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Journal of Accountancy

Raising Capital Overseas

A reference guide on foreign registration requirements.

BY JOHN D. GOULD: JOHN P. MCALLISTER AND LARRY L. ORSINI

February 1, 1997

EXECUTIVE SUMMARY

- **MORE AND MORE COMPANIES** are trying to raise capital by listing their securities for sale on foreign exchanges; however, the costs of reconciling U.S. accounting standards with their foreign counterparts can be high. Therefore, it is important that companies know the questions they will face when going global.
- **TO ANSWER THESE QUESTIONS**, a survey was conducted of stock exchanges and regulatory authorities in 13 countries that, along with the United States, represent over 90% of the turnover and market value of the worldwide equity markets.
- **APART FROM CANADA, JAPAN and Hong Kong**, financial statements prepared in accordance with U.S. generally accepted accounting principles are accepted for inclusion in listing documents either as a normal rule or with reservations relating to possible supplemental disclosures.
- **THE HIGH DEGREE OF ACCEPTABILITY** in foreign listing documents of financial statements prepared in accordance with U.S. GAAP suggests that they achieve a more than adequate level of relevancy and reliability.

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More and more companies are trying to raise capital by listing their securities for sale on foreign exchanges. However, the way financial statements are prepared varies from one country to the next. U.S. companies looking to raise capital abroad must consider the myriad rules regarding financial statement presentation just as foreign companies listing stock in the United States must adhere to the rules and regulations of the Securities and Exchange Commission.

Daimler-Benz was the first German company to list its stock on the New York Stock Exchange, but it most definitely will not be the last. However, the price of listing in the United States was not cheap—because German accounting standards and U.S. generally accepted accounting principles differ in significant ways, Daimler-Benz had to incur the costs of preparing two separate sets of financial statements. Similarly, the costs of reconciling U.S. accounting standards to adhere to foreign standards also can be high, so it is important that U.S. companies know the questions they will face when going global: Will financial statements prepared in accordance with U.S. GAAP be accepted in the foreign exchange? Are additional disclosures required? Will a reconciliation to local accounting standards suffice? What if a U.S. company prepares its financial statements in accordance with the International Accounting Standards Committees international accounting standards (IASs)? (See box, page 34, on the timetable for international accounting standards.)

To answer these questions, we conducted a survey of stock exchanges and regulatory authorities in 13 countries that, along with the United States, represent over 90% of the turnover and market value of the worldwide equity markets. Paul Guy, former secretary general of the International Organization of Securities Commissions (IOSCO), assisted with the survey. The representatives polled were asked to respond under an assumption that a U.S. public company was considering registering its common stock for sale, that it had been a U.S. registrant for a number of years and that its performance had been widely followed by financial analysts. The following is an overview of the responses.

Argentina. In general, the National Securities Commission regulations provide that listing documents of foreign issuers fulfill the same requirements that are applicable to Argentine issuers. However, the commission can accept, on a case-by-case basis, financial statements of foreign issuers prepared on the same basis as those filed in their home jurisdictions. This suggests that a U.S. public company's financial statements prepared in accordance with U.S. GAAP may be accepted. If they are, the commission may require additional disclosures.

Australia. The Australian Stock Exchange Limited (ASX) accepts foreign companies that have financial statements prepared in accordance with Australian accounting standards. It is likely that a U.S. public company would be exempt from this requirement and its financial statements prepared in accordance with U.S. GAAP would be accepted for listing. Even if U.S. public companies do not qualify as exempt foreign companies, the response suggests that U.S. GAAP financial statements would be accepted in most cases.

Belgium. The provisions of a royal decree require that financial statements included in Belgian stock exchange listing documents comply with two European Union (EU) directives. Directive no. 4 contains rules for the preparation, audit and publication of financial statements of companies domiciled in EU member countries, and Directive no. 7 is a companion directive that contains requirements for consolidated financial statements.

Canada. The Ontario Securities Commission National Policy Statement no. 45, *Multijurisdictional Disclosure System*, established a joint initiative with the SEC to ease the burden of cross-border securities filings by establishing a multijurisdictional disclosure system (MJDS). Under statement no. 45 and the MJDS, a U.S. public company's financial statements prepared in accordance with U.S. GAAP are accepted for listing as long as they contain a reconciliation from U.S. GAAP to either Canadian accounting standards or IASs. This reconciliation is not required in listings of debt or approved preferred securities.

France. The *Commission des Opérations de Bourse* (COB) advised that U.S. GAAP financial statements are accepted in French listing documents. In such filings, the COB may request additional information, and the French correspondents of the company's auditors are required to attest that such statements contain information equivalent to that provided by French companies in similar listings.

A Timetable Is Set for International Standards

The International Organization of Securities Commissions (IOSCO) and the International Accounting Standards Committee (IASC) have agreed on a timetable for the formal endorsement of a core set of international accounting standards as an alternate to national standards. The IASC is expected to complete 16 standards on subjects such as intangibles, financial instruments, segments and leasing by the middle of 1999, at which time the IOSCO, which includes in its membership the U.S. Securities and Exchange Commission, will endorse the IASC standards as a comprehensive core set of international standards for cross-border listings.

Germany. Requirements are a matter of law; however, as a matter of practice, they are established by the stock exchange admissions department. That department said U.S. GAAP financial statements give a true and fair view of financial position and results of operations. Accordingly, such statements are acceptable in listing documents.

Hong Kong. The Stock Exchange of Hong Kong Limited normally requires that financial statements be prepared in accordance with either Hong Kong accounting standards or IASs. However, U.S. GAAP statements may be accepted by the stock exchange on a case-by-case basis. In such instances, the stock exchange may require that the U.S. financial statements contain a reconciliation to either Hong Kong accounting standards or IASs.

Italy. Normally, the *Commissione Nazionale per le Società e la Borsa* (National Securities Exchange Commission) accepts for Italian registration purposes a U.S. public company's U.S. GAAP statements supplemented with information required in the EU's accounting Directive nos. 4 and 7. Italian listing authorities are bound under EU rules to review closely such financial statements so they present a true and fair view of financial position and results of operations. Authorities may request additional disclosure or reconciliation with EU or Italian rules.

Japan. Regulations issued by the Ministry of Finance require that financial statements prepared in accordance with accounting principles other than those generally accepted in Japan are nonetheless acceptable for inclusion in listing documents if they adequately protect investors and the public interest. Financial statements prepared in accordance with U.S. GAAP are accepted in Japan with the proviso that they disclose differences between U.S. GAAP and Japanese accounting standards.

Luxembourg. A *commissaire aux bourses* (stock exchange director) said financial statements should be prepared in accordance with Luxembourg accounting standards, which are based on EU Directive nos. 4 and 7. Although there are differences between Luxembourg standards and U.S. GAAP, financial statements prepared in accordance with U.S. GAAP nonetheless are accepted without reservation.

The Netherlands. The Securities Board of the Netherlands said financial statements included in documents for listing on the Amsterdam Stock Exchange must be equivalent to both Dutch accounting standards and EU Directive nos. 4 and 7.

Switzerland. Although Swiss listing requirements are currently under review, the Swiss Admissions Board will continue to accept financial statements of U.S. public companies prepared according to U.S. GAAP. A reconciliation of U.S. GAAP and Swiss accounting standards is accepted but not required.

United Kingdom. The London Stock Exchange representative said financial statements prepared according to U.S. GAAP are accepted. In addition, a registrant may be required to include supplemental disclosures as described in chapter 6 of the stock exchanges listing rules. The exact content of these supplemental disclosures is prescribed on a case-by-case basis.

THE U.S. GAAP "GREEN CARD"

Apart from Canada, Japan and Hong Kong, financial statements prepared in accordance with U.S. GAAP are accepted for inclusion in listing documents either as a normal rule or with reservations relating to possible supplemental disclosures. These disclosures are necessary to reconcile U.S. GAAP with the EUs Directive nos. 4 and 7 or to comply with other rules.

Although the details of additional disclosures must be determined case by case, they can be developed in the context of normal corporate reporting. However, U.S. public companies should determine the nature and extent of additional disclosures in advance to provide for an orderly approach to corporate reporting and to avoid any undue delay in the listing process.

Whether the reconciliations required by Canada, Japan and Hong Kong would be an easy or a complex and time-consuming task must also be determined case by case. Companies should determine on a case-by-case basis the acceptability of U.S. GAAP financial statements for inclusion in Argentine, Australian and Hong Kong listing documents.

The relatively high degree of acceptability in foreign listing documents of financial statements prepared in accordance with U.S. GAAP suggests that they achieve a more than adequate level of relevancy and reliability.

CASE STUDY

Helping Clients Cross Borders

"Most companies need to establish a plan before they venture across international borders," said Ivan J. Sotomayor. "My firm helps a company set up that plan and works with it as the plan is implemented." Sotomayor is the managing partner of Sotomayor & Co. in Woodland Hills, California, a 15-member firm that specializes in international business. His clients consist of mostly small and midsize companies that want to do business in Latin America and Canada or foreign clients that want to establish ties with companies domiciled in the United States.

Many of his clients have never been to the country they have targeted for a business venture. "They don't know what it takes to start a business across the border and they don't know how to establish contacts," said Sotomayor. He said his firm listens to each client's needs and develops a four-step process to ensure the investment is prudent and that the business is up and running. "We map out a strategy with each client to get them established in the market of their choice," said Sotomayor.

The first step is to ensure a company is committed to a long-term international venture, said Sotomayor. "We help it test the waters. Starting a business overseas takes a lot of time and money, and the return on the investment (ROI) is not immediate." Sotomayor outlines the costs and gives the client examples of what other companies have done to expand across the border. "We also do research for the client on the region or country to find out if there is a real market for the client's product."

The second step is to provide the client with a cultural, political and economic profile of the country. Sotomayor uses a list of contacts and referral sources to perform due diligence for the client. "My contacts are the best sources for local information, such as regional zoning laws or the political climate," said Sotomayor. He said that in some countries there are extra premiums to pay, but the ROI is very high. "I make sure my clients know how stable the currency is, and I help them price their products to compensate for any risks."

After a client assesses the information in steps one and two, Sotomayor develops a strategy for the international venture. The strategy encompasses what the client needs to comply with customs regulations in both the United States and the target country, how the venture will be financed and how the client can begin working with foreign banks.

The last step is to implement the strategy. "The company has the capital and is ready to go out and compete," said Sotomayor. "We help that company set up joint ventures with companies in the target country, we travel to the country with the client and meet the people who will be involved in the venture, including other CPAs and consultants." Sotomayor calls this the romancing process. "We make sure both ends of the business understand the cultural differences and are willing to accept that business is done differently in different countries." For example, Sotomayor said he must always remind U.S. clients that things move much slower in Latin America. "Verifying financial information takes longer in Latin America because paperwork takes longer to process and there is more red tape."

He said CPAs should know the language, culture and business customs of a country before they consult clients wishing to do business there. Sotomayor, who was born in Ecuador and speaks fluent Spanish and Portuguese, said his firm would do business anywhere from Canada to Cape Horn. "Our firm focuses on the Latin America market because we know the languages and the cultures," said Sotomayor.

GOING GLOBAL CHECKLIST

The Key Questions to Consider Before Your Client Goes Global

by *Anastasius Etstratiades*

Here are important questions CPAs should ask clients that want to conduct business abroad. If they are carefully weighed, most major pitfalls of going global can be avoided.

1. Will the product or service sell abroad? Your client should determine whether there is a real demand for the product or service and whether the sales will be sufficient to generate profits. Clients should not be dazzled by the glamour of international trade. Without solid research, the financial investment could be more than the return. Market analysis is critical to justify a leap into global commerce.
2. Is this a one-shot deal, or do you intend to make a long-term commitment? For example, if a European buyer called your client to buy a particular product, that one-time transaction may be governed by the United Nations Convention on the International Sales of Goods (UNCISG) rather than the Uniform Commercial Code. Your clients legal counsel should be aware of this fact. On the other hand, if the deal is a long-term agency agreement or distributorship, bring up the following questions with your client:
 3. Do you know all the "ins and outs" of negotiating an agency agreement or distributorship relationship? When a business outside the United States approaches your client to become an agent or distributor of your clients goods abroad or approaches your client to distribute theirs in the United States, your client should understand contract and employment law. The agency or distributorship agreement is a complicated document that must address terms, price, insurance, confidentiality and more. And the difference between an agency and a distributorship is important: an agent acts on behalf of the company he or she represents, while a distributor sells the product on his or her own behalf. Employment laws in the host country need attention as well. In many countries, agents and distributors are given preferential status. They cannot readily be fired by their U.S. businesses even when the contract says they can.
 4. Do you research export licenses? Certain goods need an export license from the U.S. Department of Commerce. More information can be obtained from the Commerce Department International Trade Administration, the freight forwarder or your clients legal counsel. Some products may be listed on the State Department munitions list (they need not be weapons to be there). The State Department can be reached by calling 703-875-6650. Be sure your client can get a license before signing a contract and also make obtaining the license a condition of the contract.
 5. Are import documents required? Your clients need to be familiar with import regulations and the documents needed to get products through customs. Consult a customs broker.
 6. How do you license the transfer of information? Transferring certain information to an overseas business or to a foreign national within the United States requires an export license. Consult a freight forwarder for the basic procedure or contact a lawyer for the legal issues.
 7. How do you expect to be paid? Your client needs to obtain a letter of credit from the overseas buyer, but this has its own pitfalls and should be coordinated with your clients U.S. bank and legal counsel.

8. Do you have the right insurance? More is at stake than the insurance your client will need to transport goods. He or she must consider both commercial risk insurance and political risk insurance. Both government or quasi-government agencies, such as the U.S. Import-Export Bank, and some private insurance companies cover some of these risks. (See the sources guide on international trade on page 38.)

9. How will you transport goods? A freight forwarder can assist your client in making sure goods are packaged and transported properly.

10. How do you collect on foreign debt? Your clients attorney must know about the foreign countrys court system and have contacts with attorneys in that country. The right contract clauses, such as using international arbitration to solve disputes, minimize risk. A letter of credit also can reduce risk, as can insuring against certain risks, such as using political risk insurance.

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Avoiding Communication Breakdowns

by *Raphael Baron*

Many people think the worst communication breakdown occurs when people fail to understand each others words or actions. However, even worse is when people are heading toward signing an agreement, convinced they understand each other, but are in fact miles, if not light years, apart. Here is some advice that will help you avoid these kinds of language problems.

- Never assume your counterpart thinks the way you do. You and your foreign counterpart may have worked together in the same field for years, yet your business and cultural backgrounds may be vastly different. For example, a U.S. business and investment strategy most likely will be focused on short-term goals. This may not correspond with the interest of a foreign counterpart who may focus on the long-term goals of a business venture.
- Never assume your counterpart knows what he or she should know. A Russian director of a production association may not know what "internal rate of return" or "discounted cash flow" means. By the same token, a Western chief executive officer of a production association may not be familiar with certain approval procedures that are basic concepts familiar to any Russian businessperson.
- Never start discussions or negotiations before you have defined your terminology. Make sure that you both define the basic concepts the same way. Dozens of concepts such as "escrow account," "amortization" and even "profit" are defined differently in different countries, yet they have a direct language equivalent.
- Do not expect every answer you receive to be accurate. In many cases, the answer may not exist at all or your counterpart may not know it and will be embarrassed to admit ignorance, such as when you ask for a procedure for obtaining the right of way in a communist country. This is especially true of legal questions. For example, in China, many foreign trade-related laws and regulations have not yet been fully developed. Besides, newly adopted laws are frequently

amended or have already become obsolete. Often, the law will be open to interpretation and you may receive conflicting answers to a seemingly simple question.

- Do not use corporate colloquialisms in your oral and written presentations, such as "in the ballpark" or "behind the eightball." Colloquialisms do not translate well in either direction and are meaningless in most cases. Consult with your language and communication advisers on how to make your presentations clear and effective to the foreign listener. Explain to your advisers what you want to express, have them write it in the target language and then translate it into your native language for approval. Although the translation may seem stilted to you, it is the clarity of the translation in the target language that counts.
- Do not rely on simultaneous, or real-time, interpreting to communicate effectively with your counterpart. Simultaneous interpreting is best used during conferences when attendees have written reference materials at hand, not during business negotiations. Consecutive interpreting—where a language adviser can stop a speaker in midsentence to ensure the language is correctly interpreted and clear—works best for business negotiations or meetings. Consecutive interpreting takes more time, but it is considerably more accurate.
- Use your own interpreter instead of one provided by the other business. Your interpreter should not be impartial—he or she should be on your side. It is worth the money to fly your interpreter from the United States. He or she will act as your cultural adviser, your interpreter and your guide. Interpreters should be both bilingual and bicultural, so they can determine whether something is culturally inappropriate, such as naming a car, to be sold in Mexico, the Nova; no va means "doesn't go" in Spanish.
- Do not rely on translation software. It simply is not up to the task of translating anything other than very simple text. For example, you will see errors such as "vice-president" interpreted as "bad president." You may not be able to catch all the errors in a machine translation.

RAPHAEL BARON is the founder and chief executive officer of Polyglot International, based in San Francisco, California, an international communications and translation firm.

A Source Guide on International Trade Export Financing

- **The U.S. Export-Import Bank**

Small Business Assistance
811 Vermont Avenue, N.W.
Washington, D.C. 20571
202-565-3946

An independent U.S. agency chartered to finance the export of U.S. goods and services that offers loans, guarantees, working capital guarantees and insurance.

Market Information and Trade Leads

- **The Economic Bulletin Board**

A personal computer-based electronic bulletin board providing sources for trade leads as well as statistical releases from the U.S. Bureau of the Census, of Economic Analysis and of Labor Statistics and the Federal Reserve Board.

Subscribers pay an annual registration fee of \$35, which includes a \$12 credit for access time to the system. To contact the Electronic Bulletin Board, call 202-482-1986 or fax a request to 202-

- **The Agency for International**

Development

Department of State Building

320 21st Street, N.W.

Washington D.C. 20523

202-647-4000

Administers foreign economic assistance programs and has field missions and representatives in approximately 70 developing countries.

- **Department of Agriculture**

Trade Assistance Division

14th Street and Independence Avenue, S.W.

Washington, D.C. 20250

202-690-0159

Specializes in financing the export of U.S. agricultural products.

- **International Bank for Reconstruction and Development (World Bank)**

1818 H Street, N.W.

Washington, D.C. 20006

202-477-1234

Assists developing countries by lending to government agencies and guaranteeing private loans for certain projects, such as agricultural, modernization and infrastructure development.

- **Small Business Administration**

Office of International Trade

1441 L Street, N.W.

Washington, D.C. 20416

202-205-6720

Offers export programs at the Small Business Administrations regional offices.

Published Export Financing Guides

- **Chase World Guide for Exporters**

Chase World Information Corp.

One World Trade Center, Suite 4533,

New York, New York 10048

This guide, which covers 180 countries, contains current export financing methods, collection experiences and charges and foreign import and exchange regulations. An annual subscription is

482-2164; to gain access as a guest user, dial 202-482-3870.

- **National Trade Data Bank (NTDB)**

A one-stop source for export promotion and international trade data collected by 17 U.S. government agencies. Updated each month and released on IBM-compatible CD-ROM disk, it enables the user to access 100,000 trade-related documents. The NTDB disk contains the latest Census Bureau data on U.S. imports and exports by commodity and country, the complete Central Intelligence Agency world fact book, current market research compiled by the U.S. and Foreign Commercial Service and the complete Foreign Traders Index, which contains over 45,000 names and addresses of individuals and companies abroad interested in importing U.S. products. The NTDB can be purchased for \$35 a month or \$360 a year. To order, call the NTDB at 202-482-1986 or fax at 202-482-2164.

Referral Organizations

- **Inter-American Accounting Association**

275 Fontainebleau Boulevard

Suite 245

Miami, Florida 33172

Executive Director: Victor Abreu Paez 305-225-1991

This accounting association represents North America, Central America, South America and the Caribbean. All 23 countries are represented in its board of directors. The U.S. CPAs are represented by an American Institute of CPAs delegation chaired by Ivan J. Sotomayor. The association maintains an updated list of the licensing bodies in each of the countries as well as the individual CPA members.

- **American Association of Exporters and Importers**

11 West 42nd Street

30th Floor

New York, New York 10036

available for approximately \$745.

212-944-2230

- **A Guide to Checking**

International Credit
International Trade Institute, Inc.
5055 North Main Street, Suite 270
Dayton, Ohio 45415

- **Bankers Association for Foreign Trade**

1101 16th Street, N.W.
Suite 501
Washington, D.C. 20036
202-833-3060

- **Official U.S. and International**

Financing Institutions: A Guide for Exporters and
Investors
International Trade Administration
U.S. Department of Commerce
Superintendent of Documents
U.S. Government Printing Office
P.O. Box 371954
Pittsburgh, Pennsylvania 15250-7954
It is available for approximately \$2.75.

- **Council of the Americas**

680 Park Avenue
New York, New York 10021
212-628-3200

Export Insurance

- **Foreign Credit Insurance Association**

This association of U.S. insurance companies is marketed by the U.S. Export-Import Bank through its offices in all major U.S. cities. It offers a policy that can protect an exporter against default in payment due to expropriations, foreign government political risks and customer nonpayment due to commercial reasons. Insurance may be required in order to obtain certain export financing. For more information, contact the U.S. Export-Import Bank at 202-565-3946.