

AIM

The London Stock Exchange's Alternative Investment Market.

Annual Report

The Annual Report provides a range of information about the company, its shareholders and the company's financial performance throughout the previous year. See further Web Chapter B.

ASB

Accounting Standards Board. The ASB is the UK's accounting standard setter. It is a subsidiary of the Financial Reporting Council.

authorised share capital

Pursuant to the Companies Act 2006, companies are no longer required to state their 'share capital' in their constitution. Under the previous Companies Acts companies were required to state their 'share capital', which involved stating the number of shares (and their nominal value) that the company could issue – not the number of shares the company had issued. This 'share capital' was referred to as 'authorised share capital'.

Balance sheet

A record of a company's assets, liabilities and shareholder equity at the end of a company's financial year.

bonds

An instrument issued by the company agreeing to pay a principal amount at a specified point in time and interest at specified points in time. The actual principal amount is typically relatively small, for example, £1000, but many bonds are issued to many investors.

certificate of incorporation

The certificate of incorporation in the UK is a document issued on the registration of the company providing some basic information about the company including its name, date of registration and whether it is a limited or unlimited company. *Do not* confuse the UK certificate of incorporation with a Delaware corporation's certificate of incorporation which is the core constitutional document in a Delaware corporation, and which is more akin to the pre-2006 Act memorandum of association in the UK.

cestui qua trust

The beneficiary of a trust.

circular

In the context of the book, a circular is a document providing information to shareholders in relation to an issue on which they are asked to vote, such as in relation to Listing Rule 10 *Significant Transactions*. The FSA's Handbook defines a circular as 'any document issued to holders of *listed securities* including notices of meetings but excluding *prospectuses, listing particulars, annual reports and accounts, interim reports, proxy cards and dividend or interest vouchers*'.

close companies

A close company is a company with very few shareholders. Typically a close company will be a private company but there are also many public companies with only one or a handful of shareholders which would also be close companies.

collective action problem

A collective action problem arises where the individuals fail to act in their collective interests because the individual costs of action exceed the benefits of action.

company secretary

A company secretary – referred to in the 2006 Act simply as 'secretary' - is the person responsible for ensuring that the company's organs – its board and shareholder meeting – comply with the procedures and regulations set forth in the Act and the company's constitution as well as recording the minutes and resolutions of such organs.

Compulsory liquidation

An action typically brought by creditors – and opposed by the company – to wind up the company, typically on the basis that 'the company is unable to pay its debts' (section 122(f) Insolvency Act 1986).

Creditors' voluntary winding-up

The voluntary winding up of an insolvent company.

Debenture

A debenture is a secured promissory note issued by the debtor. A promissory note is simply a promise to pay the amount specified in the note.

default term / rules

A term that applies to a contract unless the contracting parties specify otherwise.

depreciation

The decline in the value of an asset as a result of the use of the asset in the business.

Due diligence

The work carried out by a party considering entering into a contract, for example to buy another company, to assess the value of the asset being purchased (financial due diligence) and the risks, including legal risks, associated with the buying the asset.

EBIT

Stands for earnings before interest and taxes.

EBITDA

Stands for earnings before interest and taxes, depreciation and amortization.

expected return

The aggregate of all possible returns from an investment or a business. An investment of £100 that has a 50% chance of generating £150 and a 50% chance of generating £200 has an expected value of £175 ($50\% \times 150 + 50\% \times 200$).

financial agency costs

The agency costs that are incurred by company decisions that enhance shareholder value at the expense of the value of the company's debt.

financial statements

A company's financial statements is an umbrella term used here to refer to the company's balance sheet and its profit and loss account or income statement.

floating charge

A type of security interest available for a company (but not a sole trader) which floats over all the business assets and only comes into effect (crystallizes) on the occurrence of certain events such as the failure to pay back a loan.

Fortune 500

An annual list published by Fortune magazine ranking the top 500 US companies.

free ride

A person who free rides is benefiting from someone else's actions without having to contribute to obtaining that benefit.

FTSE 100

An index of the 100 largest companies in the UK (ranked by market capitalization according to the London Stock Exchange).

FTSE 350

An index of the 350 largest companies in the UK (ranked by market capitalization according to the London Stock Exchange).

fund managers

Investment professionals who are instructed by investment funds, such as pension funds, to manage the assets of the investment fund.

General meeting

A duly convened meeting of a company's shareholders. The term covers both annual general meetings for public companies and all other meetings.

Going concern value

Going concern value is the value of a company on the assumption that it will continue to be run as a going concern rather than its constituent assets being sold separately.

IASB

International Accounting Standards Board. The IASB is responsible for setting International Financial Reporting Standards (IFRSs).

institutional investor

The term institutional investor is used in the book to refer both to savings and investment vehicles such as pension funds and mutual funds, and insurance companies who invest the insurance premiums paid to them.

instruction right

The right of the shareholder to tell the board what to do—for a company with Model Articles by passing a special resolution to tell the board to take or refrain from taking specific action.

IPO

IPO stands for initial public offering (i.e., the first public offering of shares) (see further Web Chapter C).

junk bonds

Formally speaking Bonds that are rated below the investment grade credit rating given to public bond issues by credit rating agencies such as Moody's and Standard & Poors. More generally this means that there is more risk associated with these bonds than investment grade bonds, and, therefore, a greater likelihood of default.

leveraged buyout

The purchase of company where the bidder takes on a significant amount of debt to fund the purchase of the shares.

LSE official list

The Official list is a list maintained by the UKLA (pursuant to section 74 of the Financial Services and Markets Act 2000) of those securities that have been approved for trading on the London Stock Exchange's Main Market.

Main Market

The London Stock Exchange's premier market for larger companies. Companies listed on the main market must comply with the requirements of the UKLA's Listing Rules and Disclosure and Transparency Rules.

mandatory rule

A rule that cannot be amended by the parties to whom it applies. In this book, this typically refers to a rule that cannot be opted out of by a provision in the company's constitution or in any other agreement.

market capitalisation

The market value of a share (or each class of share) a company has issued multiplied by the number of shares (or of each class of shares) it has issued.

MBO

A leveraged buyout in which existing management of the company are part of the bidding team.

median

A type of average obtained by ordering the values in question and identifying the one in the middle.

merchant bank

The term was commonly used in the UK to refer to what today are more commonly known as investment banks. Such banks provide multiple types of services to companies and financial market participants. In this book we have typically referred to them in relation to their role in advising companies on mergers and acquisitions.

mutual funds

Mutual funds issue shares to the public and then invest those aggregate funds in shares, bonds and other assets.

nominal value

Under English company law each share must have a nominal value, for example, £1. The nominal value of the share bears no relation to what the share is worth. A share may be issued for more than but not less than the nominal value of the share.

Objects clause

The clause in the constitution setting out the types of business the company can engage in. Today pursuant to the Companies Act 2006, companies have unrestricted objects unless the constitution provides otherwise.

open offer

A pre-emptive offer of shares that is not made using a negotiable instrument such as a renounceable letter.

opportunity costs

The costs / losses incurred by being unable pursue opportunity B because you are spending time on opportunity A.

ordinary shares

Shares issued by the company that provide the holder with a residual financial claim on the company. Typically such shares carry one vote per share but they also can be issued as nonvoting ordinary shares.

paid-up / unpaid shares

Paid-up shares are shares in relation to which the shareholders have paid what they agree to pay for the shares; unpaid shares are shares in relation to which shareholders have not paid the amount agreed to pay for the shares.

pension funds

Investment vehicles that invest the contributions made by employers and employees to provide a stream of income for the employees in their retirement.

principal-agent problem

A principal-agent problem – in economic terms – arises where one party (the agent) is in a position to act in ways that detrimentally affect the welfare of another party (the principal). The existence of a principal-agent problem is not dependent on there being a legal relationship of principal and agent.

private equity

Private equity firms carry out leveraged buyouts of companies, often listed companies, with a view to restructuring and maximising the performance of those companies and then

selling the shares in the companies back to the public market after a time frame of approximately 5–10 years.

Profit and loss account

One of a company's financial statements providing details of the company's accrued income and accrued expenditure over the previous financial year. Today more commonly referred to as the 'income statement'.

prospectus

A document containing detailed information about an issue of securities. See further Web Chapter C.

proxy

A proxy is a person to whom the shareholder has granted the right to attend and speak at the meeting on the shareholder's behalf and to exercise the votes held by the shareholder.

rationaly apathetic

A shareholder is rationally apathetic when he fails to take action that would benefit the company and the shareholder's collectively because the costs of taking such action exceed the personal benefits of action.

residual interest

A residual interest is used in this book refer to a residual financial claim, which means the financial claim on an asset or a company that entitles the holder of the claim to the proceeds that remain when all other prior claims on an asset or the company, as the case may be, have been discharged.

retail investors

Individual investors who directly invest their own funds to buy shares.

Rights issue

A rights issue involves a pre-emptive offer to existing shareholders by means of a 'renounceable letter'. If the shareholder does not herself wish to buy the shares she can sell the right to do so to a third party.

rules of attribution

A rule determining whether a particular act is attributed to the company, as an act taken by the company.

S&P 500

An index of 500 US stocks which are weighted by their market capitalisation. This is widely viewed as the most important of the US indices as it is viewed as being representative of the whole of the US stock markets.

senior debt

Debt that has a priority in relation to repayment on the company's liquidation.

shareholder equity

Shareholder equity refers to a company's net-worth – the extent to which its assets exceed its liabilities. More formally shareholder equity includes the original value of the amount paid for the company's shares less any losses and plus any profits that are not paid out as dividends. It is an accounting and 'everyday' term and not a legal term of art.

social welfare

Society's overall welfare.

Sole trader

A person who runs a business by himself entering into all the contracts associated with the business, for example, contracts to obtain supplies, contracts of employment with employees and contracts with the customers.

special resolution

A resolution passed by 75% of the votes cast at a general meeting.

'squeeze-out merger'

A merger that results in the forced cashing-out of minority shareholders.

subordinated debt

Debt that is subordinated to other debt in relation to repayment on the company's liquidation.

target company

The company which a bidding company wishes to acquire.

Tender offer

In the UK a tender offer is an offer to all shareholders to buy a percentage of the issued shares that is less than 30% of those shares. In the US a tender offer refers to any offer to all holders of any class of shares to buy those shares regardless of the threshold of shares sought.

total shareholder return

Determines the return to shareholders over a period of time by aggregating the increase in the share price over this time and the value of any dividends paid during this period.

transaction costs

A term that has variable uses and meanings in the law and economics literature but is used primarily in this book to refer to the costs incurred when entering into actual transactions, for example, the costs, in terms of both time (opportunity costs) and payments to advisors, in investigating the creditworthiness of a company or whether a particular person is authorised to act on behalf of a company.

treasury shares

Shares that are repurchased by the company but are not cancelled and are held by the company for resale at a subsequent date.

United Kingdom Listing Authority (UKLA)

The UKLA is the Financial Services Authority in its role as the regulator of listed companies.

Venture capital

Providers of finance to individuals with business ideas or existing businesses in the early stages of their development.

veto or approval rights

If shareholders have veto or approval rights in relation to certain types of decision, a board of directors cannot take such decisions without first obtaining the requisite approval from the shareholders.

Widely-held

Describes a company which has a large shareholder base many of whom only have small percentage shareholdings.