TaylorWessing

Initial public offers

Contents


The Boeing Company
BRK-B
Berkshire Hathawa...

Our Corporate Finance group

Taylor Wessing has one of the largest dedicated corporate finance practices in Europe, with genuine cross-border capability and a strong presence in Asia and the Middle East.

Our international capital market experts work as one integrated team on a range of international security transactions and offerings including: IPOs, secondary issues, public M&A, tender offers, bond offerings, securitisations, and restructurings.

In addition to being market leaders in advising clients from the technology field, we advise across many other sectors. We work with leading investment banks, brokers, financial advisers and sponsors, and financial services institutions.

Your contacts

William Belcher
Partner
+44 20 7300 4221
w.belcher@
taylorwessing.com

Robert Fenner
Partner
+44 20 7300 4986
r.fenner@
taylorwessing.com

James Homan
Partner
+44 20 7300 4124
j.homan@
taylorwessing.com

Tandeep Minhas
Partner
+44 20 7300 4244
t.minhas@
taylorwessing.com

Expertise of the Corporate Finance Group

Within the UK, the Corporate Finance Group acts on initial public offerings both large and small. This includes new issues on:

- the Official List maintained by the Financial Conduct Authority ('FCA') with admission to trading on the Premium or Standard Segment of the Main Market of the London Stock Exchange
- the High Growth Segment of the London Stock Exchange's Main Market, for medium and large sized high growth companies
- the Specialist Funds Segment of the London Stock Exchange's Main Market, designed for highly specialised investment entities
- AIM, the international market for smaller, growing companies operated by the London Stock Exchange ('AIM').

The international focus of Taylor Wessing naturally means the Corporate Finance Group advises overseas companies wishing to gain access to UK and European securities markets. The role of the Group includes advising the market generally on continuing obligations and regulatory changes.

The Corporate Finance Group is also ideally placed to advise on the market opportunities offered by the AQSE Main Market and Euronext London (aimed at international issuers), which each offer an EU regulated market alternative to the Main Market of the London Stock Exchange for companies wishing to join the Official List.

Apart from structural and transactional advice, securities lawyers at Taylor Wessing are available to advise on compliance issues, especially in the context of new securities offerings. This includes advising upon the timing for and issue of research notes, conducting meetings with research and other analysts, the format of marketing presentations and briefings and the timing and content of regulatory announcements.

This guide

The purpose of this guide is to provide a background to the procedures for listing shares on the principal London equity markets, focusing on the Premium Segment of the Main Market of the London Stock Exchange and AIM.

Admission to the Premium or Standard Segments of the Main Market of the London Stock Exchange will require an application for admission to the Official List (in conjunction with an application for admission to trading on the London Stock Exchange).

Reasons for an IPO

There is no single reason which triggers a company to seek a listing for its shares. Typical examples of why a company may seek a listing are:

- to raise capital
- to create a 'better' balance between the level of a company's debt finance and its share capital, a ratio known as 'gearing'
- where a financial services company needs to ensure that its required equity capital complies with the capital adequacy requirements of its regulator
- to comply with legislation, for example, a venture capital trust must be listed on the Official List
- in discharge of an undertaking or arrangement given by a company to a private equity institution, for example, where an exit by way of flotation has been assumed by a private equity institution when investing
- to establish a market valuation for transactions in a company's shares, for instance, involving an employee share option scheme.

Initial Public Offers – The process

From start to finish, the IPO process can take some four to six months and, whilst each transaction will differ, there are common themes in each process which are worth noting.

Appointment of advisory team

At the outset, the issuer appoints its advisory team to include a sponsor or nominated adviser or corporate adviser (as appropriate depending upon the relevant market, but throughout this guide, referred to as 'sponsor'), solicitors, reporting accountants, broker, PR agent, share registrar and printers. The printers and the share registrar will usually be organised by the sponsor. Each adviser will need to enter into an engagement letter with the issuer setting out the scope of the appointment and the terms and conditions including payment. These engagement letters may include limitations on liability and indemnities, all of which will be the subject of negotiation.

Timetable and list of documents

The first step will be for the sponsor to produce a draft timetable and list of documents.

The timetable will map out the entire transaction and will set out responsibilities for various actions. This should include, as a first step, the preparation of a transaction structure report by the solicitors to the issuer. The purpose of this report is to identify hurdles to the process. Appropriate resources can then be applied to resolving problem areas. At this early stage, any timetable for the final transaction stages will be fairly 'broad-brush' but should show likely marketing and admission dates.

Due diligence

The sponsor will require a legal due diligence exercise to be undertaken in relation to the issuer. Terms of reference for this exercise are agreed and a legal due diligence questionnaire sent to the issuer for completion.

Information should be reviewed with particular attention to matters of fundamental importance to the issuer. An outsourcing business is, for instance, dependent for its revenues and profits on the terms of its outsourcing contracts. A detailed review of these is essential. Existing shareholders' agreements (if any) should be considered and the impact of obtaining shareholder consent to the flotation will need to be worked into any timetable. When it is intended to market into the United States, due diligence procedures will also need to take account of US practice in establishing a 'due diligence' defence to US securities law claims.

Long form accountants' reports

Whilst legal due diligence is on-going the reporting accountants will be preparing a long form report reviewing the issuer, its history and commercial activities, organisational structure, trading results, assets and liabilities, cashflows, tax filings, accounting policies and audit issues, management information control systems and employees.

Working capital review

To assist the directors in giving the working capital statement in the prospectus or admission document, reporting accountants provide a private report to the issuer and its sponsor. This report is based on the issuer's financial projections and supports the directors' working capital statement. Technically, this report needs to cover the 12 month period following admission. However, the sponsor usually requires the report to cover a longer period, typically 18 to 24 months after admission.

The report includes details of the basis upon which it was prepared. A commentary is incorporated covering the accuracy of budgets prepared by the issuer, current trading, profit and loss, cashflow and balance sheet projections and available bank facilities (including a covenant analysis). Concluding remarks involve the application of a sensitivity analysis to such budgets and projections and from this a view as to the minimum level of working capital headroom.

Short form accountants' reports

The prospectus or admission document will include short form accountants' reports. These cover the financial track record of the issuer for the last three financial years or since incorporation, if less and, if relevant, interim accounts.

Production of draft prospectus or admission document

Drafts of the relevant prospectus or admission document are prepared by the sponsor. These are circulated for review by all those involved in the process. Whilst less prevalent, this review could include drafting meetings. If a prospectus is required, the document must be submitted to the FCA for approval.

Verification

In view of the duties of disclosure in a prospectus or admission document, it is vital such documents are issued so as not to be misleading. Each director has a duty to ensure this is the case. This duty is discharged through a process called 'verification'.

Whilst verification can often seem long-winded, it is designed to ensure the accuracy of all factual statements and where statements of opinion or belief are included, to confirm that such opinions are reasonable.

Each director cannot be expected to know every fact relating to the issuer and its business. With respect to some statements, it would be perfectly proper for a director to rely on other people, including the company's advisers, to check particular aspects of the relevant document.

Verification requires the production of verification notes (often in electronic form) for which each director takes responsibility. In preparing verification notes and conducting a verification exercise, the following key points should be noted:

- the source for the verification of the statement of fact should be recorded in writing
- a record in writing should be kept with a reasonable basis for each statement of opinion

- each of the directors (including non-executive directors) must be given sufficient time to consider and comment upon the prospectus or admission document and the verification notes so that they are each given time to correct and amplify statements, if necessary
- it is not sufficient for directors to simply record that each statement is 'confirmed'; supporting evidence must be provided as an annexure to the verification notes
- if statements cannot be verified they must be deleted or amended so that they can be verified.

Research notes

The broker to the proposed IPO may wish to publish a research note on the company. There is sensitivity surrounding such notes due to the need to ensure that all investors have access to the same information regarding the issuer, as well as an increased FCA emphasis on the primacy of the prospectus which affects the timing of research notes for Main Market companies.

In the case of a Main Market IPO candidate, any connected research must not be released until at least seven days after publication of an approved prospectus, unless unconnected analysts are offered access to the company's management alongside the connected analysts (in which case the connected research can be published one day after the publication of the prospectus).

This timing restriction does not apply to an AIM IPO candidate, whose broker may publish a pre-IPO connected research note. However, market practice is that the pre-IPO research note will be published at least two weeks before the pathfinder documents and, in any event, one month before the prospectus or admission document is published (the two week period prior to the pathfinder being known as the 'blackout period.

The research note must not include details about the issuer or its business which are not published in the prospectus or admission document. To avoid any suggestion that the broker is no more than the issuer's agent which could result

in the research note being part of the prospectus or admission document, only limited assistance can be provided by the issuer in the preparation of the note. In reviewing any draft, the issuer must limit itself to matters of fact and must not comment on issues of judgment.

If the research note is to include financial projections but no profit forecast is to be contained in the prospectus or admission document, then all relevant information must be included in such document as would enable an investor to draw the same financial conclusions. This may include an analysis of the key financial drivers of the issuer's business. The research note must not be used in substitution for publishing a profit forecast in either the prospectus or admission document.

Marketing presentation

Drafted relying upon the pathfinder document and separately verified, the marketing presentation is used in meetings with institutions and other potential investors. The purpose is to explain to potential investors, the issuer, its history, business, track record and prospects.

Pathfinder document

Assuming investor appetite for the new issue is established from the marketing presentations, investors are asked to confirm their interest. Each investor receives a final draft version of the prospectus or admission document known as the 'pathfinder' (or in the US a 'red- herring'), together with a letter seeking confirmation of the level of interest. If the marketing is undertaken as a placing this confirmation is received by way of a placing letter. If a placing letter is not used this confirmation is received by way of a contract note.

20 business days - Submission of prospectus to the FCA

If a prospectus is required, the prospectus must be submitted to the FCA for approval at least 20 business days prior to the intended date of approval. This period is reduced to 10 business days where the company's shares are already traded on a regulated market or the company has previously made a public offer of transferable securities.

Submission of documents to the FCA - For all prospectuses (but Official List only if no prospectus is required)

Where a prospectus is required, certain other information must be provided and fees paid to the FCA at the same time. If no prospectus is required, submission of documents to the FCA is still required if the company is listed on the Official List. Formal approval from the FCA must be obtained before a prospectus can be published.

10 business day documents - AIM

10 business days before admission is a key date in the life of an application to join AIM. 10 business days before admission a variety of information documentation is submitted to the LSE. An announcement is also made by the LSE that an application has been received from the issuer for its securities to be admitted to trading on AIM. However, if the applicant has had its shares traded on an AIM Designated Market (such as the Official List, New York Stock Exchange, Euronext or NASDAQ) for at least 18 months prior to the application for admission to AIM, the documents and information must be submitted 20 business days before admission. It would then not need an admission document unless a prospectus is required.

Three business days - Submission of application of documents - AIM only

At least three business days before the expected date of admission and in addition to payment of the admission fees, the LSE must receive an electronic version of the relevant admission document together with the completed application form and a declaration by the Nomad confirming that the AIM Rules have been complied with in connection with the application.

48 hour documents - Official List only

By midday two business days before the FCA is to consider the listing application, an Application for Admission of Securities to the Official List and associated documentation, including a copy of the prospectus (approved by the FCA), written confirmation of the number of securities to be allotted (pursuant to a board resolution), and, if a

prospectus has not been produced, a copy of the announcement detailing the number and type of securities that are the subject of the application and the circumstances of their issue, must be submitted to the FCA. If a prospectus has not been produced, the application must also contain a confirmation that this is not required and details of the reasons why it is not required.

Further filings - Official List only

By no later than 9am on the day when an application for admission to the Official List is considered, further documents need to be received by the FCA, including payment of the appropriate listing fees and a completed shareholder statement.

Board meetings

There are at least five key board meetings of the issuer to be held in connection with an IPO. In order, these are:

- to approve the engagement of advisers in connection with the transaction and to undertake the IPO
- to approve the marketing presentation
- to approve the pathfinder document
- to approve the publication of the prospectus or admission document
- to allot and issue the new securities.

IPOs - Key issues

Investor protection – Surrounding every flotation are institutional investor guidelines.

The issue of new shares is a key event, as investors are concerned to avoid dilution. Investor guidelines have been prepared which seek to limit share issues and these guidelines establish terms of reference in addition to those set out in section 561 of the Companies Act 2006 (which gives every shareholder a proportionate pre- emption right) and Listing Rule 9.3.11R (which requires all companies with a Premium Listing on the Official List, including overseas companies, to offer their shareholders pre-emption rights, unless an exemption applies).

These investor guidelines are set out in the 'Statement of Principles' published by the 'Pre-emption Group'. The Statement of Principles applies to companies with a Premium Listing. Companies quoted on AIM are encouraged to apply these guidelines but the Pre-Emption Group recognises that greater flexibility is likely to be justified in the case of such companies.

The Statement of Principles sets out certain principal thresholds, which are as follows:

- Shareholders will generally support an annual disapplication of pre-emption rights on the following basis:
  - a general disapplication in respect of up to 10% of the issued ordinary share capital on an unrestricted basis, with a further disapplication of up to 2% to be used only for the purposes of a follow-on offer.
  - a general disapplication of an additional 10% of the issued ordinary share capital, provided it is only used in connection with an acquisition or specified capital investment which is announced contemporaneously with the issue, or which has taken place in the preceding 12 month period and is disclosed in the announcement of the issue, with a further disapplication of up to 2% to be used only for the purposes of a follow-on offer.

- When making a non-pre-emptive issue, companies should ensure they are raising capital on the best possible terms and should restrict the discount to a maximum of 5% of the middle of the best bid and offer prices for the company's shares immediately prior to the announcement of an issue or proposed issue. A discount of greater than 5% is not likely to be regarded as routine.

Investor protection - Remuneration

The Investment Association has published guidance on investor expectations for remuneration, entitled the 'Principles of Remuneration'. The Principles are for companies with a listing on the Official List, but other companies are encouraged to observe the Principles in the spirit of best practice and, in particular, AIM companies are increasingly expected to comply. The Principles state that shareholders will not support arrangements which entitle executives to reward when this is not justified by performance.

The Principles include the following:

- Remuneration policies should be set to promote long-term value creation through transparent alignment with the corporate strategy.
- Remuneration policies should support performance, encourage the sustainable financial health of the business and promote sound risk management for the success of the company and to the benefit of its stakeholders.

- Remuneration committees need to exercise independent judgment and not be over-reliant on remuneration consultants.
- A non-executive director should generally serve on the remuneration committee for at least one year before chairing the remuneration committee and have sufficient skill and experience to manage the remuneration-setting process.
- All new share-based incentives or any substantive changes to existing schemes should be subject to prior approval by shareholders by means of a separate and binding resolution. Any change in quantum should be fully explained and justified.
- Remuneration committees must respond to any significant vote against any remuneration resolution when they appear on the Public Register (a register tracking shareholder dissent at listed companies). Companies should seek to understand the reasons for the dissent and issue an update statement in response to the dissent.
- Commitments to issue new shares or re-issue treasury shares under executive (discretionary) schemes should not exceed 5% of the issued ordinary share capital of the company (adjusted for share issuance and cancellation) in any rolling ten year period. This may be exceeded where vesting is dependent on the achievement of significantly more stretching performance criteria.
- Executive (discretionary) share options should not be granted at a discount to the prevailing market price. The price at which shares are issued under other share schemes should not be less than the mid-market price (or similar formula) immediately preceding grant of the shares under the scheme.
- A share plan should have a maximum life of ten years. Therefore, no new awards should be made after the tenth anniversary of adoption of the scheme. Shares and options should not vest or be exercisable within three years from the date of grant. In addition, options should not be exercisable more than ten years from the date of grant.

- Commitments to issue new shares or re-issue treasury shares, when aggregated with awards under all of the company's other schemes, must not exceed 10% of the issued ordinary share capital (adjusted for share issuance and cancellation) in any rolling ten year period.
- The prior approval of shareholders should be obtained before 5% or more of a company's share capital at any one time may be held within employee share ownership trusts.

The Official List – Premium and Standard Listings

Listing on the Official List is divided into 'standard' listings, where listed companies comply with certain minimum standards and 'premium' listings where the UK's super-equivalent requirements apply.

The more onerous requirements of the Premium Segment include demonstrating a three year track record, appointment of a sponsor on admission and complying with continuing obligations regarding substantial and related party transactions.

The Premium Segment of the Official List is only open to voting equity shares, whereas both equity and non-equity shares and other types of securities, such as global depository receipts, debt securities and securitised derivatives, may be listed on the Standard Segment. Investment entities may only list their equity shares on the Standard Segment if they have another class of shares which is listed on the Premium Segment.

UK companies are now able to join overseas companies in opting for a Standard Listing, regardless of whether they have a listing elsewhere. This creates a level playing field for UK issuers, who now have the option of applying for admission to the Official List without having to satisfy the UK's super-equivalent requirements. However, only companies with a Premium Listing will be eligible for inclusion in the FTSE UK Index Series.

A Standard Listing will also provide UK and overseas commercial companies, which either do not wish to submit to the more onerous requirements of a Premium Listing, or do not meet the eligibility criteria for a Premium Listing, with an alternative to AIM. A commercial company applying for a Standard Listing will have to have a minimum market capitalisation of £30 million and a minimum of 10% of its shares in public hands (neither of which criteria apply

for an admission to trading on AIM) and will have to publish a prospectus (which may not be necessary for admission to AIM). However, the ongoing obligations that apply to the company once it has a Standard Listing will be less onerous than those applying to a company on AIM. For example, a company with a Standard Listing will not need to appoint a sponsor or to seek shareholder approval for, or comply with any disclosure requirements concerning, significant transactions or transactions with related parties.

It is possible to migrate from a Premium Listing to a Standard Listing as long as over 75% of shareholders approve the migration. An issuer wishing to move its equity shares from a Standard Listing to a Premium Listing will not require shareholder approval but must satisfy the UK super-equivalent eligibility provisions.

Conditions for listing – The Official List

In considering whether a company is suitable for a listing on the Official List there are certain pre-conditions which must be fulfilled.

In addition, the FCA has an overriding discretion to impose any special conditions on any listing which it considers appropriate (in the interest of protecting investors). In essence, the pre-conditions are:

Conditions concerning the applicant

(It is important in this context to consider the application of particular chapters of the Listing Rules to specialist companies which may waive or amend the application of these conditions, for example, scientific research based companies which are subject to paragraphs 6.1.11 R and 6.1.12 R of the Listing Rules.)

- The issuer must be duly incorporated and operating within its constitution.
- If the issuer is applying for a Premium Listing, it must have three years of audited accounts, which are consolidated accounts and independently audited in accordance with IFRS or an equivalent standard and have been reported on by the auditors without modification. The accounts must be the latest accounts for a period ended not more than six months before the date of the prospectus. There is an overriding provision in the Listing Rules that a three year track record is not needed where 'it is desirable in the interests of investors and investors have the necessary information to arrive at an informed judgment about the applicant and the securities for which listing is sought'.

- If the issuer is applying for a Premium Listing, its business must be operated independently and have been revenue generating for the period covered by the accounts. The new applicant must also demonstrate that at least 75% of its business is supported by a historic revenue earning record which covers the three year period of the accounts and that it controls the majority of its assets and has done so for at least that three year period.
- All new applicants will need to include a working capital statement concerning the group's present working capital requirements (covering at least the next 12 months).

Securities

- The securities in respect of which the application is to be made must conform with the law of the jurisdiction where the company was incorporated, be duly authorised and have all relevant statutory or other consents.
- The securities must be freely transferable.
- The market capitalisation for the shares in respect of which a listing is sought must be £30 million or more. The minimum market capitalisation for debt securities is lower, at £200,000. In either case, a lower value can be imposed provided the FCA is satisfied that there will be an adequate market for the securities concerned.
- At the time of admission, at least 10% of the issuer's securities in respect of which a listing is made must be in the hands of the public situated in any jurisdiction. For these purposes the 'public' does not include:
  - a director of the applicant or any subsidiaries
  - any person connected with that director

  - trustees of any employee share schemes or any pension funds established for the benefit of directors or employees of the applicant or subsidiaries
  - any person who by agreement may nominate the appointment of a director
  - any person or persons in the same group who are interested in 5% or more of securities of the same class.
- The application must be in respect of all securities of the class which is the subject of any application.
- The securities must be eligible for electronic settlement (including settlement in CREST).
- As regards warrants and options, in the absence of exceptional circumstances, not more than 20% of the issued equity share capital (excluding rights under employee share schemes) at the time of issue must be subject to warrants or options.
- Regarding convertible securities, these will only be admitted to listing (on the Standard Segment) if the securities into which they are convertible are or will (at the same time) become listed securities. The FCA has a discretion to waive this requirement if it is convinced that holders of the convertible securities will have all the information necessary to form an opinion on the value of the underlying securities.
- There are also special listing criteria for companies operating in particular markets, for example, scientific research based companies, mining companies and property investment companies. The Listing Rules contain separate provisions for each of these categories and they must be reviewed at an early stage in the application process. Where there is any doubt concerning the ability of the applicant to meet any of the pre-conditions a discussion must be held with the FCA as soon as possible to try and resolve any issues even though this may result in the application being subject to special conditions. You should arrange for the sponsor to discuss these issues with the FCA and report back.

Conditions for admission – AIM

Unlike the Official List, there are few prescriptive pre-conditions for admission to AIM. As an exchange regulated market it is for the nominated adviser, referred to as the 'Nomad', to determine that the issuer is appropriate for admission to listing.

The Nomad's responsibilities are set out in the 'AIM Rules for Nominated Advisers'. In determining 'appropriateness', the Nomad conducts initial due diligence upon the issuer. This will include investigating the background and suitability of the directors and the efficacy of the board as a whole as well as gaining a better understanding of the issuer's business and prospects. The Nomad must also satisfy itself that the issuer has in place sufficient systems, procedures and controls in order to comply with the 'AIM Rules for Companies' ('AIM Rules').

If an issuer is considered by the Nomad to be 'appropriate', then the pre-conditions to joining are:

- a prospectus or an admission document be published (in English) which should be made available on the company's website following admission (if a prospectus is required it must be approved by the FCA, filed with the National Storage Mechanism and published on a website)
- the securities to be admitted to trading must be freely transferable
- the issuer must have and must retain a Nomad and broker
- appropriate arrangements must be in place to enable trades in the relevant securities to be settled.

The AIM Rules set out the information which needs to be included within the prospectus or admission document. The content of prospectuses is determined primarily by the Prospectus Regulation (EU) 2017/1129 as it applies in England and Wales from time to time after 31 December 2020 (and supporting legislation) and also by the FCA's Prospectus Regulation Rules. Even if a prospectus is not required, the information which must be included in the admission document is, in essence, largely the same information as that included in a prospectus prepared in accordance with the Prospectus Regulation Rules. Some additional information is required under the AIM Rules, for instance, specific wording for a working capital statement given by the directors for at least the next 12 months following admission and the inclusion on the first page of the admission document of a disclaimer concerning the status of AIM and the risks associated with investing in the emerging or smaller companies. Information upon each director and each proposed director also needs to be included in the admission document. This includes details of any companies of which they were directors or were directors in the 12 months before a administrator or liquidator was appointed.

As no three year trading track record is required as a pre-condition to admission to AIM, it is possible for a start-up company to be admitted, or a company with a trading track record, which, since incorporation, is less than three years.

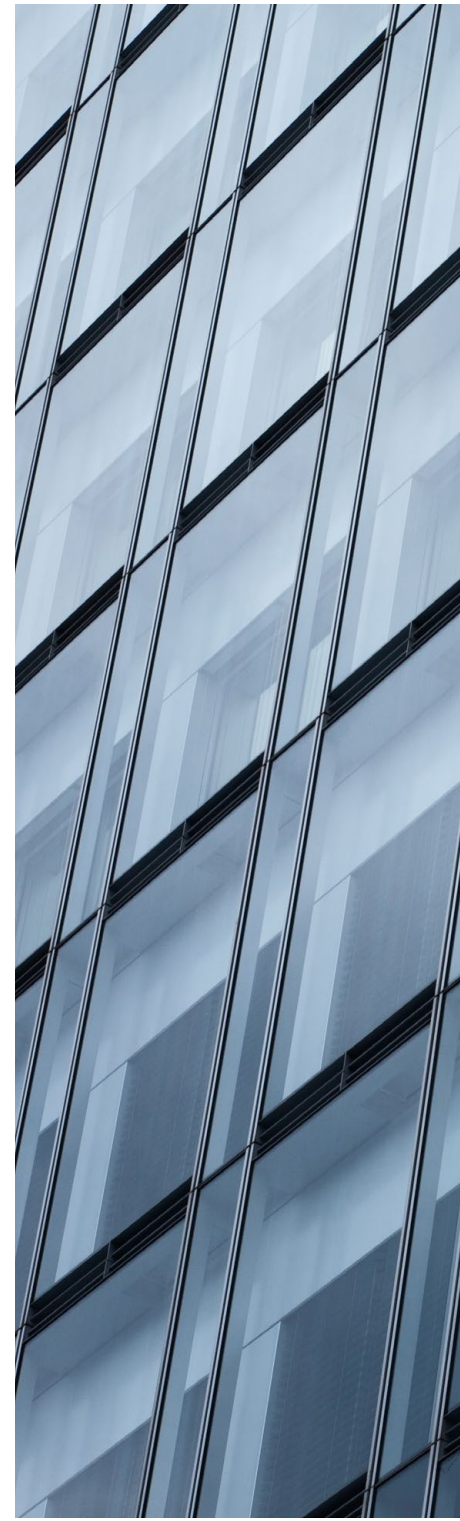
Where, in the course of preparing for admission, matters are brought to the attention of the LSE regarding the issuer which could affect its 'suitability', special conditions upon admission can be imposed. One such condition is the requirement for directors and senior employees and any related party shareholders not to dispose of any interests in securities for at least one year following admission. This condition applies only in circumstances where, on admission, the issuer has not been independent and earning revenue for at least two years.

An additional condition for listing applies to cash shells. Where an

issuer is an 'investing company' (namely, a company which, in the opinion of the LSE, has as a primary business the investing of its funds in securities of other companies or the acquisition of a particular business), a condition of its admission is that it raises a minimum of £6 million in cash by way of an equity fundraising on or immediately prior to admission.

Fast-track admission to AIM

Companies already listed on certain foreign exchanges (referred to as 'Designated Markets') can use a fast-track admission procedure to join the AIM market. This procedure requires the provision and publication, at least 20 business days before the expected date of admission to AIM, of information amounting to a scaled down admission document. Those companies must provide information equivalent to that required for an admission document which is not already public. The 'Designated Markets' include the Australian Securities Exchange, Deutsche Börse, Euronext, Johannesburg Stock Exchange, NASDAQ, NASDAQ OMX Stockholm, NYSE, Swiss Exchange, TMX Group and the FCA's Official List.



Key documentation – Prospectuses

The prospectus regime in the UK relating to public issues of securities and admission of securities to a 'regulated market' (such as the Main Market of the London Stock Exchange) is governed by the Prospectus Regulation which (together with supporting delegated regulations) sets out rules governing when a prospectus must be published, what it must contain and the procedure for its approval.

In the UK, the Prospectus Regulation is a key source for issuers and the Prospectus Regulation Rules published by the FCA set out the details which must be contained in all prospectuses as well as (in conjunction with Part VI of the Financial Services and Markets Act 2000) the procedure for their approval and publication. Issuers must also have regard to related EU-derived legislation (including two Commission delegated regulations on prospectuses) as it applies in England and Wales from time to time after 31 December 2020 and guidance relating to prospectuses issued by the European Securities and Markets Authority ('ESMA').

Although such non-legislative materials published by ESMA were not incorporated into English law when the UK left the European Union, because the EU laws to which such material relates have largely been retained, the FCA considers that it is still relevant for compliance with regulatory requirements, including FCA Handbook provisions.

When is a prospectus required?

A prospectus will be required in two situations:

- if an offer of transferable securities is made to the public (which covers any 'communication to any person which presents sufficient information on (a) the transferable securities to be offered and (b) the terms on which they are offered, to enable an investor to decide to buy or subscribe for the securities in question. The communication may be made in any form and by any means')
- if transferable securities are being admitted to trading on a regulated market (which includes the Main Market of the London Stock Exchange, but not AIM).

If a prospectus is required, it is unlawful and a criminal offence for transferable securities to be offered to the public or for an application to trading on a regulated market to be made, unless an approved prospectus is made available to the public before the offer or application is made.

Exemptions

There are a number of exemptions available, which, if applicable to an offer of transferable securities to the public, mean that a prospectus is not required. For example, a prospectus will not be required if:

- the offer is addressed to fewer than 150 people, other than 'qualified investors' in the UK
- the offer is made purely to 'qualified investors' (being persons who can be classified as 'professional clients' or 'eligible counterparties' under the Markets in Financial Instruments Directive (2014/65) as it applies in England and Wales from time to time after 31 December 2020, known as MiFID II))
- the total consideration of the offer is less than €8 million (or an equivalent amount), when aggregated with offers open during the previous 12 months
- the minimum consideration which may be paid by any person for securities pursuant to the offer is at least €100,000, or
- the securities offered are denominated in the amounts of €100,000 (or an equivalent amount)

Since the end of the Brexit transition period on 31 December 2020, companies can no longer use FCA-approved prospectuses or supplements to offer securities to the public on a non-exempt basis (or admit securities to trading on a regulated market) within the EEA. In those circumstances, companies need to obtain approval from a national competent authority within the EEA to do so (unless an exemption applies under the EU version of the Prospectus Regulation).

Likewise, there are exemptions from the need for a prospectus on admission to trading on a regulated market. For example, a prospectus will not be required if:

- the number of shares being admitted represents (over a 12 month period) less than 20% of the shares of the same class already admitted to trading, or
- the shares arise upon the exercise of conversion rights of options or warrants (provided that the resulting shares represent, over a period of 12 months, less than 20% of the shares of the same class already admitted to trading).

General duty of disclosure

The general duty of disclosure for prospectuses is set out in article 6(1) of the Prospectus Regulation (and reflected in section 80 of the Financial Services and Markets Act 2000 ('FSMA')), which provides that prospectuses shall contain the necessary information which is material to an investor making an informed assessment of:

- the assets and liabilities, profits and losses, financial position and prospects of the issuer of the securities and of any guarantor
- the rights attaching to the securities
- the reasons for the issue and its impact on the issuer.

For these purposes the information referred to is anything which is within the knowledge of any person responsible for the prospectus or which it would be reasonable for such person to obtain by making enquiries.

In addition, section 87A of FSMA provides that the FCA cannot approve a prospectus unless it contains the information required by article 6(1) of the Prospectus Regulation.

Prospectus requirements

The prospectus must consist of three principal components, either combined into a single document or kept separate:

- a summary, providing the key information that investors need in order to understand the nature and the risks of the company and the securities
- a registration document, containing information relating to the company
- a securities note, containing information relating to the shares.

A company applying for approval of a prospectus must ensure the prospectus contains:

- the necessary information which is material to an investor for making an informed assessment of the assets and liabilities, profits and losses, financial position and prospects of the company; the rights attaching to the shares; and the reasons for the issue and its impact on the company
- the information items required under the relevant Annexes of the Commission Delegated Regulation (EU) 2019/980 on contents of prospectuses as it applies in England and Wales from time to time after 31 December 2020.

The Annexes set out the specific minimum information requirements for a prospectus. The Annexes that apply in a particular case depend upon various factors including the type of securities being issued, the type of issue, the nature of the company, and whether the company has a complex financial history or has made a significant financial commitment. The issue of shares on an IPO will typically require the inclusion of the information set out in Annexes 1 and 11 and, if there is a significant gross change (a variation of more than 25% in relation to one or more indicators of the size of the issuer's business (such as total assets, revenue or profits) to a particular transaction), the information set out in Annex 20 also. Specialist issuers may also need to include additional information.

The summary must be accurate, fair and clear and not misleading and it must be consistent with the other parts of the prospectus, as well as limited in length to a maximum of seven sides of A4 paper. There are detailed requirements for the contents of the summary, which must be made up of four sections:

- an introduction, containing warnings
- key information on the company (including key historical financial information in a prescribed format)
- key information on the shares
- key information on the offer and/or admission.

The summary must contain the most material risk factors that are specific to the company and the shares, subject to a maximum of 15.

The prospectus must also contain details of the risk factors that are material and specific to the company and its securities.

The FCA can authorise the omission of information from a prospectus (or supplemental prospectus) where it considers that:

- the information is of minor importance only and is not such that will influence assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer
- disclosure would be contrary to public interest, or
- disclosure would be seriously detrimental to the issuer and is not such that will influence assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer.

The prospectus must be approved by the FCA. If the company is not already listed on the Official List (or another regulated market) and has not previously made an offer of securities to the public, the prospectus must be sent to the FCA for approval 20 business days in advance of the intended date of approval of the document. Other issuers must submit the prospectus 10 business days in advance.

Once approved, the prospectus must be filed with the National Storage Mechanism and be made available to the public by publication on a website.

Key documentation - The Official List

An application for securities to be admitted to the Official List for the first time requires the production of a prospectus.

Subsequent applications for listing shares on the Official List once the company's shares are already admitted will also require a prospectus unless an exemption applies.

The prospectus must be submitted to and approved by the FCA and also published on a website. The Prospectus Regulation Rules set out in full the details which need to be contained in a prospectus and the Listing Rules set out the procedure for applying for admission to the Official List. These should also be read in conjunction with appropriate supporting chapters, for example, for certain types of investment entity.

The marketing of securities to be admitted to the Official List will be carried out using a pathfinder prospectus. This document constitutes a bundle of contractual representations. If these are incorrect it may lead to claims for misrepresentations. Verifying the accuracy of such statements is important.

Who is responsible for the document?

The persons responsible for a prospectus (or supplemental prospectus) in relation to an issue of equity shares are:

- the issuer of the securities
- where the issuer is a body corporate, every director of the issuer at the time the document is submitted and also any person who has authorised himself or herself to be named in the document as a director, for example, someone occupying the office of director although not formally appointed as such or anyone who has agreed to become a director of the applicant either immediately or at a future time

- in relation to an offer, the offeror (if this is not the issuer) and, if it is a body corporate, its directors
- each person who accepts, and is stated in the prospectus as accepting responsibility for, or for any part of, the document
- each person not falling within any of the above paragraphs who has authorised the contents or any part of the document.

A person will not be held responsible for a prospectus if it is published without their knowledge or consent and, on becoming aware of its publication, that person immediately gives reasonable public notice that it was published without their knowledge or consent.

Where a person accepts responsibility for part only of the prospectus, for example, the accountants in respect of the short form report, they are only responsible for that part and only if that part is included in (or substantially in) the form and context to which they have agreed.

Responsibility statements

The Prospectus Regulation Rules require a statement to be included in the prospectus that each director (and any proposed director) takes responsibility for the prospectus – in particular, that, having taken all reasonable care to ensure that such is the case, the information contained in the prospectus is, to the best of their knowledge, in accordance with the facts and contains no omission likely to affect its import.

Publication

An application for the admission of shares to listing must involve not only the production and approval of a prospectus but also its publication on a website.

Prospectuses must not be circulated publicly before they have been approved by the FCA. Once approval has been given, the document must be published on a website (details of which must be given to the FCA when seeking approval of the prospectus).

The company must also file the approved prospectus with the National Storage Mechanism.

Pathfinder prospectus

As part of the marketing exercise it is common for the sponsor or broker to want to issue a 'pathfinder' prospectus with a view to identifying the appetite for the company's securities. In essence, the pathfinder will be the final version of the document, but without the final offer price or amount of securities to be offered.

A pathfinder prospectus can be approved by the FCA (and therefore be distributed more widely) but must then disclose the criteria by which the price or number of securities will be determined or, in the case of price, the maximum price. The final price and amount of securities must then be filed with the FCA and published as soon as practicable.

Supplemental prospectus

If, between approval of a prospectus by the FCA and the closing of the offer of securities to the public or commencement of trading on a regulated market, there arises or is noted a significant new factor, material mistake or inaccuracy in the information in the prospectus, a supplemental prospectus containing details of the new factor, mistake or inaccuracy must be submitted to the FCA for approval and be published.

Key documentation – AIM

Whilst an application for securities to be admitted to the Official List requires the production of a prospectus (unless, on secondary issues, an exemption applies), an application for securities to be admitted to AIM may not.

If an offer to the public of transferable securities falling within the scope of the Prospectus Regulation is not made in connection with the AIM application, then only an AIM 'admission document' is required. Otherwise, a prospectus complying with the Prospectus Regulation Rules should be prepared. The prospectus requirements are set out on pages 28-32.

Once a company's shares are admitted to AIM, further admissions of shares will not require an admission document, unless a prospectus is required, a new class of share is being admitted or there is a reverse takeover.

The admission document must include the majority of the information required for inclusion in a prospectus. In addition, other information (if any) must be included which the company reasonably considers necessary to enable investors to form a full understanding of:

- the assets and liabilities, financial position, profits and losses, and prospects of the applicant and its securities for which admission is sought
- the rights attaching to those securities
- any other matter in the admission document.

Information to be included as a result of this obligation is all information which is within the knowledge of any person taking responsibility for the document or which could have been obtained on reasonable enquiry. Finally, in determining the relevance of information in this context, regard must be had to the nature of securities and the issuer.

Who is responsible for an admission document?

Where an admission document is not a prospectus, then although it must be prepared to a standard which includes a majority, if not all, of the information which would otherwise be required for inclusion in a prospectus, the responsibility provisions of the Prospectus Regulation Rules do not directly apply.

The AIM Rules provide, however, that the persons responsible for the information provided in the admission document are the same persons who will be responsible for the information contained in a prospectus pursuant to the Prospectus Regulation Rules.

The AIM Rules also impose an obligation of responsibility upon all directors of the issuer and this responsibility is both individual and collective. Breach of such responsibility, for instance, by publishing an admission document which contains untrue or misleading information or which otherwise does not comply with the additional requirements of the AIM Rules, could result in disciplinary action being taken against the directors, in addition to any potential third party claims.

If the admission document is in any event a prospectus, then the issuer is responsible for the document together with all directors and those who have agreed to become a director of the issuer, together with any other person who has authorised the contents of any part of the admission document.

Responsibility statements

In the same way as for a prospectus, responsibility statements appear in an admission document.

Publication of the admission document

An admission document is published by making it freely available, for at least one month from admission. Insofar as the admission document is also a prospectus, then it must be approved by the FCA, filed with the National Storage Mechanism and published on a website. In any event, the company is required under Rule 26 of the AIM Rules to make available,

free of charge, on its website, on an ongoing basis (among other things) its most recent admission document and for a period of five years any prospectus it has published on or after 3 January 2018 .

Supplemental admission document

In practice, a supplemental admission document would be required in circumstances where:

- there has been a significant change affecting any matter contained in the admission document, or
- a significant new matter arises, which would need to have been disclosed in the admission document, had such matter arisen when the document was being prepared, or
- there is a significant inaccuracy in the admission document.

For these purposes, the concept of 'significant' means significant for the purpose of making an informed assessment of the assets of:

- the assets and liabilities, financial position, profits and losses and prospects of the issuer
- the rights attaching to the securities to be admitted to trading on AIM.

If the initial admission document was a prospectus, such charge or inaccuracy would require the approval and publication of a supplemental prospectus.

The UK Corporate Governance Code

The principal corporate governance guidelines for UK-listed companies are set out in the UK Corporate Governance Code (available on the FRC's website).

The UK Corporate Governance Code applies to all companies with a Premium Listing of equity shares regardless of whether they are incorporated in the UK or elsewhere. It focusses on the application of the Code's principles and reporting on outcomes achieved.

The latest version of the UK Corporate Governance Code places a greater emphasis on relationships between companies, shareholders and stakeholders. It also promotes the importance of establishing a corporate culture that is aligned with the company purpose and business strategy, promotes integrity and values diversity.

The UK Corporate Governance Code consists of Principles and Provisions, across five sections dealing with:

- **Section 1:** Leadership and purpose
- **Section 2:** Division of responsibilities
- **Section 3:** Composition, succession and evaluation
- **Section 4:** Audit, risk and internal control
- **Section 5:** Remuneration.

Although the UK Corporate Governance Code itself does not have legal force, all companies with a Premium Listing of equity shares in the UK are required under the Listing Rules to report in their annual report and accounts on how they have applied the UK Corporate Governance Code or explain the reasons for non-compliance (the 'comply or explain' requirement).

A company with a Standard Listing is not required to comply or explain against the UK Corporate Governance Code. However, it must publish a corporate governance statement detailing its approach to corporate governance in line with DTR 7.2 of the Disclosure Guidance and Transparency Rules. This requirement applies to both UK and overseas issuers.

The UK Corporate Governance Code focuses on the application of the Principles (how they have been applied, articulating what action has been taken and the resulting outcomes). High-quality reporting includes signposting and cross-referencing to the parts of the annual report that describe how the Principles have been applied. This should be supported by high-quality reporting on the Provisions which operate on a 'comply or explain' basis. Boards and companies are encouraged to use the FRC Guidance on Board Effectiveness to support their activities and help with their actions and decisions.

The QCA Corporate Governance Code

The Quoted Companies Alliance ('QCA') represents the interests of smaller and mid-cap quoted companies outside the FTSE 350, including those quoted on AIM.

Rule 26 of the AIM Rules requires AIM companies to provide on their website details of the corporate governance code that they have decided to apply, and how they comply with that code or, if no code has been adopted, any corporate governance arrangements they have decided to adopt.

The QCA publishes a corporate governance code (the 'QCA Corporate Governance Code') which has been specifically tailored to the needs of growing companies, particularly small and mid-size quoted companies. It can, therefore, can be a useful code for AIM companies to adopt, as well as being a useful source of guidance for AIM companies that wish to follow good corporate governance practice.

The QCA Corporate Governance Code sets out ten board principles which focus on the medium to long term value for shareholders without stifling the entrepreneurial spirit in which the company was created. To claim adoption of the QCA Corporate Governance Code, a company must apply the ten principles and publish certain disclosures in recommended locations (on the company's website or in the company's annual report or sometimes in both locations).

The ten principles are divided into three categories which reflect the QCA's view of the purpose of corporate governance: delivering growth; maintaining a dynamic management framework; and building trust. The ten principles are:

- Establish a strategy and business model which promote long-term values for shareholders.

- Seek to understand and meet shareholder needs and expectations.
- Take into account wider stakeholder and social responsibilities and their implications for long term success.
- Embed effective risk management, considering both opportunities and threats, throughout the organisation.
- Maintain the board as a well-functioning, balanced team led by the chair.
- Ensure that between them the directors have the necessary up-to-date experience, skills and capabilities.
- Evaluate all elements of board performance based on clear and relevant objectives, seeking continuous improvement.
- Promote a corporate culture that is based on sound ethical values and behaviours.
- Maintain governance structures and processes that are fit for purpose and support good decision making by the board.
- Communicate how the company is governed by maintaining a dialogue with shareholders and other relevant stakeholders.

The QCA Corporate Governance Code states that good corporate governance requires having the right people (in the right roles), working together, and doing the right things to deliver value for shareholders as a whole over the medium to long term. The board needs to be kept dynamic and diverse and engender a consistent corporate culture throughout the organisation. Good corporate governance is about ensuring that the board is set up to make robust decisions and manage risk. It is also increasingly about ensuring that a healthy culture is in place which combines a strong focus on performance and a sense shared throughout the workforce of what is acceptable and what is unacceptable in terms of behaviour.

Jargon

10 day announcement:
the announcement which must be made 10 business days before the date when new securities are to be admitted to AIM.

Admission:
admission of securities to listing or trading on, for instance, the Official List or AIM.

AIM Rules for Companies:
rules for AIM-quoted companies published by the London Stock Exchange.

AIM Rules for Nominated Advisers:
rules for nominated advisers ('Nomads') in respect of AIM-quoted companies, published by the London Stock Exchange.

Audit Committee:
a committee of a company's board of directors, which considers the company's application of corporate reporting and risk management and internal control principles and monitor the auditors' independence and objectivity and the effectiveness of the audit process. The UK Corporate Governance Code provides that the audit committee should comprise at least three (or in the case of smaller companies, two) members who should all be independent non-executive directors.

Broker or Stockbroker:
the broker may also be the sponsor or Nomad. The broker will advise on market conditions and the potential demand for shares, act as the company's representative to investors and be involved in decisions such as marketing, pricing of securities and the timing of the issue.

Cash shell:
a company formed to seek acquisitions, which usually joins the stock market with a cash pile but no actual business. Cash shells may be used by other companies as a method of gaining a listing, by way of a reverse takeover - the cash shell acquires a bigger private company by issuing shares as consideration. Shareholders in the larger target company receive shares in the cash shell and end up in control of the merged entity, which then uses the shell company's original listing for the merged entity.

Circular:
a document posted to the holders of securities giving notice to them of a

meeting at which resolutions set out in the circular are to be proposed. The circular provides an explanation of the matters to be taken into account when deciding how to vote on such resolutions.

Clawback:
the right of a company to scale down the number of securities placed depending on the level of applications for securities received from a company's existing shareholders.

Clearances:
applications made to HM Revenue and Customs for confirmation that a company's shares will qualify for certain tax reliefs, such as 'EIS' or 'VCT'.

Close companies:
the announcement which must be made 10 business days before the date when new securities are to be admitted to AIM.

Closed period:
(under the Market Abuse Regulation), the period of 30 calendar days before the announcement of an interim financial report or year- end report which the issuer is obliged to make public under the rules of the trading venue where the securities are admitted to trading or national law, during which 30 day period directors cannot deal in the securities of an issuer, save in certain limited and exceptional circumstances.

the Code (or the Takeover Code):
the City Code on Takeovers and Mergers.

Connected persons:
an expression used in connection with the aggregation of directors' interests in shares to include shares under their 'control'. The legal definition appears in section 252 of the Companies Act 2006 and should be reviewed with the directors before completing the 'directors' interests' section of the prospectus.

Contract note:
issued to placees to confirm participation in a placing in circumstances where a placing letter is not used.

CREST:
the paperless settlement system which enables securities to be evidenced otherwise than by certificate and transferred otherwise than by written instrument.

The system is run by Euroclear UK & Ireland Limited (formerly known as CRESTCo Limited), pursuant to the Uncertificated Securities Regulations 2001 (SI 2001 No 3755).

Disclosure Guidance and Transparency Rules:
the book of rules published by the Financial Conduct Authority which relate to the disclosure and control of inside information and securities transactions by directors and senior employees and their connected persons, corporate governance reporting, periodic financial reporting and notification and dissemination of information on major shareholdings and certain other matters.

EIS:
the Enterprise Investment Scheme: a tax efficient investment under which the income tax liability of the investor is reduced by 30% of the sums invested, up to the annual investment limit, provided the shares are held for three years. The annual investment limit is £1 million (or £2 million, for shares issued on or after 6 April 2018, provided that anything above £1 million is invested in one or more knowledge-intensive companies).

EMI:
the Enterprise Management Incentive Scheme: a form of share scheme which benefits from favourable tax status when certain conditions are met. Available to qualifying companies with gross consolidated assets of £30 million or less. Employees may each receive options worth up to £250,000 at the date of grant subject to an overall financial limit of £3 million of the total market value of shares covered by EMI options at any time. Options granted at or above market value do not attract income tax or national insurance on grant or exercise.

ESMA:
the European Securities and Markets Authority, a European Union financial regulatory agency and supervisory authority, with a role of enhancing the protection of investors and promoting stable and orderly financial markets to safeguard the stability of the European Union's financial system.

FCA:
the Financial Conduct Authority acting in its capacity as the competent authority for listing for the

purposes of Part VI of the Financial Services and Markets Act 2000.

Firm placing:
a placing of shares not subject to 'clawback'.

Follow-on offer:
expected features of a follow-on offer are found in paragraph 3, Part 2B of the Pre-emption Group Statement of Principles, but in short, include qualifying shareholders which have not been allocated shares in a particular issue of equity securities.

FSMA:
Financial Services and Markets Act 2000.

Investment Association:
the trade body that represents UK investment managers, created by a merger of the Investment Management Association and the Investment Affairs division of the Association of British Insurers (ABI) in 2014. The IA now covers the entire range of investment issues for investment managers and clients and publishes investor guidelines.

Investment Association principles of remuneration:
principles of remuneration published by the Investment Association (the trade body that represents UK investment managers), which institutional shareholders expect companies to follow in their policies and practices on executive pay and long term incentives.

Investor presentation:
a presentation made by the issuer to institutional investors who have been identified by the sponsor or Nomad (as the case may be) as prospective investors for a proposed issue of securities, such as a placing.

Licensed dealers:
the financial intermediaries who promote share issues to their clients and may agree with the stockbroker to take an agreed number of securities in the issue as a sub-placee.

Listing particulars:
for an issuer applying to admit certain specialist securities to the Official List, listing particulars complying with chapter 4 of the Listing Rules must be prepared, if no prospectus is required under the Prospectus Regulation Rules.

Listing Rules:
the book of rules governing the admission of securities to listing on the Official List maintained by the FCA and providing for certain continuing obligations for listed companies.

Long form report:
the report on the company prepared by the reporting accountants giving information on the management of the company, track record, financial reporting and other systems.

Market capitalisation:
the aggregate value of an issuer's listed securities. This is calculated by taking the price of a company's listed securities and multiplying by the number of securities in issue. On a 'fully diluted' basis the market capitalisation would assume, for instance, that all options and warrants had been exercised and any convertible securities had been converted.

Material contract:
the prospectus or admission document will include a summary of the main terms of each contract which was not entered into in the ordinary course of business (that is with a view to either generating turnover or incurring cost to facilitate turnover) in the two years prior to the date of the prospectus or admission document.

Multiple:
the number of times an issuer's after tax profits are to be multiplied to produce a value for the entire issued share capital of an issuer. This multiple is also known as a price/earnings ratio. Simply the number of years assuming the stated after tax profits of an issuer that it will take before a valuation ascribed to the issuer is paid for by its earnings.

National Storage Mechanism:
the official mechanism for storing regulated information provided by Morningstar plc as appointed by the FCA.

Nomad:
each applicant to AIM must appoint a nominated adviser. The LSE maintains a list of approved nominated advisers. Nominated advisers must comply with the AIM Rules for Nominated Advisers. The adviser's role is to act as a sponsor to ensure the applicant is suitable to be a publicly traded company and also to ensure compliance with the AIM Rules for Companies.

Nomination committee:
a committee of a company's board of directors, which leads the process for board appointments and makes recommendations to the board. The UK Corporate Governance Code requires that a majority of the members of the nomination committee should be independent non-executive directors.

Official List:
the Official List of the Financial Conduct Authority. In addition to applying for admission of its equity securities to the Official List, an issuer must also apply to a recognised investment exchange for the securities to be admitted to trading on a regulated market for listed securities (eg the London Stock Exchange Main Market or the AQSE Main Market).

Pathfinder board meeting:
a board meeting of the issuer to verify and approve the pathfinder prospectus.

Pathfinder prospectus:
a preliminary offering document or draft prospectus which is used to assess the level of demand from potential investors for the shares on offer. If a prospectus is required, the pathfinder must contain all the requisite information, save as to price. Either the criteria by which the price will be set or the maximum price must be provided.

Pitch or roadshow:
a marketing presentation designed to solicit interest from a potential investor in an issue of securities.

Placee:
a person who subscribes for shares in a placing.

Placing:
an issue of securities on the basis that they are restricted to clients

of the sponsor or other financial institution assisting in the placing.

Placing agreement:
the contractual terms and conditions pursuant to which a stockbroker or other financial institution undertakes a placing of shares.

Placing letter:
the offer letter sent out to interested investors by a broker or other financial institution responsible for a placing.

Pre-Emption Group Statement of Principles:
Voluntary guidelines produced by the Pre-Emption Group, whose members represent listed companies, investment institutions and intermediaries. The Pre-Emption Group publishes guidance on the disapplication of pre-emption rights and monitors and reports on how this guidance is applied. **The Statement of Principles** relates to issues of equity securities for cash other than on a pro rata basis, setting out the extent to which disapplications of pre-emption rights are acceptable. They apply to all listed companies, irrespective of whether they have institutional shareholders.

Premium Listing:
a listing on the Premium Segment of the Official List. Issuers seeking a Premium Listing must satisfy more onerous admission and continuing obligation requirements, as opposed to the minimum requirements for a Standard Listing.

Pro-forma statement:
usually a balance sheet produced to show the resulting balance sheet position and profit and loss and/or earnings per share following, for example, a share issue used to fund an acquisition.

Profit forecast:
an estimate by the company on the basis of certain assumptions, of its after tax profits to the end of an issuer's current financial period. As to what constitutes a profit forecast, the definition set out in the Commission Delegated Regulation on Prospectuses (EU) 2019/980 as it applies in England and Wales from time to time after 31 December 2020 has been replicated in the Listing Rules. It is defined as a form of words which expressly states or

by implication indicates a figure or minimum or maximum level of likely profits or losses for the current or future financial period(s) or contains data from which a calculation of such a figure can be made, even if no particular figure is mentioned, and the word 'profit' is not used. This contrasts with a 'profit estimate', which is a profit forecast for a financial period which has expired and for which results have not yet been published. Depending on the circumstances, a forecast of earnings per share and revenue figures (if they allow a calculation of profit) may be viewed by the FCA as a profit forecast, as also is a statement of performance against market expectations (if there is a clear market consensus of expectation that allows a calculation of a floor or ceiling on forecast profits).

Prospectus:
the document which must be published, under the Prospectus Regulation and Part VI of the Financial Services and Markets Act 2000, by a company which is making an offer to the public or seeking admission of its securities to trading on a regulated market (such as the Main Market), unless an exemption applies. Such document will include the information required under the Prospectus Regulation Rules, which apply whether the applicant seeks to join the Official List or AIM.

Prospectus Regulation Rules:
the book of rules published by the Financial Conduct Authority governing prospectuses: when they are required, their content and the procedure for their approval.

Quiet or blackout period:
a period during which investment research upon the issuer may not be issued by investment firms connected with the transaction. Main Market IPOs now have the additional restriction that connected research may not be released until at least seven days have passed after publication of an approved prospectus unless unconnected analysts are offered access to the issuer's management alongside connected analysts, in which case connected research may be released from one day after publication of the prospectus.

Registrars:
the registrars maintain the issuer's share register and issue share certificates where shares are still held in certificated form.

Remuneration committee:
a committee of a company's board of directors, which develops the company policy on executive remuneration and fixes the remuneration packages of individual directors. The UK Corporate Governance Code requires that the remuneration committee comprises at least three (or, in the case of small companies, two) members, who should all be independent non-executive directors.

Reporting accountants:
the sponsor will ask a firm of accountants to produce a long form report on the company and a short form report which is reproduced in the prospectus or admission document. The long form report is used by the sponsor to confirm that the company is suitable for listing.

Reserved matters:
matters specified in a shareholders' agreement or joint venture agreement as requiring the prior approval of certain specific shareholders or the holders of a certain percentage of the share capital.

Responsibility statement:
a statement in a prospectus, admission document or other communication to shareholders, in which the persons taking responsibility for the document (usually the company's directors) confirm that they accept responsibility for the accuracy of the document.

Reverse takeover:
the acquisition of a larger company by a quoted or listed company. Such transactions are often structured as a share-for-share exchange and, as a result, the shareholders of the acquired company become the dominant shareholders in the listed company. Note in this context the application of the Takeover Code and, in particular, the 'whitewash' procedures in appendix 1 to the Takeover Code which dis-apply the application of the Code in certain situations, for example, reverse takeovers.

Rights issue:
the issue of shares to existing shareholders on a proportionate basis usually on preferential terms, for example, a discount often more than 10% to the current share price. The rights are offered by way of a provisional allotment letter or 'PAL' for which a trading facility is established. Shareholders not wishing to take up all or some of their allocation of new shares may sell their rights.

Section 551 authority:
directors of an issuer can only allot shares or rights to subscribe for or convert into shares in an issuer with the authority of a majority of shareholders in a general meeting or by way of the issuer's articles of association.

Section 561 dis-application:
the requirements, to issue new equity securities on a proportionate basis to existing shareholders on new issues (shareholders' pre-emption right) is set out in section 561 of the Companies Act 2006. In certain circumstances, this right can be dis-applied under the provisions of the Act. This dis-application requires either the passing of a special resolution of shareholders or sanction in the articles of association of the company.

Share Capital Management Guidelines (previously known as the ABI Guidelines):
a set of best practice statements issued by the Investment Association, designed, among other things, to protect institutional shareholders from dilution.

Short form:
the reporting accountants' report which is reproduced in the prospectus and which reviews the accounts for the published 'track record' of the issuer.

Slides:
as used in the investor presentation and which are the subject of verification.

Sponsor:
every applicant for a listing must have a sponsor to handle the administrative aspects of the application and to take responsibility for promoting the applicant and ensuring its directors are aware of their responsibilities. On AIM, this adviser is known instead as the

'nominated adviser' (or 'Nomad') and on the Aquis Exchange markets as the 'corporate adviser'.

Standard Listing:
a listing on the Standard Segment of the Official List. Issuers seeking a Standard Listing must satisfy the minimum requirements regarding admission to the Official List and continuing obligations.

techMARK and techMARK mediscience:
specially developed Segments of the Main Market of the London Stock Exchange , designed for companies whose business is dependent on innovative technology or innovation in the development or manufacture of pharmaceuticals or products or services dedicated to the healthcare industry.

Track record:
it is a condition of an entity's shares (or securities convertible into shares) being admitted to listing on the Official List that it can demonstrate a three year trading track record in respect of which published audited accounts have been filed. In accordance with the Listing Rules, this requirement does not apply to mining companies (paragraph 6.1.8R of the Listing Rules) or scientific research based companies (paragraph 6.1.11R of the Listing Rules). The track record for AIM can be short, being whatever track record the entity applying for the quotation can demonstrate. Indeed, a start-up company could be admitted to either market.

The UK Corporate Governance Code:
the UK Corporate Governance Code sets out standards of good practice in relation to issues such as board composition and development, remuneration, accountability and audit and relations with shareholders. All companies which have a Premium Listing on the Official List are required to report on how they have applied the UK Corporate Governance Code in their annual report and accounts. All companies with a Standard Listing on the Official List and all AIM companies are required to report which corporate governance code they have adopted and report against that code, which could be the UK Corporate Governance Code or a different code.

Whitewash:
in certain circumstances, the application of the Takeover Code to a transaction can be suspended. In such circumstances, a procedure will need to be followed to ensure that shareholders appreciate the nature of the transaction and its impact upon them.

Working capital report:
a memorandum produced by the reporting accountants addressed to the directors of the company advising whether, on the basis of certain assumptions including, for instance, continued access to banking facilities and, if relevant, the proceeds of the proposed issue of securities, the entity has available sufficient cash to finance its business (including any proposed business activities) for, say, the next 12 months being the regulatory requirement, albeit that a sponsor or Nomad may for 'best practice' reasons require a longer period.

Working capital statement:
the paragraph included in a prospectus or circular in which the directors of the issuer confirm that there is sufficient working capital to meet the issuer's requirements for the following 12 months (or other period required by the sponsor or Nomad).

VCT:
a venture capital trust which can invest up to £1 million in a qualifying company. Qualification depends on several factors including the nature of the business of the investee company.

Verification:
the process by which documents produced on a share issue (or documents to shareholders such as circulars and offer documents) are checked to ensure that the contents are accurate, true and not misleading. The directors must verify the accuracy of the statements in the documents in order to avoid any potential civil or criminal liability.

About us

Taylor Wessing is a global law firm that serves the world's most innovative people and businesses.

Deeply embedded within our sectors, we work closely together with our clients to crack complex problems, enabling ideas and aspirations to thrive.

Together we challenge expectation and create extraordinary results.

By shaping the conversation in our sectors, we enable our clients to unlock growth, protect innovation and accelerate ambition.

Technology, Media & Communications

Real Estate, Infrastructure & Energy

- Aerospace & Defence
- Business & Professional Services
- Consumer & Retail
- Hotels, Hospitality & Leisure
- Manufacturing & Industrials

Private Wealth

Life Sciences & Healthcare

- Automotive & Mobility
- Chemicals
- Financial Institutions & Insurance
- Logistics & Transport
- Public Services & Education

2000+ people
1100+ lawyers
300+ partners
29 offices
17 jurisdictions

Challenge expectation, together

With our team based across Europe, the Middle East, US and Asia, we work with clients wherever they want to do business. We blend the best of local commercial, industry and cultural knowledge with international experience to provide proactive, integrated solutions across the full range of service areas.

2000+ people 1100+ lawyers 300+ partners 29 offices 17 jurisdictions

Austria	Klagenfurt | Vienna
Belgium	Brussels
China	Beijing | Hong Kong | Shanghai
Czech Republic	Brno | Prague
France	Paris
Germany	Berlin | Düsseldorf | Frankfurt | Hamburg | Munich
Hungary	Budapest
Netherlands	Amsterdam | Eindhoven
Poland	Warsaw
Republic of Ireland	Dublin
Slovakia	Bratislava
South Korea	Seoul*
UAE	Dubai
Ukraine	Kyiv
United Kingdom	Cambridge | Liverpool | London | London TechFocus
USA	New York | Silicon Valley

* In association with DR & AJU LLC

TaylorWessing