial and operating reports), will not apply. This market is to be known as the “EuroMTF” and will be regulated by the stock exchange itself.

Although the listing rules of the EuroMTF have not been made public by the Luxembourg Stock Exchange, it is expected that the rules will be substantially identical to the pre-existing listing rules of the Luxembourg Stock Exchange. The final listing rules of the EuroMTF will be published and come into effect simultaneously with the rules applicable to listing on the regulated market (expected to be on or about July 11, 2005). Pending completion of the legislative process, the Luxembourg Stock Exchange is considering applications for listing on the EuroMTF.

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The EuroMTF is expected to be open to all types of securities that traded on the Luxembourg Stock Exchange. However, securities listed on the EuroMTF will not be able to be offered to the public (as defined in the PD); a public offering would trigger the need for a PD-compliant prospectus.

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This memorandum is not intended to provide legal advice with respect to any particular situation and no legal or business decision should be based solely on its content. Questions concerning issues addressed in this memorandum should be directed to any member of the Paul Weiss Securities Group, including:

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