



- **UK companies with US listings must comply with the Sarbanes-Oxley legislation (40 of the FTSE 100)**
- **Senior executives must certify that submissions to the public are not misleading**
- **Senior executives of companies that fail to disclose material risks may be subject to criminal proceedings**
- **These risks include environmental liabilities**
- **The company is the judge of materiality**

The disclosure of environmental costs and liabilities for companies listed in the United States is not a new requirement – the Securities & Exchange Commission (SEC) has required this disclosure for at least 25 years. Further, a 1998 study by the EPA's Office of Enforcement and Compliance Assurance found that 74 percent of companies failed to report in their annual submissions cases where environmentally related legal proceedings could result in material monetary sanctions.

Fortune 500 companies have not provided adequate disclosure of environmental matters

SEC

Recent legal developments, in particular rules issued by the SEC relating to the Sarbanes–Oxley Act of 2002, have forced public companies to re-evaluate the extent and scope of their reporting of environmental liabilities. Foreign companies who have issued securities on US exchanges must also comply with these new rules. This affects some 85 UK companies, 40 of which are included in the FTSE 100 index.

The Sarbanes-Oxley Act is designed to protect investors by ensuring that any foreseeable risks are disclosed. The Act bolsters existing legislation by laying out a code of conduct for those involved in all areas of company reporting and research, both internal and external. The Act requires senior executives of companies to certify that they have personally reviewed their company's controls and procedures to identify, quantify and disclose material changes in financial or operating conditions, *including indications of future performance*. In light of the new standards of personal accountability, public companies and their legal advisers are reassessing their procedures for estimating and disclosing environmental liabilities.

The duty to disclose only covers those costs and liabilities that are considered 'material'. The SEC test of materiality is whether the information would alter a reasonable investor's view of a company. With an open definition of materiality, the US has put a law on the statute books that places the onus of judgement and

responsibility firmly in the hands of the disclosing company. This should lead to more disclosure by companies as they choose to 'play safe' and disclose, to comply with the SEC rules.

Companies listed in the US must disclose environmental liabilities if:

- **They would change a reasonable investor's view of the company**
 - **There are governmental enforcement proceedings with sanctions over \$100,000**
 - **They exceed 10% of the company's value**
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Whilst the valuing of natural resources and emissions has been the subject of many academic studies, few companies have been able to value the risks they face as a result of their environmental impacts. Governments are imposing environmental taxes on companies, and new emissions trading schemes are being launched, aimed at curbing emissions, particularly of greenhouse gases.

These costs are not insignificant; indeed, they may be material to a significant number of companies. In the UK, a study commissioned by DEFRA estimated the cost of meeting their targets to reduce carbon dioxide emissions by 20% to be around \$49 per tonne. Trucost carried out some analysis using this figure and discovered that the cost of meeting the targets for the FTSE 100 alone could be as high as £5.7 billion, representing 21% of their net earnings last year. These costs will be material for many of the companies in the FTSE 100.

The cost of meeting the targets [to reduce UK CO2 emissions by 20%] for the FTSE 100 alone could be as high as £5.7 billion

Trucost

Trucost, a London based environmental performance measurement company, has developed the Trucost Environmental Cost Calculator in response to calls from the investment community for a greater understanding of these risks. This enables companies and investors to estimate the value of these risks in financial terms, which allows an assessment of materiality to be made, and thus to decide whether disclosure may be required by law.

For further information, please contact Rob Barker or Vince Chaney on +44 (0)20 7321 3833 or visit our website at www.trucost.com



UK Companies with Listings in the United States

Abbey National Plc	Imperial Chemical Industries Plc
Acambis Plc	Imperial Tobacco Plc
Allied Domecq Plc	Insignia Solutions Plc
Amarin Corporation Plc	Intercontinental Hotels Plc
Amersham Plc	International Power Plc
Amvescap Plc	lastminute.com Plc
ARM Holdings Plc	Lloyds TSB Plc
AstraZeneca Plc	Merant Plc
Autonomy Corporation Plc	Mitchells & Butlers Plc
Barclays Bank Plc	mmO2 Plc
BG Group Plc	National Grid Transco Plc
BOC Group Plc	NDS Group Plc
Bookham Technology Plc	Pearson Plc
BP Plc	Premier Farnell Plc
British Airways Plc	Professional Staff Plc
British American Tobacco Plc	Provalis Plc
British Biotech Plc	Prudential Plc
British Energy Plc	Rank Group Plc. (The)
British Sky Broadcasting Plc	Reed Elsevier Plc
BT Group Plc	Reuters Group Plc
Bunzl Plc	Rexam Plc
Cable & Wireless Plc	Rio Tinto Plc
Cadbury Schweppes Plc	Royal & Sun Alliance Plc
Cambridge Antibody Technology Group Plc	Royal Bank of Scotland Plc
Carlton Communications Plc	Scottish Power Plc
Carnival Plc	Senetek Plc
Celltech Plc	Shell Transport and Trading Company Plc
COLT Telecom Group Plc	Shire Pharmaceuticals Group Plc
Cordiant Plc	Signet Group Plc
Corus Group Plc	SkyePharma Plc
Danka Business Systems Plc	Smith & Nephew Plc
Denison International Plc	Spirent Plc
Diageo Plc	Telewest Communications Plc
Dialog Semiconductor Plc	Tomkins Plc
ebookers Plc	Trikon Technologies, Inc.
Eidos Plc	Unilever Plc
Enodis Plc	United Business Media Plc
Futuremedia Plc	United Utilities Plc
Galen Holdings Plc	Vodafone Plc
Gallaher Group Plc	Wolseley Plc
GlaxoSmithKline Plc	WPP Group Plc
Hanson Plc	Xenova Group Plc
HSBC Holdings Plc	

Sources: NYSE, NASDAQ, AMEX