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## ARNOLD & PORTER LLP

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Dear Clients and Friends:

Corporate websites are perhaps the most effective disclosure tool for a company's investor relations team. The team can manage the company's message, in multiple formats and languages, and update relevant disclosure quickly and inexpensively. Increasingly, the US Securities and Exchange Commission (SEC) and stock exchanges are also concluding that corporate websites can be an effective means of disclosing material events required by public companies, including in lieu of the more traditional means of press releases to the major wire services.

Yet, reasonable concerns remain about whether posting to a website should be permitted as the sole means of providing timely disclosure. In light of the passive and decentralized nature of individual corporate websites, how will investors know to look there? If information is already on the website, would it be considered "public" for purposes of SEC Regulation FD, and therefore, by definition, not be "selectively disclosed"? And if non-public information is disclosed, would its disclosure on the website be sufficient to constitute public disclosure?

At the same time, the antifraud provisions of the federal securities laws apply to company statements made on the Internet in the same way they apply to any other statement made by or attributable to a company. Yet, many public companies are unaware of the liability that can arise from website disclosure. What steps should a company take to minimize its liability, including with regard to previously posted historical information, hyperlinked information, summary information, and interactive website features?

In a recently published article, "Corporate Websites: Best Practices For Website Disclosure", Gregory Harrington and Laura Badian discuss these and other pertinent issues. The article can be found [here](#). We hope you find it useful.

We note that law and practice in this area continue to evolve. For example, while a current NASDAQ interpretation (IM-5250-1) states that the posting of information on a company's website "is not by itself considered a sufficient method of public disclosure under Regulation FD," NASDAQ recently updated the FAQs on its website to state that Regulation FD compliant methods of disclosure include any method or combination of methods "reasonably designed to provide broad, non-exclusionary distribution of the information to the public," and makes a specific reference to information on company websites, with a cross-reference to the SEC's August 2008 guidance discussed in the article. Thus NASDAQ appears to be joining the SEC and the New York Stock Exchange in recognizing that a company website can provide a Regulation FD compliant method of disclosure.

Best regards,

Arnold & Porter LLP

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