SEC ADVISORY COMMITTEE ON SMALL AND EMERGING COMPANIES

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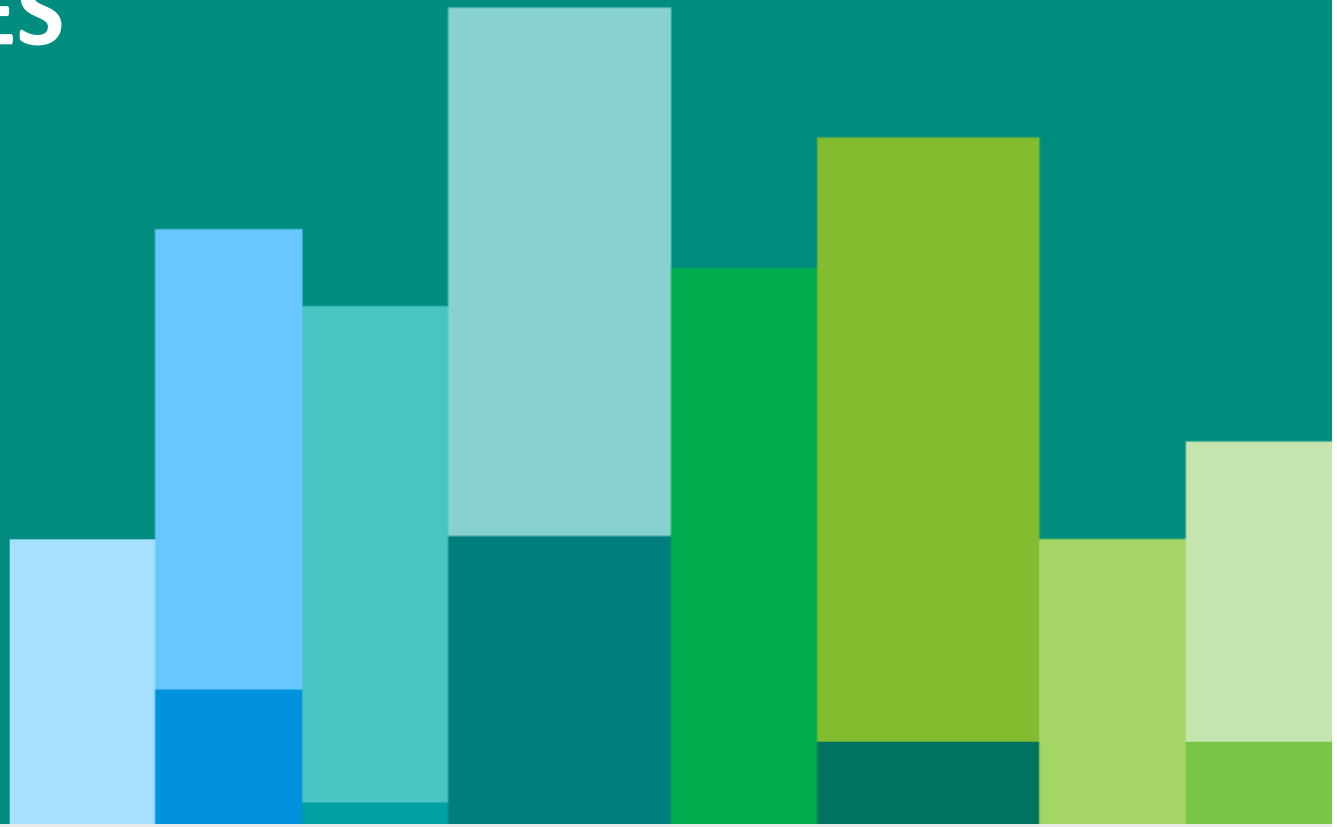

NYSE EURONEXT

THE COMPANIES: $250MM IN PUBLIC MARKET CAPITALIZATION

1,933 Companies across NYSE, NYSE MKT, Nasdaq

- $152B in public market cap; $55MM median company
- An economic engine
  - 2.0MM employees; 279 median
  - $938B in assets; $173MM median
  - $176B in stockholder equity; $68MM median
  - $477B in revenues (2011); $74MM median; up 8% over 2010 but only 7% over 2007
    - 2009 revenues fell 12% from 2008 level
  - $0.8MM median Net Income in 2011
    - ~50% had Net Income, 50% Net Loss

Source: FactSet
As of December 31, 2011.

NYSE MKT COMPANIES WERE SURVEYED ON AREAS OF CONCERN

These areas drew thoughtful responses from over 20 listed company executives (most commonly CEOs, CFOs)

- Disclosure
- Compliance Costs
- Scaling Compliance
- Corporate Governance
- Capital Raising/Visibility
- General Comments
- PCAOB Oversight Comments
- Litigation Comments
- Advisory Committee Comments

NYSE MKT COMPANIES SURVEY RESPONSES*

Disclosure:

- "There is **a balance between the value** of disclosure **and the cost of disclosure**, and for smaller companies, the cost of much of the disclosure is proportionately much higher, with diminishing value. None of these (individually) makes us significantly less competitive in the market, but **overall this burden weighs heavily."**
- "The issue is the revelations of what drives revenues and the "pipeline". It is harmful to shareholders to reveal the top selling (product), and top customers as it provides a road map to competitors. The **SEC insists upon detailed descriptions** that add nothing in the way of protection but **undermines confidential business relationships** and bring too much light upon our sales of specific (products)."
- "(The biggest issue is) the cost of compliance for companies our size ($120MM market cap) vs. who the regulations were designed for. Our proxies have tripled in length for no good reason. Shareholders would be better served by much shorter clear proxies they could actually read and understand. We are **wasting money on outside experts** to give advice on all matters. **Need to get back to boards doing their jobs** vs. getting "so called" experts to give you boiler plate analysis."

* The following statements were made by NYSE MKT listed company executives responding to the survey and are not necessarily reflective of the views of the NYSE Euronext.

NYSE MKT COMPANIES SURVEY RESPONSES

Disclosure (continued; XBRL):

- "Eliminating the requirement for the XBRL would save time and money for smaller reporting companies. Smaller companies have less complicated financial statements and therefore the **value associated with being able to hyperlink to financial schedules and tagged footnotes is very low.** Smaller reporting companies tend to use service providers that have long lead times associated with preparing XBRL files that do not work well with time constraints."
- "Anything to reduce the time and cost related to XBRL compliance. **Seeking the continuation** of the following: That XBRL doesn't need to be audited; that XBRL doesn't fall under SOX requirements; that MD&A doesn't need to be tagged."

NYSE MKT COMPANIES SURVEY RESPONSES

Disclosure (continued; XBRL):

- "For smaller companies this is a proportionately much larger cost per sales dollar than for larger

another staff person in our finance area in part because we need to file XBRL in concert with our normal quarterly and annual filings and our current staff does not have the capacity long term to file EDGAR, plus do all of the extensive tagging and other review for XBRL at the same time."

- **"Options would be to either provide higher level, summary tagging for smaller companies**, or allow the XBRL filing to be done later after the basic filing has been completed. As a side, we could also file our normal EDGAR filings quicker; since the XBRL requirement we are holding up filing until we get XBRL done."
- **"A suggestion** is to **conduct a cost/benefit analysis using data on large accelerated filers** to assess the usefulness of tagging by their investors."

NYSE MKT COMPANIES SURVEY RESPONSES

Disclosure (continued; resource company specific):

- "Required filings (10Ks, 10Qs, 8-Ks, etc.) for miners **prohibit disclosure of validated resources** (Measured, Indicated and Inferred) in those filings, making it near impossible for U.S. Investors to understand the value inherent in assets. Nearly every other jurisdiction in the world allows for proper disclosures on Measured and Indicated Resources as well as Proven and Probable Reserves. This U.S. prohibition has allowed Toronto and London to dominate North America in capital investment for developing resource companies and nearly shut down access to this investment opportunity to all but the most specialized U.S. Investors. It has also starved many U.S junior resource companies looking for capital and will likely result in solvency issues companies, this year and next, when they most need this capital to develop good projects and create long lived jobs."

NYSE MKT COMPANIES SURVEY RESPONSES

Compliance Costs:

- "Audit fees are a major concern typically exceeding 5% of pre-tax earnings. It is easy for (smaller companies) to substantively test all material account balances. The requirement to issue a separate audit report on internal control (SOX 404) is redundant. **The (SEC) should raise the threshold to $500,000,000 market cap* [sic] from the current $75,000,000**. Also for those that transport and sell a commodity (e.g. crude oil) the (SEC) should not confuse large reported revenues as an indicator of firm size."

*Public Market Capitalization

NYSE MKT COMPANIES SURVEY RESPONSES

Scaling Compliance:

- "Some progress was made on SOX by exempting companies with less than $75 million (float) from the external audit of the system of internal controls requirement. That level is too low. **$75 is not small—it is ultra-small. That number should be at least double, if not more**. For small cap companies (as well as large cap) **the internal SOX requirements are an excellent requirement**. Companies in general got too far away from good solid internal controls. However the external audit requirement is a huge burden. While (our company) is currently exempt from the audit requirement, we are not far from having to have our external auditors opine on our system of internal controls, which will cost over $75,000 annually."
- "Importantly, the **value to the investing public of an external audit of the system of internal controls is minimal for smaller companies. There are just not enough big areas** as there was in ENRON. Those types of exposures are left to very large companies with the depth and breadth to create these risks."
- **"All public companies**, including smaller companies, **already have a relatively extensive review of internal controls** as **a component of the regular financial audit**."

NYSE MKT COMPANIES SURVEY RESPONSES

Scaling Compliance (continued):

- "For smaller companies (Say-on-Pay) is over-kill in the highest degree. Unlike multi-million dollar pay packages at very large companies**, a $70 million company that pays $300K to $400K to a CEO and $200K to a CFO, plus a bonus and some stock, does not justify 15 pages in a proxy statement**, and the costs to prepare all of the underlying data. It costs significantly more to write the say-on-pay section of the proxy than it does to prepare the rest of the proxy. The discussion with consultants boils down to should we pay the CEO $300,000 or $350,000, not $5 million versus $10 million, or $50 million versus $100 million. As a point of reference we pay more for freight than we pay for (the CEO and CFO's salary), yet do not see a requirement for a 15 page disclosure on how we select and compensate our freight carriers. **A safe harbor (could be made) for companies under a certain threshold (maybe the same one that would be used for SOX)** as long as their CEO and CFO total pay is under a certain % of sales (or some other measurement) where a significantly lower level of disclosure would be required."

NYSE MKT COMPANIES SURVEY RESPONSES

Corporate Governance:

- "Get relief for companies based on the number of employees….any number 100,50,25….but surely the (SEC) can dial back reporting time schedules and the number of hoops to jump thru quarterly. In the oil exploration (business) between the BOEMRE* and the SEC we are drowning."
- "Make **independence requirements for directors uniform and simpler**. The determination for whether a director is independent should not be as case sensitive as it is. The test should be based on whether the director or a family member has served as an officer of a company in the prior three years. Past financial associations should not impact future eligibility as long as new guidelines are strictly followed. The NYSE MKT, NYSE and Nasdaq rules (while similar) differ in material ways that add complication but do not seem to provide any better protections to investors."

*Bureau of Ocean Energy Management, Regulation and Enforcement

NYSE MKT COMPANIES SURVEY RESPONSES

Capital Raising/Visibility:

- "There is no cap on primary equity offerings by S-3 eligible companies if the public float for a company exceeds $75 million, but there is a cap of 1/3 of the public float if S-3 eligible companies have public float below $75 million. **Lifting this cap would be helpful** for these usually development phase companies, with need for access to the capital markets."
- "Foster an environment where **independent research can exist without conflict, similar to the in-house, buy-side model where the research is valued and paid for by investors**. Smaller public companies offering a compelling investment opportunity would benefit from this visibility."
- "Who is going to buy shares in a company and how is it going to trade if there is inadequate public information? **The blockbuster change is the elimination of the prohibition on general solicitation**. That may change the whole face of financing small companies."

NYSE MKT COMPANIES SURVEY RESPONSES

General Comments:

- "Changes are largely illusory, (like) taking 1,000 pages of regulations and reducing them to 950. SOX has become relatively routine. The decline in IPOs has little to do with over-regulation, though it is a factor. It has more to do with what law firms and accounting firms are charging for routine SEC work."
- "Boutique investment banks have largely disappeared, and the big ones want big deals. In 1999, $20 million in revenue and a good story was all it took. **The economics are different** given the huge growth in off-market trading. The only way back for the small IPO is a change in the economics at investment banks, **and a public resurgence in interest in buying those shares."**

NYSE MKT COMPANIES SURVEY RESPONSES

General Comments (continued):

- "SOX is incredibly burdensome on companies of our size ($105MM Market Cap) and provides little value to investors."
- "JOBS Act provided relief from SEC reporting for new companies that have fewer than 2000 shareholders. It used to be 500. This is intended to help small companies get established and get some relief. **There is no grandfathering clause, so there is no relief for existing companies** that have more than 500 shareholders who still are required to make all the quarterly and annual filings, which serve no purpose to the investing public since these are not traded companies. **If there were a way to apply for an exemption**. It adds a level of expense for professional fees that eats away at the profits and the dividend levels."

NYSE MKT COMPANIES SURVEY RESPONSES

General Comments (continued):

- **"A suggestion** is to make SOX optional and allow companies to "**De-Sox" on two-thirds vote of the shareholders**. If shareholders decide that the requirements are more costly than the benefits, there should be a mechanism to eliminate them."

NYSE MKT COMPANIES SURVEY RESPONSES

PCAOB Oversight Comments:

- "Consider whether an environment of looking over ones shoulder is being created where auditors, under the PCAOB's audit quality review process, are hit with "gotchas" that may not be material to the overall audit and its effectiveness. **The audit client's management judgment is an area where audit firms are concerned about being criticized by the PCAOB**, as opposed to it being an area where a variety of reasonable judgments are acceptable. **Perhaps an auditing firm advocate can provide a counter-weight to the PCAOB's public forums."**

NYSE MKT COMPANIES SURVEY RESPONSES

Litigation Comments:

- "Trend for law firms to **sue during merger transactions, only to settle with disclosure amendments** to the proxy and be entitled to legal fees. Its an insidious process that only benefits the law firm involved. This should not be permitted (not likely just for small caps). Large caps have in-house legal departments to fight these and are less likely to settle.
- **"The SEC should investigate allegations that involve misrepresentations before litigation is allowed to proceed to court or settlement**. If the SEC finds no misrepresentations the lawsuits should be dismissed. This will save small firms from being extorted to settle cases that have no legal merit just because it is cheaper to settle."
- The idea that each firm providing professional services - and the issuer itself - is at risk or perceives itself to be at risk of a lawsuit relating to disclosure, capital raising activities, and other corporate actions should be of utmost concern. In this environment, **compliance costs are embedded with a risk premium, and are incurred by the company and passed along to their shareholders.** Correcting this environment to one that stresses transparency and "best efforts" could be effective in removing the price of fear."

NYSE MKT COMPANIES SURVEY RESPONSES

Advisory Committee Comments:

- "Advisory Committee on Small and Emerging Companies to Approve New Regulations. During the rollout of the Sarbanes-Oxley Act, smaller reporting companies were **faced with a number of SOX deadlines** for compliance. The companies used resources to prepare for each deadline, only to see such deadline delayed **and, ultimately, dropped**."
- **"A Suggestion** is that the **Committee be allowed to review and consider any draft rules** impacting small companies **before** the companies are required to be compliant."

THANK YOU

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