

The Market newsletter addresses topical matters concerning interpretations, regulation, as well as supervisory findings relating to listed companies' disclosure obligation, financial reporting enforcement, securities trading and insider issues. Articles other than those pertaining to IFRS enforcement will appear mainly in English. The newsletter is published by FIN-FSA's Supervision of Markets and Conduct of Business Department.

In this newsletter, we discuss the following topics:

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Erkki Liikanen appointed Chair of the IFRS Foundation Trustees: better transparency enhances the functioning of capital markets

According to Erkki Liikanen, IFRS Standards are of paramount importance for the capital markets and therefore the entire economy. They have impacted business all over the world and represent a key change in global financial market practices. Liikanen, however, considers, that they have not been emphasised sufficiently in analysing the economy itself.

Erkki Liikanen takes up the position as Chair of the IFRS Foundation Trustees with an impressive career behind him, most recently as Governor of the Bank of Finland. Liikanen's three-year-term as Chair will begin in October, after the Trustees' meeting in Johannesburg, South Africa. Liikanen takes over from Michel Prada, formerly Chair of Autorité des Marchés Financiers, France's financial markets regulator.

"I remember from my time as a Commissioner how the IAS Standards, which preceded the IFRS Standards, were introduced as part of an implementation programme for the reform of the European financial markets. In 1999 they were considered to be the best option for financial reporting. The

important decision on the procedure for adopting the IFRS Standards into EU legislation was also made at that time," Liikanen recalls.

He emphasises that final statement information is critically important for the economy and, for this reason, it should be a more integral part of economic analysis than it is now.

"Better transparency and more extensive information enhance the functioning of the capital markets, because they reduce uncertainty related to companies' financial performance and, at the same time, they solve problems associated with information asymmetry. This promotes an increase in the number of investors," explains Liikanen.

Increased liquidity in the market reduces capital costs and accordingly supports investment and growth. As the number of investors increases, risk-sharing is facilitated on domestic and international markets. Greater transparency also improves investors' decision-making, because they can better compare the performance of different companies.



Photo: Pekka Karhunen

Erkki Liikanen

Erkki Liikanen served as Governor of the Bank of Finland from 2004 to 2018. He has been one of the longest-serving members of the Governing Council of the European Central Bank and has served as Chair of the ECB's Audit Committee. Liikanen has also been Finland's representative on the Board of Governors of the International Monetary Fund.

Before becoming Governor of the Bank of Finland, Liikanen was a Commissioner at the European Commission for nearly ten years, first for Budget, Personnel and Administration, and then for Industry, Entrepreneurship and SMEs.

In the early 1990s, Liikanen was an ambassador and Finland's representative at the European Union. Before his international career, he served as Finland's Minister of Finance. Liikanen began his career as a Member of Parliament in 1971, when he was 21 years old.

Liikanen is an economist by education and he holds a Master's Degree in Political Science (Economics) from the University Of Helsinki. He was been awarded honorary doctorates by the Helsinki University of Technology (2003) and Aalto University School of Economic (2011).

Doubts associated with the standards have not been fulfilled

During the financial crisis, there was also discussion about the negative effects of the standards, with particular criticism directed at measurement at fair value. During the crisis, the key concern was uncertainty about banks' actual risks.

"Research has since confirmed that this criticism was excessive. The measurement at fair value of derivatives in financial statements, for example, has been highly justified," says Liikanen.

The IASB, however, responded to the financial crisis by revising rules on consolidated financial statements and expanding information provided about structured instruments. In addition, it renewed its guidance on measurement at fair value.

Financial reporting according to the standards casts light on the nature of risks

Banking supervision emphasises the principle of prudence, while the financial reporting of banks is based on the principle of fair presentation. This combination creates challenges from time to time.

In Liikanen's view, however, it can also be thought that the IFRS Standards further strengthen the principle of prudence, as financial institution risks have been opened up, better enabling fair presentation.

Liikanen shares the view of his predecessor, Michel Prada: "The main task of the Foundation is to serve the public interest. According to its mission, this means fostering trust, growth and financial stability."

Press releases detailed the selection criteria for the nomination

In July, both the IFRS Foundation and the Monitoring Board which oversees its activities issued press releases on Erkki Liikanen's nomination.

- [Erkki Liikanen appointed as Chair of the IFRS Foundation Trustees](#)
- [Statement of the IFRS Foundation Monitoring Board on the appointment of Mr. Erkki Liikanen as Chair of the IFRS Foundation Trustees.](#)

IFRS Standards are currently applied in 144 countries

The objectives of the IFRS Foundation are

- to develop, in the public interest, a single set of high quality, understandable, enforceable and globally accepted financial reporting standards based upon clearly articulated principles
- to promote the use and rigorous application of those standards
- to promote and facilitate adoption of IFRS Standards, also taking into account their convergence with national accounting standards.

The task of the Trustees of the IFRS Foundation is to oversee the work of the IASB, which publishes the IFRS Standards, and the IFRS Interpretation Committee subject to it, to review strategy, ensure financing and appoint members of the IASB and the Interpretations Committee.

The IFRS Foundation has a total of 22 Trustees, who constitute a balanced representation of different parts of the world. In addition, the Trustees represent the different parties involved in financial reporting: authors, auditors, information users and supervisors. The Trustees generally meet twice a year.

The Chair's term of office lasts three years and he or she can be re-elected once.

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Financial Supervisory Authority's new policies relating to review of equity prospectuses in connection with initial public offerings

The Financial Supervisory Authority (FIN-FSA) will require in the future that justifications for the statement on the sufficiency of working capital contained in a prospectus are submitted as an attachment to the initial prospectus approval application. In addition, the FIN-FSA imposes requirements for its consent not to attach the most recent interim financial information to the prospectus until during the prospectus reviewing period.

According to the regulation, prospectuses relating to the offering and listing of shares must include historical financial information describing the issuer's financial position and results of operations, such as annual financial statements covering the latest three (in simplified prospectuses two) financial years, any subsequent interim report and up-to-date information on capital structure and net indebtedness. In the prospectus, the issuer must also give a statement on the sufficiency of working capital for the following 12 months. According to the FIN-FSA's Regulations and guidelines¹ on securities offerings and listings, an interim report to be included in the prospectus but that is published only after the start of the application processing period may be included in the prospectus during the processing period with the FIN-FSA's consent but, with respect to equity prospectuses, before the midpoint of the processing period. In practice, this has meant that the FIN-FSA has not had available the latest financial information on companies applying for share listings until the middle of the review period.

During the prospectus review process, issuers have, as a rule, been requested to justify the statement on the sufficiency of working capital provided in the prospectus and it has been found that the justifications often give rise to questions and also to last-minute changes to prospectus information. In order to avoid new factors concerning the sufficiency of working capital significantly impacting the content of a prospectus arising at the final stage of prospectus review, we will require in the future that the justifications for the working capital statement are attached to the initial prospectus application. The justifications should

¹ Regulations and guidelines 6/2013 Securities offerings and listings.



include a report on the most important assumptions relating to sources and uses of funds as well as forecasts of the amount of monthly cash balances and changes in them.

As a rule, historical financial information to be included in the prospectus should be submitted to the FIN-FSA attached to the application for prospectus approval. For justified reasons, the FIN-FSA may still consent in individual cases to interim report information being submitted during the prospectus review period, but before the midpoint of the review period. In the future, a condition for consent, however, will be that, in connection with the prospectus approval application, the issuer submits to the FIN-FSA such financial information which provides a clear picture of changes that have taken place in the company's financial position and results of operations after the last annual financial statements and which is necessary for assessing the statement on the sufficiency of working capital. The information may be preliminary and its content agreed upon separately. The significance of information is emphasised the longer the time that has passed since the end of the previous financial year. Essential information for assessing the statement on the sufficiency of working capital includes at least up-to-date information on the issuer's liquidity, unused sources of finance, need for additional funding, funding structure and terms of available funding as well as an assessment of the outcome and impact on the issuer of any ongoing financing negotiations.

The FIN-FSA urges companies planning a listing to take the above factors into account and to contact the FIN-FSA in good time to enable agreement on conditions for consent on the timing of submission of interim financial information before a prospectus application is filed.

See also the article "All working capital needs must be considered in issuing the working capital statement in equity prospectuses" published earlier in [Market newsletter 2/2016](#).

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Observations on delaying the disclosure of inside information – issuers are well aware of their reporting obligations

In the summer, the FIN-FSA conducted a study of the application of rules on delaying the disclosure of inside information.

The purpose of the article is to provide information of the findings of the study and to assist issuers in assessing their practices regarding the disclosure of inside information.

At the beginning of the article, there are general observations on the inside information whose disclosure has been delayed and on the duration of delays in the disclosure of inside information. Below, we examine how issuers have complied with their obligation to notify delays in disclosure of inside information.

Delaying disclosure of inside information

Delaying disclosure of inside information is provided for in Article 17 of the Market Abuse Regulation (EU) 596/2014 (MAR). Rules on delaying disclosure are applied to issuers in both the Main List and the First North marketplace. MAR requires the issuer to disclose as soon as possible inside information directly concerns that issuer. The issuer may, however, on its own responsibility, delay disclosure, provided that all of the following conditions are met:

- immediate disclosure is likely to prejudice the legitimate interests of the issuer
- delay of disclosure is not likely to mislead the public and
- the issuer is able to ensure the confidentiality of that information.

In assessing the delay of the disclosure, the issuer must take into account that all of the conditions imposed for the delay of the disclosure must be met for the entire duration of the delay. The ESMA Guidelines¹ (ESMA/2016/1478) provide an indicative list of legitimate interests of issuers that would likely be jeopardised by immediate public disclosure, and situations in

¹ Link: https://www.esma.europa.eu/sites/default/files/library/2016-1478_mar_guidelines_-_legitimate_interests.pdf



which the delay of disclosure is likely to mislead the public.

The issuer must submit to the FIN-FSA information on the delay of the disclosure immediately after the disclosure of the information.

The possibility for an issuer that is a credit institution or a financial institution to delay the disclosure of inside information is provided for separately in Article 17(5) of MAR.

Subject of the study

The study covered all delay notifications received by the FIN-FSA from when the MAR regulation on delaying the disclosure of inside information entered into force in July 2016, up to the conduct of the study in July 2018. The study compared delay notifications made by issuers with the stock exchange releases and company releases relating to the inside information in question. The sample consisted of 127 issuers, which had made a total of approximately 370 delay notifications during the two-year period.

Delayed inside information related most often to business restructuring

In the study, delay notifications were categorised on the basis of the main content of the inside information. An as-

essment of the main content of the inside information was made on the basis of the information stated in the delay notifications and the stock exchange releases or company releases.

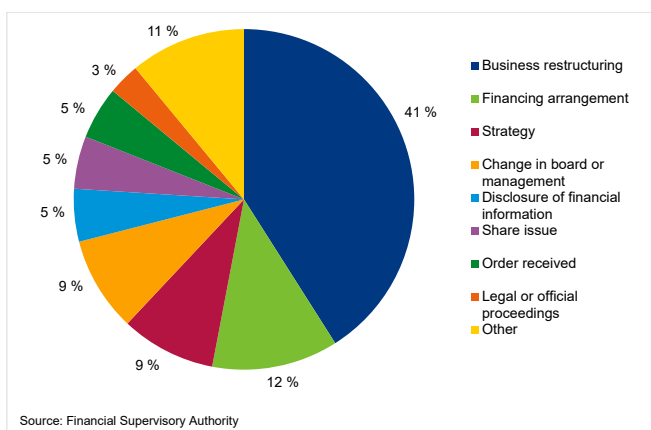
Each delay notification was placed in only one category. The categorisation was made only for this study and it has no independent significance in the evaluation of delaying disclosure of inside information. This categorisation, however, can help illustrate the kind of issues on which issuers based their decisions to delay disclosure of inside information (Figure 1).

Clearly the most common inside information whose disclosure was delayed related to various business restructurings, such as mergers, divisions, corporate and business acquisitions or other transactions connected with large asset items (41% delay notifications received by the FIN-FSA). Inside information was also often related to debt financing (12%), strategy-related processes, such as preparing a new strategy (9%) or changes of the composition of the board of directors or management team (9%).

A significant proportion of inside information also related to disclosure of financial information (5%), share issues (5%), orders received (5%), legal or official proceedings, including arbitration and mediation (3%). With respect to the first mentioned, it is worth noting that only a few issuers delayed the disclosure of inside information before the publication of a periodic financial report, for example an interim report. This small group of issuers, however, acted in this way before the publication of almost every such release, which explains the number of the delay notifications in question.

Slightly more than one tenth of all delay notifications are presented in Figure 1 in the category "Other" (11%). This category included delay notifications relating to the financial viability of the issuer (1%), intellectual property rights and inventions (1%) or employer-employee consultations (1%), as well as delay notifications which did not fit into any of the above-mentioned categories and which, because of their rarity, did not form a sufficiently large independent category.

Figure 1 Categories of delayed inside information as percentages of all delay notifications received by the FIN-FSA



Durations of the delay in disclosure varied

The delay notifications submitted to the FIN-FSA also reveal the duration of the delay in disclosure of inside information.

Based on the study, the delay in disclosure lasted on average 54 days and the median duration of delay in disclosure was 31 days. The average and median delay in disclosure in the above-mentioned categories is present below (Figure 2).

The durations of delay in disclosure varied very much, not only between categories but also within categories. For example, the longest delay relating to a corporate acquisition lasted nearly 450 days, while in certain small corporate acquisitions the disclosure of inside information was delayed for only a few days.

Delay notifications were delivered to the FIN-FSA on time

Based on the study, issuers fulfilled well their obligation to notify the delay of the disclosure immediately after the disclosure of inside information. Notifications were, for the most part, submitted to the FIN-FSA on the same day as the stock exchange release or the company release relating to the inside information was published. Less than 0.5% of all delay notifications were submitted to the FIN-FSA more than two trading days after the publication of the release.

Based on the study, it is appropriate to state, however, that there is no need to submit a delay notification to the FIN-FSA before the inside information has been disclosed, either wholly or partly. It is not necessary, therefore, to make the delay notification at the stage when an insider project is established. Moreover, there is no need to make a delay notification for lapsed projects.²

Content requirements for delay notification were well respected

The information to be notified to the FIN-FSA has been specified in Commission Implementing Regulation (EU) 2016/1055³. Based on the Commission Implementing Regulation, the FIN-FSA has prepared a template for notifications of delay in disclosure⁴. The issuer may also submit information to the FIN-FSA in another way, for example

2 ESMA: Questions and answers on Market Abuse Regulation (updated 23 March 2018) https://www.esma.europa.eu/sites/default/files/library/esma70-145-111_qa_on_mar.pdf.

3 Link: <https://eur-lex.europa.eu/legal-content/FI/ALL/?uri=CELEX%3A32016R1055>.

4 Link: http://www.finanssivalvonta.fi/fi/Saantely/Saantelyhankkeet/mar/17_artikla/Documents/Delayed_disclosure_of_inside_information_form_GB.pdf.

by using the template prepared by the Advisory Board of Finnish Listed Companies (LYNK) or by providing the delay in disclosure information in a free-form email, provided that the information required by the Commission Implementing Regulation is clearly indicated.

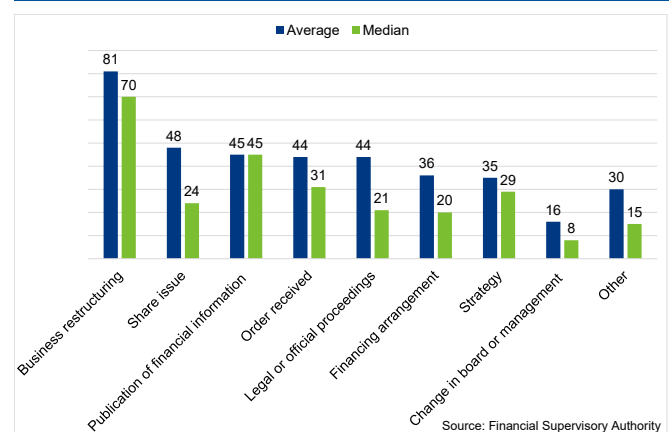
Based on the study, most of the notifications submitted to the FIN-FSA contained the information required by the Commission Implementing Regulation. The FIN-FSA draws attention, however, to the fact that notifications should include the title and date of the stock exchange release or company release through which the inside information was published. It is not sufficient for the notification to state only the main content of the insider project or the project's name.

Attention should be paid to documenting conditions for delay in disclosure

A considerable number of inside information delay notifications also contained, in addition to the delay notification, a wider clarification on how the conditions for the delay stated in Article 17(4) of MAR had been fulfilled. The FIN-FSA emphasises that issuers are not required under the regulation to submit such a clarification in connection with the delay notification. The FIN-FSA may, however, request the issuer at a later date to provide clarification of fulfilling the conditions for delay. The FIN-FSA has, in some cases, request such clarifications.

Based on those more extensive clarifications submitted to the FIN-FSA on issuers' own initiative, it is appropriate to

Figure 2 Duration of delay in disclosure (days)



point out, however, that documentation on fulfilling the delay conditions must be sufficiently comprehensive. A sufficiently comprehensive clarification is not, as a rule, one in which it is stated that the conditions of Article 17(4) of MAR have been fulfilled, without the fulfilment of the conditions being reflected in the project in question.

When publishing inside information it is important to use the correct message category of release

A stock exchange release relating to inside information should, as a rule, be published in the “Inside information” message category unless the release, based on the content of the inside information, belongs to some other message category, such as “Changes board/management/auditors” or “Public tender offer”.⁵ A significant number of releases that, in the FIN-FSA’s view, should have been published in the “Inside information” category of release had, however, been published in the “Other information disclosed according to the rules of the exchange” message category. The FIN-FSA urges issuers to pay due attention to selecting the correct message category. Using the correct message category is important for the accessibility of the OAM (central storage facility for the regulated information).

The study was conducted and the article written by Aaron Fagerholm, who worked in summer 2018 as a temporary employee in the FIN-FSA’s Supervision of Markets and Conduct of Business department.

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Manipulative characteristics might be associated with trading in small buy and sell orders

In supervising market manipulation, the FIN-FSA pays attention to exceptional transactions and trades that do not appear to be in line with usual business practices. Recently, the FIN-FSA has paid particular attention to trading in which small buy or sell orders consisting of one or at most a few shares are repeatedly registered in a share order book. Especially in low-traded shares, even small high-price buy orders might have the effect of increasing the share price. Manipulative characteristics might be associated with such trading, particularly if the trading pattern is regular and it causes clear and repeated price changes.

Market manipulation is defined in Article 12 of the Market Abuse Regulation (596/2014, MAR). According to the Regulation, market manipulation means, among other things, placing an order which gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of, a financial instrument. Manipulation is, for example, raising the closing price of a share to an artificially high level. Similarly, MAR prohibits the placing of misleading orders aimed at, for example, initiating or strengthening a price change trend. The price of a financial instrument does not need to change in the longer term for trading to be considered market manipulation; intraday misleading price or volume changes may also be manipulation.

The FIN-FSA emphasises that MAR’s prohibition on market manipulation applies to all actors operating in the securities market, irrespective of whether the party concerned is an actor operating professionally or a private investor.

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⁵ Nasdaq: Questions and answers on the selection of categories of release for the central storage facility (10.1.2017) https://business.nasdaq.com/media/tiedoteluokat-q--a-tammikuu-2017_tcm5044-65503.pdf (in Finnish).



Topical matters at ESMA

Prospectus Regulation, levels 2 and 3

ESMA is finalising advice to the Commission on the information that the issuer must disclose in connection with a merger, division or an exchange offer in order to be able to utilise the Prospectus Regulation's exemption relating to these situations from the requirement to prepare a prospectus. ESMA's advice is due to be submitted to the Commission by the end of March 2019.

ESMA is also finalising guidelines on risks described in a prospectus. The purpose of the instructions is to harmonise in the different Member States the assessment of risk descriptions made in connection with prospectus inspection. It is estimated that the guidelines will be published in the first quarter of 2019.

Events for listed companies

An information event on listed companies' financial reporting will be organised on 29 November 2018, 3 December 2018 and 11 December 2018. Invitations to the event will be sent electronically, closer to the date of the event, to listed companies' finance managers and other stakeholder representatives.

The invitations are intended for two persons; therefore, staff members responsible for financial reporting or the disclosure obligation are urged to be in contact with their respective finance managers in order to register for the event via the relevant link.

ESEF seminar 26 November 2018

On 26 November 2018, the FIN-FSA, Aalto University's Real-Time Economy (RTE) programme and XBRL Finland are organising a seminar for listed companies and other interested parties on financial reporting in a structured electronic format (ESEF-European Single Electronic Format). A new reporting requirement will enter into force starting with financial statements for 2020.

The upcoming reporting format is XHTML (eXtensible Hypertext Markup Language), specified by ESMA. IFRS consolidated financial statements reported by listed companies will be tagged with XBRL (eXtensible Business Reporting Language) tags, in which case the financial statements will then be machine-readable.

The aim of the seminar is to increase listed companies' awareness of the new reporting format. XBRL facilitates conversion of unstructured financial statement data into a structured, machine-readable format. Seminar attendees will hear listed companies' experiences of using XBRL and see examples of how structured data is used in analytics. Also participating in the seminar will be XBRL software suppliers and service providers as well as the Helsinki Stock Exchange (Nasdaq Helsinki Ltd), which serves as the national storage facility of regulated information (official appointed mechanism, OAM) in Finland. The seminar is free of charge and in English. Further information about the seminar and a more detailed programme can be obtained via the link <http://conference.rte.fi/>.

Registrations can also be made via the link or directly from here [Sign up for the seminar here](#). Book your place in good time!

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