



London
STOCK EXCHANGE

A PROFESSIONAL HANDBOOK

Joining AIM

AIM



Published by White Page Ltd in association with the London Stock Exchange, with contributions from



Citigate
Dewe Rogerson



Grant Thornton 



Joining AIM

A Professional Handbook

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Joining AIM

Foreword

The decision to take your company public is an important one for any entrepreneur. The event marks a major milestone, representing a source of business opportunity, as well as a serious legal responsibility.

AIM is the world's leading market for smaller, growing companies – and key to its success is a balanced regulatory environment, specifically designed to make the process of going public as smooth as possible for smaller companies, coupled with an increasing network of advisers, investors and market practitioners supporting smaller companies on our markets. As a result, over 2,800 companies have joined AIM since the market's launch in 1995, raising more than £49 billion.

More than 400 international companies have chosen AIM since its launch, underlining the fact that the market has an important part to play in building solid foundations for enterprise and growth across the globe. To this end, the London Stock Exchange is committed to developing the unique community that makes AIM so successful in London.

This publication brings together valuable guidance from the key advisers involved in bringing companies to AIM. Their perspectives, based on longstanding experience, ensure that readers are informed of the principal issues that can arise.

Of course, the following chapters are not intended to provide exhaustive coverage of what is involved – rather, they have been written to clarify the process of joining AIM, taking account of the principal regulatory, financial, legal, tax and investor relations issues involved.

We hope that you find this publication useful and wish you every success in the future development of your business.



AIM: the world's most successful growth market

by the London Stock Exchange

AIM has become the market of choice for small and growing companies, evidenced by the unprecedented amounts raised, as well as by the number of companies that have joined – with 1,656 companies as at June 2007.

More than a decade from its launch in 1995, the London Stock Exchange's AIM market is firmly established as the world's leading market for smaller, growing companies from all parts of the globe. This success underlines AIM's continuing attractiveness to the ambitious companies that represent the future of the world economy.

During AIM's first 12 years in existence, over 2,800 companies have chosen to use the market to gain a public quote, creating a unique community of innovative and entrepreneurial companies. AIM's achievements are founded on its balanced regulatory environment, which has been specifically designed to meet the unique needs of smaller and growing companies across all sectors.

AIM also benefits from being an integral part of the portfolio of markets offered by the London Stock Exchange – which for centuries has been one of the world's leading equity exchanges and a provider of services that facilitate the raising of capital and the trading of shares. Through the Exchange, companies can access London's substantial and diverse investor base, which represents one of the largest pools of capital available anywhere worldwide.

Through AIM, London's unsurpassed access to investors and equity capital is extended to smaller companies, many of which may be at a stage of development where a listing on the Exchange's Main Market is not yet appropriate.

Why join a public market?

Flotation on a public market – be it AIM or the Main Market – is often seen primarily as an opportunity to raise funds for further growth. However, the benefits go much further than that.

At the London Stock Exchange, we regard a company's decision to join any of our markets as the start of a lasting partnership. We believe that access to capital is just one of many reasons why a company might consider going public in London, including:

- **to provide access to capital for growth**, giving the company the opportunity to raise finance for further development – both at the time of flotation and later, through further capital raisings
- **to create a market for the company's shares**, broadening the shareholder base and giving existing shareholders a valuation for their investment



- **to place an objective market value** on the company's business
- **to encourage employee commitment** by making share schemes more attractive, which can act as an incentive for employees' long-term motivation
- **to increase the company's ability to make acquisitions**, using quoted shares as currency
- **to create a heightened public profile**, stemming from increased press coverage and analysts' reports, helping to maintain liquidity in the company's shares
- **to enhance status with customers and suppliers**, who are reassured by the regulatory processes and disclosure involved in the company's quotation on AIM.

...and why AIM?

AIM combines a balanced regulatory environment suited to the needs of growing companies, with all the benefits of a public stock market quotation. AIM has become the market of choice for small and growing companies, evidenced by the unprecedented amounts raised as well as by number of companies that have joined - with 1,656 companies as of June 2007, AIM is now Europe's largest market by number of companies.

These are just some of the reasons why companies choose AIM:

- entry criteria tailored to smaller/growing companies, giving a wide range of companies access to a public market at an earlier stage of their development – no trading record is required, and there is no prescribed level of shares to be in public hands

Table 1

Differences between admission criteria for AIM and the Main Market

AIM

- no prescribed level of shares to be in public hands
- no trading record requirement
- no prior shareholder approval for most transactions*
- admission documents not pre-vetted by Exchange nor by the UKLA in most circumstances. The UKLA will only vet an AIM admission document where it is also a Prospectus under the Prospectus Directive.
- Nominated adviser required at all times
- no minimum market capitalisation

Main Market

- minimum 25 per cent shares in public hands
- normally 3-year trading record required
- prior shareholder approval required for substantial acquisitions and disposals
- pre-vetting of prospectus by the UKLA
- sponsors needed for certain transactions
- minimum market capitalisation

* Not applicable to reverse takeovers or disposals resulting in a fundamental change of business

The companies quoted on AIM include a diverse spectrum of businesses ranging from young, venture capital-backed companies to more established businesses looking to expand further

- appropriate regulatory regime, allowing businesses to learn to deal with life as a public company
- straightforward acquisition rules, facilitating growth through acquisition
- unquoted status for tax purposes, which may be an advantage for some companies.

On top of these benefits, companies joining AIM also gain many of the advantages experienced by companies with a full listing on the Main Market, including access to a unique, globally-respected market and deep pool of capital; enhanced profile and heightened interest in their company; and increased status and credibility.

The flexibility offered by AIM is confirmed by a comparison with the requirements involved in a listing on the London Stock Exchange's Main Market. Table 1 on the preceding page highlights the key differences between the admission criteria for AIM and the Main Market.

AIM's achievements to date

The companies quoted on AIM include a diverse spectrum of businesses ranging from young, venture capital-backed companies to more established businesses looking to expand further. Since launch in 1995, over £49 billion has been raised collectively on AIM and more than 2,800 companies have been admitted, including well over 400 international companies.

AIM's growth over the past few years has been dramatic. As recently as 2003 there were around

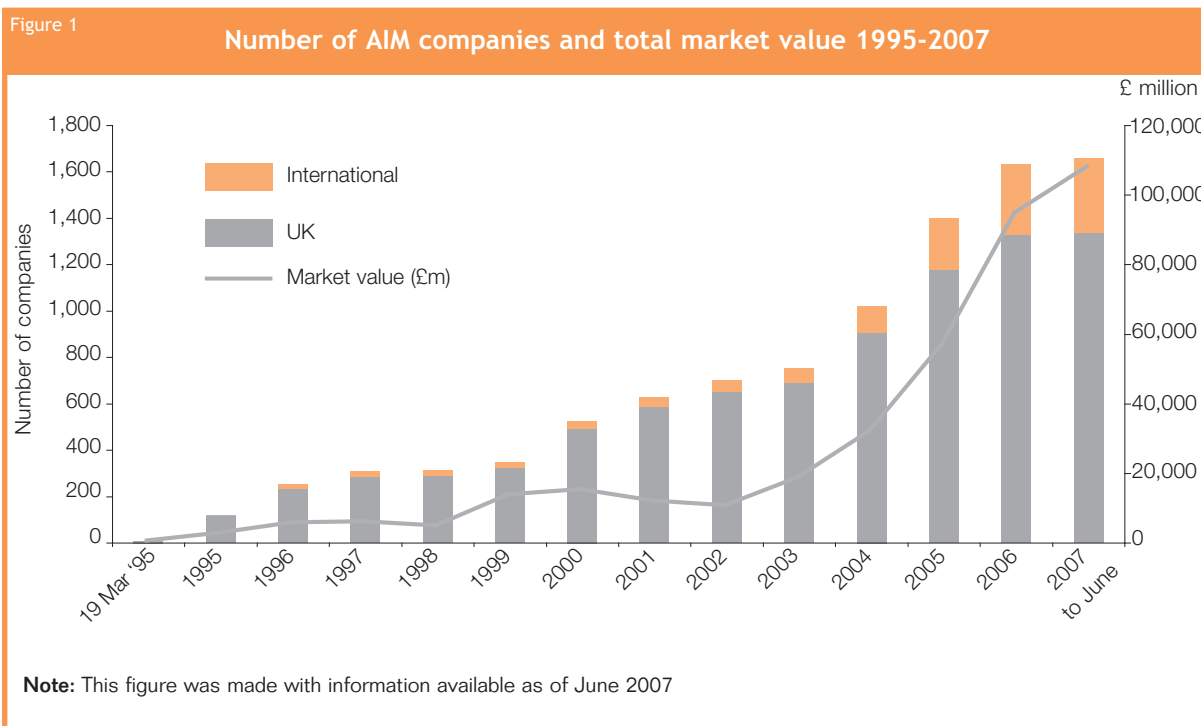
750 companies on AIM, while in mid-2005 there were about 1,250. By June 2007 this number had grown to 1,656. The amount of money raised on AIM is growing even faster. In 2006, AIM companies raised over £15.6 billion, compared with £8.9 billion during the previous year, which was in turn almost double the £4.65 billion raised in 2004 – a dramatic illustration of the continuing increase in demand from issuers and investors.

AIM has always comprised companies from a broad range of industry sectors, and this coverage continues to widen, with 38 sectors now represented.

More international – and more trading

The increasing scope, profile, size and prestige of AIM have confirmed the validity of the underlying premise upon which AIM is built: that smaller companies require markets that are specifically designed for their needs. While AIM was initially launched as a market predominantly for UK businesses, its internationalisation from 2000 onwards has seen a dramatic take-off in overseas interest, issuance and investment.

The London Stock Exchange's ongoing marketing activities overseas, coupled with the AIM Designated Markets (ADM) route described below, have helped to attract a steady flow of non-UK issuers, with the 124 new international joiners in 2006 taking the total to 304 overseas companies from 28 countries. The fact that the number of countries



represented has risen from 17 in 2005 to 28 in 2007 reflects AIM's increasingly global membership, partly driven in recent years by the market's strong focus on mainland Europe, the US and the emerging markets of India, China and Russia, alongside its long-standing and continuing success among companies in territories such as Australia and Canada. During 2006, AIM attracted issuers from countries including – to name but a few – the Netherlands, Italy, Sweden, Israel, Cyprus, the United States, India, Singapore, South Africa, Ireland and Bermuda, as well as many from the UK.

A further positive trend has been a rise in trading volumes on AIM, as investors' appetite for trading AIM securities increases. The value of shares traded has been increasing sharply during the last few years, with the total value of shares traded on AIM in 2006 reaching some £58 billion, up by over 37 per cent on the comparable figure for 2005. Growth in trading volumes is set to be sustained, as the Exchange maintains its focus on marketing AIM internationally to both companies and investors, and seeks out ways to further increase the liquidity and visibility of AIM companies. The ongoing rise in trading on AIM is illustrated in Table 2 on the following page.

Table 2

AIM trading turnover 1995-2006

Trading	Turnover value (£m)	Number of bargains	Shares traded (m)
1995	270.2	29,009	544.3
1996	1,944.2	187,975	5,529.1
1997	2,145.3	217,426	6,443.0
1998	1,948.2	225,494	6,921.4
1999	5,397.5	845,556	21,258.5
2000	13,605.6	2,013,584	39,510.3
2001	4,854.8	706,582	28,166.6
2002	3,517.6	449,876	24,791.8
2003	6,615.8	823,948	57,662.3
2004	18,125.9	1,675,955	97,325.9
2005	42,158.2	2,241,323	108,265.5
2006	58,002.8	3,525,356	138,510.4

New indices – boosting institutional investment

In recent years, the continued growth in trading of AIM securities has been supported by the introduction of a number of new indices designed to improve investors' ability to benchmark AIM securities and thereby enhance liquidity. In 2005 a new FTSE AIM Index Series was launched, comprising the FTSE AIM UK 50 Index, FTSE AIM 100 Index and FTSE AIM All-Share Index. In 2006 these were joined by the FTSE AIM All-Share Supersector Indices, which are derived from the FTSE AIM All-Share Index and are based on the Industry Classification Benchmark (ICB). The Supersector indices provide investors with 18

new industry-based benchmark tools for AIM, helping them to identify macroeconomic opportunities for investment and trading decisions, and to differentiate between the performance of Main Market and AIM companies in a given Supersector.

These innovations in AIM's index coverage are helping to boost institutional interest and investment in AIM, with the result that almost every major UK institutional investor now has exposure to the market. In 2003 a survey by *Growth Company Investor* found that 35 per cent of AIM shares were in the hands of institutions. The same survey in 2006 found that figure to be 56.7%, confirming AIM's



transformation from a retail dominated market to a professional market in the space of a few years.

AIM's approach to regulation

A company can join AIM, regardless of country of origin or sector of activity, with the main requirement being that the company must be appropriate for the market.

This judgement is made by each company's nominated adviser (or Nomad), a firm of experienced corporate finance professionals approved by the Exchange. A company looking to join AIM must first appoint a Nomad to support its application, and to help it meet its ongoing obligations on a continuing basis.

The register of approved Nomads from which a prospective AIM company can choose is available on the Exchange's website at www.londonstockexchange.com/aim, along with a range of other information resources including the AIM Rules, market statistics and Nomad contact details.

What do I need to know first?

Before a potential AIM company decides whether to join AIM, it should consider carefully the issues involved in joining a public market. Such a decision brings responsibilities as well as benefits. People at every level of the business, from board members to employees, must be ready to accept the disciplines inherent in having shares traded publicly, and in having outside shareholders whose interests must be taken into account.

In particular, companies should be aware that flotation on a public market brings with it an exposure to the uncertainty of market conditions. A company's share price may be affected by a number of factors beyond its control, including market sentiment, economic conditions or developments in the same sector.

A further change to bear in mind is that flotation will inevitably lead to closer scrutiny of the company, its performance and its directors. In general, the board must be prepared for greater transparency, both in terms of the company's finances and business strategy and in having to make prompt announcements about new developments, whether positive or negative.

Keeping investors informed about the company is crucial if the business is to reap the maximum potential benefits from being publicly quoted. A good investor relations strategy can help increase demand for the company's shares, and ensure that its flotation on AIM is as successful as possible, both for the company and its shareholders.

What advisers will I need?

To join AIM, the company will first need to appoint advisers to assist it during the admission process and to help ensure it remains compliant with the ongoing requirements.

- The **Nominated adviser or 'Nomad'** will judge whether the company is appropriate for the market. The Nomad will explain the AIM Rules

The AIM admission document must remain available on the company's website after admission

to the company's board, and ensure that the directors are aware of their responsibilities and obligations. This is especially important because directors are ultimately responsible for their company's compliance with AIM's regulations, including the accuracy of the information in the admission document. Once the company has been admitted to AIM, the Nomad will continue to give advice and guidance on the AIM rules on a continuing basis. The role of the nominated adviser is so key that should the AIM company cease to have a Nomad, trading in its securities will be suspended until a new Nomad has been appointed.

- The **broker** is a securities house which is a member of the London Stock Exchange, and will be responsible both for the fundraising at flotation, and ensuring a successful after-market in the company's shares by bringing together buyers and sellers. The broker may be the same firm as the Nomad (if the company so chooses and such firm is an approved Nomad).
- The **legal adviser** will oversee issues such as due diligence on behalf of the Nomad, changes to directors' contracts and verification of the statements in the admission document and should also provide ongoing advice to the board on its continuing legal obligations.

- The **reporting accountant** will conduct an independent review of the company's financial records and will assist in preparing the financial information required to be published.
- The company may also choose to appoint a **public/investor relations adviser** to manage the flow of information during the flotation.
- Depending on the nature and needs of the business, it may also decide to draw on a range of **specialist advisers** including resource sector experts, property surveyors, security printers, actuaries or insurance brokers.

How to join AIM

If, having weighed up the advantages and responsibilities involved, a company decides to join AIM, it must first meet certain admission requirements. The advisers mentioned in the previous section will guide a company through this process.

The principal document for admission that any prospective AIM company must produce is an AIM admission document (the 'admission document'). The purpose of this document is to provide the market with all the information considered relevant in relation to a company's admission to trading on a public market. This document must remain available on the company's website after admission.

The contents of the admission document are set out in the AIM Rules for Companies (Schedule Two) and it covers key areas of a company's

business operations, financial position and management that are important for investors to know, eg a description of the company's activities, historical financial information, details of the board of directors, details of the company's share capital etc.

In some instances the admission document may also need to comply with the requirements of the European Prospectus Directive ('PD'). This generally only applies in limited circumstances to companies admitted to AIM, such as where a company is making a public offer of its shares, a rights issue or a takeover using their shares. In this instance, further information will need to be included in the admission document to create a full 'PD compliant' prospectus, and the document will need to be approved by the relevant competent authority. In the UK, this is the UK Listing Authority, a division of the Financial Services Authority.

In addition, a pre-admission announcement needs to be made at least 10 working days (or 20 working days in the case of a company admitting via the Designated Markets route) before admission in a specified format containing key information in relation to the company and the flotation. Finally, an application form for the admission of the shares, a declaration from the company's Nomad and the relevant admission fee needs to be submitted to the Exchange three working days before admission. Each company pays an admission fee and a pro-rata annual fee.

Whilst there are no specific eligibility requirements for joining AIM, certain matters will need to be satisfied, including that a company's shares must be freely transferable and be capable of electronic settlement. In addition, where a company has not been revenue earning or financially independent for two years, directors and substantial shareholders of a company are restricted from selling their shares in the company for a period of 12 months from admission.

AIM Designated Markets: the fast-track route to AIM

To make it easier for smaller growing companies across the world to join AIM, we have developed a streamlined process focused on a number of AIM Designated Markets (see information panel on the following page for a list of these markets).

Under the fast-track process, companies who have had their securities traded on an AIM Designated Market for at least 18 months can apply to be admitted to AIM without having to publish an admission document. Companies using the fast-track route to AIM need to make a detailed pre-admission announcement (assuming there is no public offer of securities also taking place) – potentially making the process of joining AIM simpler and more cost-effective.

This announcement should include:

- confirmation that the company has adhered to the legal and regulatory requirements of the relevant AIM Designated Market



- details of the business of the company and its intended strategy following admission
- a description of significant changes in the financial or trading position of the company since the date to which the last audited accounts were prepared
- a statement that the directors have no reason to believe that the company's working capital will be insufficient for at least 12 months from the date of its admission to AIM
- the rights attaching to, and the arrangements for settling transactions in, the shares being admitted
- any other information which has not been made public which would otherwise be required of an AIM applicant
- the address of a website containing the company's latest published annual report and accounts which must have a financial year-end not more than nine months prior to admission.

Life as an AIM company

Once a company has joined AIM, it becomes subject to new and distinct disciplines, designed to keep shareholders fully informed of the company's development.

In terms of communication with the market, the company's close involvement with the investment community during the admission process must continue after its shares have been admitted to

AIM Designated Markets

At the time of writing, the AIM Designated Markets are the main markets of:

- Australian Stock Exchange
- Deutsche Börse
- Euronext
- Johannesburg Stock Exchange
- NASDAQ
- New York Stock Exchange
- Stockholmsbörsen
- Swiss Exchange
- Toronto
- UK Official List (as issued by the UK listing authority)

AIM. The guiding principle is that the company must communicate with the market on a continuing basis, to ensure that the market is aware of its financial position and prospects, so as to enable investors to make an informed decision on the value of its shares.

Once the business is traded on AIM, there are also a number of continuing obligations which the company must fulfil in order to ensure an orderly market in its shares. Foremost among these is a requirement to notify the market without delay of any developments that could have an impact on the company's share price – such as corporate transactions, the progress of the company's business, and changes in directorships.

AIM combines access to one of the world's deepest pools of capital with a regulatory framework and approach uniquely suited to smaller companies

Being traded on AIM also means that the company's directors and employees must comply with certain restrictions on their freedom to trade in the company's shares while in possession of unpublished information.

An EEA incorporated business quoted on AIM must also ensure that its published accounts conform to International Financial Reporting Standards and must be published within the required deadlines – within six months of the financial year-end for audited annual accounts, and within three months of the end of the half-year for unaudited interim accounts. For companies incorporated outside the EEA, US, Canadian and Japanese GAAP, and Australian IFRS are also accepted accounting standards.

The AIM Rules for Companies are intended to be straightforward and principles-based. The Exchange monitors the regulatory framework that applies to AIM companies and, in response to ongoing changes in the global marketplace, it continues to make targeted amendments to the AIM Rules to protect AIM's position as the world's leading growth market.

With this in mind, following a consultation process launched in October 2006, the Exchange introduced a number of changes to the AIM Rules in February 2007. These changes clarified and expanded AIM companies' duties in relation to their Nomads, and included a new requirement that every AIM company must have a website containing basic information about its business. At the same time the Exchange introduced a


new rule-book – *The AIM Rules for Nominated Advisers* – which updated and enhanced the eligibility criteria for Nomads, and set out the core responsibilities that the Exchange expects a Nomad to satisfy.

The outlook for AIM

In its first 12 years, AIM has built a sound platform from which it can continue to offer smaller and growing companies from around the world all the benefits of a public quote, alongside the optimal combination of a globally recognised public market and balanced regulation.

AIM's key attraction to these companies is the same today as it has always been. AIM combines access to one of the world's deepest pools of capital with a regulatory framework and approach uniquely suited to smaller companies. Its streamlined admissions process has proven very attractive to companies that want access to capital without a disproportionate increase in their regulatory burden.

Having been offered this unique combination of benefits, growing companies across the world have voted by joining the market in increasing numbers. AIM has now truly come of age, representing a vital link in the risk capital financing chain – supporting innovation and enterprise across the UK and increasingly the world. More and more small and medium-sized companies from across the globe are looking to AIM as the best way to take their business to the next stage of growth. Given this overwhelmingly positive response, the London



Stock Exchange is committed to maintaining and extending AIM's attractiveness to issuers in the UK and worldwide.

Whatever your business, wherever it is based and whatever its sphere of activity, if you are a

growing company, AIM represents a viable route to a quote on one of the world's most prestigious markets. We believe you should take a closer look – as have the hundreds of companies that are continuing to join every year.

The background of the advertisement is a photograph of several hot air balloons floating in a brown, hazy sky. The balloons are of various sizes and patterns, including stripes and solid colors. The largest balloon is in the upper right, and several smaller ones are scattered throughout the scene. The overall color palette is monochromatic, using shades of brown and orange.

Where ideas take off.

The London Stock Exchange launched AIM to help smaller and growing companies raise funds through a public quote. In short – to help ideas take off. In little over ten years, AIM has achieved this and more. With our international IPO activity far above our competitors, AIM is now the world's leading market for smaller companies to raise public capital.

Contact one of our relationship managers for more information.
UK companies +44 (0)20 7797 3429, international companies
+44 (0)20 7797 4208, corporate advisers +44 (0)20 7797 3403
or visit www.londonstockexchange.com/aim.



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Role of the nominated adviser in an AIM flotation

Colin Aaronson, Director, Grant Thornton Corporate Finance

The nominated adviser ('Nomad') has authority and responsibility to decide whether a company is suitable for admission to AIM and to provide ongoing advice to AIM-quoted companies.

When the London Stock Exchange created AIM in 1995, it sought to establish a sensible and practical method of regulation that would be appropriate for the younger, smaller companies that it wanted to attract. Realising that many smaller companies would not have a management team with experience of running public companies, the Exchange chose to devolve the responsibility for ongoing regulation of its AIM companies. It achieved this by creating a new type of financial adviser, the nominated adviser ('Nomad') with authority and responsibility to decide whether a company was suitable for admission to AIM and to provide ongoing advice to AIM-quoted companies. Such is the importance of the role of the Nomad to AIM that a company is required to retain one at all times. Without a Nomad, a company is effectively unregulated and under the AIM Rules it will have its shares suspended and eventually will have its admission to AIM cancelled.

Who can be a Nomad?

The AIM rules are short and considerably less prescriptive than, for example, the Listing Rules (which apply to companies on the Exchange's Main Market). A Nomad must be able to

interpret the AIM Rules and advise an AIM company on its obligations under those rules. This requires an understanding of best practice in public company management and the ability and experience to apply this knowledge in the light of the AIM company's particular circumstances.

In order to be a Nomad, a firm of advisers must be authorised by the London Stock Exchange to act in that capacity, a selection made on the basis of the firm's previous experience of dealing with publicly-quoted companies. Nomads include accounting firms, investment banks, corporate finance firms and stockbrokers, all of which employ a sufficient number (at least four) of suitably qualified individuals. The Exchange maintains a register on its website of firms authorised to act as nominated advisers.

The Nomad's three principal tasks

The Nomad has three principal tasks: determining if the company is appropriate for admission; managing the flotation process; and, after flotation, advising the AIM company in respect of its compliance with the AIM Rules and general corporate governance.



Determining suitability for admission

Unlike the Main Market, where a company's suitability for listing is assessed by the United Kingdom Listing Authority (UKLA), the decision as to whether a company is appropriate for admission to AIM rests with the Nomad. The Nomad's primary responsibility and duty of care is owed to the London Stock Exchange and it must ensure that the admission and conduct of a company do not impact adversely on the reputation or integrity of the Exchange.

Sometimes a company may be appropriate for flotation on AIM, but joining AIM may not necessarily be in the company's best interests. The costs and ongoing obligations of an AIM quotation may well outweigh the benefits that admission brings, particularly where there are other fundraising methods that may be more appropriate. As a general corporate finance adviser, the Nomad should also ensure that an AIM flotation is actually in the best interests of the company and its shareholders.

Project managing the flotation process

Once a Nomad has agreed that a company is suitable for admission to AIM and a broker has agreed to raise the necessary funds, the Nomad's task is to bring together a full team of advisers, set a timetable, allocate responsibilities and ensure that all parties adhere to the programme that has been agreed.

Advising on regulatory matters

An AIM company is under an obligation to comply with the AIM Rules. The Nomad will

ensure that its client has appropriate systems in place to enable it to comply with those rules – for example, announcing certain dealings in shares on a timely basis – and will sometimes need to advise on the interpretation of those rules. The Nomad will also give guidance on the appropriate level of corporate governance for the company.

The City Code

The City Code on Takeovers and Mergers ('City Code') is a set of rules and principles that govern the way takeovers and mergers of public companies are carried out in the UK. As such, it applies to all UK, Channel Island and Isle of Man resident AIM companies. The City Code does not concern itself specifically with commercial aspects of a takeover or merger, or with the way a business is run. Rather, it is concerned broadly to ensure the protection and equal treatment of shareholders in certain takeover and merger situations, including where there are changes in the individuals and groups that control that company. In simple terms, 'control' is defined as a 30 per cent (or greater) shareholding in a company.

Although a Nomad's principal role is to advise a company on its compliance with the AIM Rules, in practice, as the company's financial adviser, the Nomad will also need to advise the company on its obligations under the City Code. Sometimes, certain aspects of an AIM admission itself will require the Nomad to advise on the City Code and to liaise with the Panel on Takeovers and

Mergers on the company's behalf, for example where the company is 'reversing' into a quoted cash shell.

The Nomad and the broker

The roles of Nomad and broker are often confused, particularly as both roles are often performed by the same organisation. In fact, the roles are completely different and separate. The Nomad's role is to provide general corporate finance advice, project manage the flotation and act as the AIM company's regulator. The broker's principal responsibilities are to raise funds from its institutional clients and manage the 'aftermarket', publishing research where necessary and ensuring that there is both a healthy interest in the company's shares and sufficient stock to satisfy any demand.

The Nomad's client is the company and its dealings with the company are private. The broker's clients are its institutional investors and it is not privy to the confidential communications between the Nomad and the AIM company. Where one firm (known as an 'integrated house') plays both roles, there must be a clear separation of responsibilities and a 'Chinese wall' must be established between the two parts of that firm.

Assessing suitability

Unlike for the Main Market, there are very few prescriptive pre-conditions for admission to AIM. An AIM company's requirements are to appoint and retain a Nomad and a broker, to prepare an AIM admission document and to ensure that its

shares are freely transferable, including in most cases, in dematerialised form (i.e. electronically). For a UK company, this entails being a public limited company (plc). This contrasts with the Main Market where companies are required to comply with a number of pre-conditions including, among other things, to be operated independently and be revenue-generating for at least three years, have a minimum market capitalisation and have at least 25 per cent of its shares in public hands.

Since it is quite straightforward to satisfy the objective requirements for admission set by the AIM Rules, the greater challenge for the company seeking admission to AIM is to satisfy a Nomad that it is appropriate for such admission. Advisers will consider the following types of questions before taking a view:

- does the company have a management team with the skills and experience to run a public company and can the management team members demonstrate their integrity and financial probity?
- does the company have a viable business model such that it is likely to grow and deliver value to investors?
- if the AIM admission involves a fundraising, is there a realistic possibility that the broker will be able to raise the funds at a valuation acceptable to existing shareholders?

A Nomad should only proceed with the flotation of a company if it is confident that the company will enhance the market's reputation and has a realistic chance of delivering real value to shareholders

- does the company have the management and financial controls and reporting systems sufficient to enable it to discharge its obligations under the AIM Rules?

For a Nomad, the reputation and integrity of the market are paramount. A Nomad should only proceed with the flotation of a company if it is confident that the company will enhance the market's reputation and has a realistic chance of delivering real value to shareholders. In assessing a company's suitability, a Nomad must ultimately ask itself: 'Do we really want to be associated with this company?'.

Management

A company will be judged, above all, on the quality of its management. Some criteria are objective, or at least fairly obvious. A strong management team typically has the following characteristics:

- it has a clearly defined structure, with a clearly identifiable leader
- it has a full set of skills encompassing finance, operations, marketing and sales. Operations include procurement, human resources, production and distribution. In most cases, an experienced and capable finance director is essential to the success of a quoted company
- there is strength in depth. A company must have a sufficiently strong management team such that the loss of one particular individual will not cause irreparable damage to the business (although this can be mitigated to some extent by keyman insurance). More subjectively, a business whose leaders are too 'hands-on' will not be able to think strategically. From a more practical point of view, the flotation process can be extremely time-consuming for management and the company must be able to continue its business during the flotation process without suffering from the absence of key directors
- its team members can demonstrate relevant experience in business generally and specifically in the sector in which the company operates
- its members work well together. A strong managing director should have colleagues who are able to stand up to and not be dominated by him or her
- it is able to provide accurate, reliable and comprehensive management information in a timely manner - otherwise, the company cannot be said to have the appropriate systems necessary to run the business. Indeed, as part of its due diligence on the prospective AIM company, a reporting accountant will review and comment on the company's financial control systems
- the accounting policies selected by the management team should err on the conservative and should be consistently applied

- it should have strong non-executive directors who are experienced in City practices and are able to impose proper public company practices on their colleagues.

As part of its procedures for determining whether a company has suitable management, the Nomad will conduct due diligence on the directors and sometimes on key managers. Directors will be asked to complete a questionnaire that gives information such as past and present directorships and details of any personal bankruptcies or business insolvencies. This information must be disclosed in the AIM admission document. Proof of identity (such as the photograph page of a passport) and proof of address (for example, a driver's licence) will be required as part of the Nomad's due diligence.

The Nomad will review each director's curriculum vitae, from which information will also be taken and included in the AIM admission document. References will be taken and detailed background searches will be made using either publicly-available information or specialist agencies where appropriate. Past financial performance will provide a strong indication of management's ability. Although a company's commercial success would suggest that its managers are capable, the reality could be that they are running an underperforming company in a successful sector. It is therefore important to benchmark the company against other companies in the sector. Management may also be reacting to events rather than driving the

business forward, while erratic or declining profits should ring alarm bells.

Ultimately, assessment of management is highly subjective. Different advisers have different criteria, but experience has shown that:

- successful companies usually have a strong proactive leader who is passionate about the business
- directors of a successful company have detailed knowledge of markets, competition and developments in their sector. It is particularly important that they understand and can explain the reasons for their success and how that success can be built upon
- directors of a successful company have quiet confidence or cautious enthusiasm, grounded in reality
- directors of a successful company should be calm and must be able to deal with strategic matters. The business must be able to function during their absence, demonstrating that underlying management is adequate
- successful companies have managers who deliver on their promises. Otherwise, why should investors trust them?

Finally, a Nomad will want to ensure that the directors of a company are fully aware of (and are prepared to accept) the costs and obligations of being an AIM company, that they have



considered and have rejected the alternatives and that they are seeking admission to AIM for the right reasons. AIM is not an immediate exit route for owner-managers and rather, should be seen as a source of development capital. AIM companies often have a narrow shareholder base and liquidity in a company's stock may initially be limited. Institutional shareholders often have a comparatively long term investment horizon and expect to provide follow-on funding provided milestones have been met. AIM, therefore, displays several of the characteristics of private equity.

While for most companies, their admission to AIM forms part of a fundraising exercise, there are other good reasons for a company to float on AIM. These include expanding its ability to acquire other businesses by issuing quoted shares, establishing a value for the business and enhancing the attractiveness of its employee incentive programmes and share option schemes.

Corporate governance

A private company with a single or small number of shareholders may not have given much thought to the way the company (as distinct from the business) is managed. For any company, and particularly for quoted companies, it is essential to ensure that the interests of all shareholders are protected and that the interests of management and shareholders are closely aligned. A quoted company, for example, will need to ensure that there is a remuneration

package (which might include suitably-designed share option schemes) that will incentivise management to work for the benefit of the business as a whole and that there is a method of determining whether that package is appropriate to the business (this usually involves a remuneration committee). The company will need independent non-executive directors on the board to represent the interests of outside shareholders.

Many private companies will lack an appropriate level of corporate governance at the outset. What is essential, however, is that there is a basic minimum level of corporate governance and a willingness on the part of management to adopt the necessary procedures to steer the company towards best practice.

Business viability

Irrespective of their ability, in the long-run managers cannot make a success of a fundamentally-flawed business model. In assessing the long-term viability of the business, Nomads will be asking the same sort of questions as investors.

A detailed analysis of business strategy is beyond the scope of this publication, but a Nomad will consider the long-term viability of a business in the context of its past financial performance, products, customers and suppliers.

A company with a history of growing profits in a growing sector will, on the face of it, be a strong candidate for admission. Where a business is not

A Nomad will only bring a company to market if it believes the company will be a long-term success

yet profitable, the Nomad needs to be confident that the company will become profitable within a reasonable timescale.

A successful business or a business with potential to be successful need not be itself in a growing sector. Unless the sector is in steep decline, such a company may still be worth investing in. What is important is the company's position within its particular sector.

Management needs to be able to control the company's business to drive it forward. An insignificant player in a market may be subject to forces beyond its control. Where possible, a company's products and/or services should be differentiated by quality, innovation or branding. Ideally, there should be sufficient goodwill in the brand such that the company can charge a premium for its products. Where the product or service is more generic, it is important that the company is a significant supplier in that product or service market, is a highly efficient operator within its sector, or controls a specialist niche.

A technology company, for example, may be attractive precisely because it owns intellectual property which is protected by patents, copyright or know-how that give it a degree of product exclusivity. Such companies will find that their intellectual property is the subject of specific due diligence undertaken by patent agents and by specialist technology experts. The company should not be over-reliant on one product. There should be a family of products and services and a pipeline of new products

under development. With very few exceptions, the company should not be reliant on one or even a very small number of customers (whose business can decline and whose management can change). Certain products, components and services may be available from only a few suppliers or even from one alone. Management should ideally have the ability to switch to alternative suppliers or change components. It is crucial that the company being considered for flotation can continue trading, even if a key supplier is unable or unwilling to continue supplying to it. Different criteria will apply to natural resource companies, for many of which AIM has become the market of choice. For such companies, the track record of its management is of crucial importance as is the competent person's report into the company's resource assets.

The investors' view

A company may have strong management and a viable business model, but unless investors are prepared to invest at a price that the company's present owners find acceptable, it will not be possible to complete a fundraising and a flotation on AIM may be inappropriate. A Nomad must therefore be confident that there is a realistic chance of raising the necessary funds at a valuation acceptable to the existing shareholders. The Nomad will need to assess whether a fundraising is likely to be successful through its knowledge of the market and its contact with different brokers.

Working capital

A Nomad will only bring a company to market if it believes the company will be a long-term success, will deliver value to its investors and has sufficient working capital to achieve its objectives.

Nevertheless, the AIM Rules specifically require that the AIM admission document contains a statement that the company has, in its directors' opinion, sufficient working capital for at least 12 months from the date of admission. While the age and size of companies seeking admission to AIM has increased considerably since 1995, and the number of genuine trading start-ups has decreased as a proportion of companies admitted, this is still one of the most important statements made in an admission document. Such is the importance of this statement, that reporting accountants will be specifically instructed to conduct detailed due diligence on the company's financial forecasts and confirm whether, in their opinion, the statement has been made after 'due and careful enquiry'. For most companies with an existing business, this means ensuring that the forecasts are sufficiently robust to cope with any adverse events or a downturn in trade. For a pre-revenue business (a start-up), there should be sufficient working capital to continue operating at anticipated levels even if there are no sales at all.

Managing the flotation

The two key tasks in any AIM flotation are

preparing an AIM admission document (which can sometimes be referred to as a prospectus if there is to be a fundraising) and arranging the fundraising itself. Fundraisings usually take the form of a placing of shares to institutions and sometimes to certain private investors, although a fundraising can also take place via an offer for subscription to the public. Whichever route is chosen, arranging the fundraising is the role of the broker.

Starting the flotation process

Once the company and its advisers have agreed to proceed with a flotation and after the key professionals have been appointed and their terms of engagement agreed, the Nomad will call all parties to attend a meeting to agree a timetable, which must be adhered to if the process is not to drift. Apart from preparing a detailed timetable, with responsibilities clearly identified, the Nomad will also circulate a detailed list of parties with contact details and a list of documents to be produced. The Nomad will take as its starting point the end of the flotation process. The key date is known as 'Impact Day'. It is on this day that the AIM admission document is finalised and posted to shareholders and potential investors. Admission to AIM and receipt of funds usually takes place shortly afterwards.

The company will often need or want to secure funds by a particular date, in which case that date will determine the Impact Day. The broker will advise on a good time to introduce the



Table 1

Admission timetable

	week	1	2	3	4	5	6	7	8	9	10	11	12	13	14		
Test marketing		█	█														
Long-form report produced			█	█	█	█											
Accountants' report produced				█	█	█	█	█	█								
Working capital review			█	█	█	█											
Drafting of AIM admission document			█	█	█	█	█	█	█	█							
Legal due diligence report produced			█	█	█	█	█	█	█	█							
Verification					█	█	█	█	█	█							
Pathfinder completion										█							
Marketing											█	█					
Placing list finalised												█					
Placing proof prepared													█				
Placing proceeds received by broker														█			
Completion meeting															█		
Admission to AIM and dealings commence																█	
Proceeds of the placing paid to company																	█

company to the market, having regard to Christmas, Easter and summer holidays, market sentiment and the broker's own workload. From this point, the Nomad will work backwards setting dates for the completion of the final AIM admission document, the placing proof and the pathfinder (if applicable), the accountants' and experts' reports and the

legal, financial, technical and commercial due diligence. An illustrative timetable is shown in Table 1 above.

Central to the Nomad's work and indeed to that of all the professional advisers, is the preparation of the AIM admission document. A considerable amount of the professional advisers' work revolves around preparing an AIM admission

The Nomad will set the scope of work for both the solicitors and reporting accountants

document that describes accurately and in sufficient detail the business, activities, financial information and legal structure of the company. All AIM admission documents have a common structure, even if the size, style and contents differ considerably. The contents of an AIM admission document are determined by the AIM Rules and market practice and are summarised in Table 2 on the following page.

Assembling the team

The four key advisers in any flotation are the Nomad and the broker, together with the company's solicitors and the reporting accountants. The company's solicitors will perform three main tasks in relation to an AIM flotation:

- compiling the statutory and general information that comprises the back-end of the AIM admission document
- verifying every statement in the AIM admission document
- undertaking a legal due diligence review to confirm title to important assets and to ensure that there are no matters that might prevent the company from achieving its business objectives, or issues such as major outstanding litigation that might call into question its suitability for admission.

The solicitors will often also need to do a considerable amount of work to get the company ready for flotation, such as ensuring

that the company's capital structure is properly organised, that the directors have the necessary authorities to issue shares, that the company has articles of association suitable for a quoted company and that appropriate contracts of employment are in place. A company may already retain a firm of solicitors which can perform these tasks. If not, the Nomad will introduce the company to a firm with the necessary experience of AIM flotations.

The company will prepare the historical financial information in the AIM admission document, which the reporting accountant will review and report on. The reporting accountant will also review and report on working capital and financial controls and undertake financial due diligence into the company. It is important that the firm acting as reporting accountant is experienced in working on AIM flotations. The reporting accountants are often the company's own auditors although if they are not able to act as reporting accountants, the Nomad will introduce the company to firms suitable for the task.

The Nomad will set the scope of work for both the solicitors and reporting accountants. Where it considers it appropriate to have additional due diligence, with input from the company, it will set the scope of work for the professionals undertaking such due diligence.

Starting work

The order in which work starts will depend on what information is available. Typically, the first task will fall on the reporting accountants to

Table 2

Principal AIM admission document

The very front

- cover page including important information for investors in overseas jurisdictions
- summarised key information
- index
- list of directors and advisers
- list of definitions and glossary of technical terms
- timetable
- placing statistics

The front end

A detailed description of the business, in effect, the investment proposition

- history of the business
- information about the present-day business
- key business and market trends
- summarised information about key personnel
- intellectual property
- information about the placing or offer for subscription
- company policy on corporate governance
- use of funds
- share option arrangements and dividend policy
- risk factors relevant to the business
- City Code information (if applicable)

Historical financial information

- audited historical financial information, covering up to three complete years prior to floatation. Sometimes it is necessary to include interim accounts to a later date, which may or may not be audited.
- an auditor's or reporting accountant's opinion as to whether the financial information shows a true and fair view for the purposes of the AIM admission document
- if appropriate, *pro forma* financial information

Other reports

- experts' reports (if necessary or desirable)

The back end

- directors' responsibility statements (directors and proposed directors must accept responsibility for every statement contained in the AIM admission document)
- details of the incorporation and legal status of the company, its registered office and its objects
- information about share capital, including authorities to issue further shares
- summarised information about the company's memorandum and articles of association
- directors' interests in the company and directorships of other companies
- substantial shareholders
- share option plans
- material contracts
- related party transactions
- summarised tax position
- the working capital adequacy statement
- terms and conditions of any offer for the sale of shares
- sundry information



begin work on the long-form (financial due diligence) report. While their work is underway, the lawyers will commence drafting the statutory and general information section of the AIM admission document. The Nomad and the company will begin work on the front part of the AIM admission document and the directors will draft the historical financial information for inclusion in the AIM admission document.

If any commercial due diligence has to be undertaken or any experts' reports prepared, this work will commence at a very early stage. Meanwhile, the company will be required to prepare working capital forecasts in support of the statement on the adequacy of working capital (which the directors have to make in the AIM admission document). The forecasts should comprise a pack containing income statements, cashflow and balance sheet forecasts together with underlying assumptions. These forecasts will normally be required to cover a period of at least 18 months from the date of publication of the AIM admission document.

On completion of the draft long-form report, a full first draft of the AIM admission document will be compiled under the Nomad's supervision. The reporting accountants will then typically begin work on reviewing the working capital forecasts. During this part of the process, the AIM admission document will go through a number of drafts. As the AIM admission document takes shape, the lawyers will begin

the verification process and the broker will start to sound out the market informally as to who might be interested in taking the shares to be issued. In any event, the broker would normally have undertaken some market testing before it agreed to act as the company's AIM broker. The PR advisers will work on the press coverage to be sought for the issue.

If a pathfinder prospectus is to be produced, it is likely to be required some 10-14 days before Impact Day. This is an essentially complete document (save for agreement as to the price at which the shares are to be placed) which can be taken to potential institutional investors to gauge the level of interest and to determine the placing price. During this period the company is often required to make presentations to potential investors.

Sometimes, the company issues a 'placing proof', sometimes described as a 'p-proof'. This is in all material respects a finished document, except it is marked as a proof. Having generated interest using presentations or a pathfinder prospectus, the broker gives the placing proof to potential investors to secure their commitment to invest prior to completing and registering the AIM admission document itself. A placing proof will be used if there is some doubt as to the success of the fundraising, or where the Nomad and broker want to know the amount that may be raised prior to finalising the AIM admission document.

In certain circumstances the Nomad may advise the company to include forecast financial information

Once the brokers are confident that the funds will be raised and know the price at which the shares will be placed, the company is ready to complete its AIM admission document and a completion meeting will be arranged for the day before Impact Day. At this meeting all documents will be signed and the directors will formally approve and take responsibility for the AIM admission document. Many other documents, including the verification notes which record the underlying evidence for statements contained in the AIM admission document, will be completed and signed and the order will be given for the bulk printing of the AIM admission document. This is then printed overnight and on Impact Day it is filed with the relevant authorities and distributed to shareholders, potential investors or anyone interested in receiving a copy. The AIM admission document must be made available on a website that the company is now obliged to maintain under the AIM Rules revised in February 2007.

With an institutional placing, admission usually takes place within a fortnight of Impact Day. The flotation process may continue for up to about a month after Impact Day, either if there is an offer for subscription to the general public or if the company's shareholders need to approve any aspect of the transaction in a general meeting.

Apart from project managing the flotation process and coordinating the work of the various parties, the Nomad will need to liaise with AIM Regulation at the London Stock Exchange. An

AIM company will need to issue a statement of its intention to seek admission to AIM 10 business days before the proposed admission date (other than a company transferring from the Main Market or one of several other 'AIM-Designated Markets', for which 20 business days' notice is required). The Nomad will draft and issue that statement. It will also arrange the formal application, which must arrive at least three working days before admission.

Advising the company after flotation

A Nomad's responsibilities continue after admission and until such time as the company leaves the market. A Nomad's principal ongoing duty is to advise its AIM company clients on their obligations under the AIM rules. Much of the work will involve advising on the need for announcements and on their form and content. Announcements that must be made include interim and final results, share dealings by directors or significant shareholders, the issue of new shares, board changes, substantial and related-party transactions and any price-sensitive information. Price-sensitive information is defined as any development in the business which, if made public, would be likely to lead to a substantial movement in share price. These developments involve changes in the company's financial condition, sphere of activity, business performance or performance expectations (i.e. profits warnings or adjustments).

While in general more information is better, care has to be taken to ensure that announcements



are not misleading, as the consequences of issuing misleading announcements can be severe under the AIM Rules, as well as under the Financial Services and Markets Act 2000.

Where the market as a whole is not aware of an important event or fact relating to the company, and the share price does not reflect that information, a 'disorderly market' in the shares is said to exist. The Nomad will maintain close contact with its clients to ensure that the market is aware of all information that needs to be in the public domain. On occasions, the Nomad may need to agree with the Exchange for a temporary suspension of trading in a company's stock in order to prevent shares trading in a disorderly market. Companies will often ask their Nomad for advice on corporate governance or other issues that are not specifically covered in the AIM Rules, such as the suitability of share option arrangements or related-party contracts. The broker will advise on what investors will find acceptable; the Nomad must advise on what is appropriate from the perspective of corporate governance and what is necessary to protect the market's reputation.

When a company enters into a transaction that might need to be disclosed under the AIM Rules, the Nomad will advise the company on its position and may need to clarify certain issues with AIM Regulation at the London Stock Exchange.

Considerations for overseas companies

Overseas companies may wish to have their

shares quoted on AIM to benefit from London's capital markets and the raised profile that a quotation in London brings. For an overseas company to be quoted on AIM in London, the Nomad will normally require that the company's business be international and not limited to its local market. Certain types of business such as natural resources and biotechnology are by their nature international. For other types of companies, they should at least have international markets or seek to expand internationally.

For companies whose shares are quoted on certain AIM-Designated Markets, for example, the Australian Stock Exchange, the Stockholmbörsen and the Main Market in the UK, there is a fast-track procedure, whereby the company does not need to produce an AIM admission document. While the need to maintain quality and conduct an

Any company looking to float on AIM can obtain a list of approved Nomads from the London Stock Exchange's own website, www.londonstockexchange.com/aim. Many companies will already know of Nomads – either through the directors themselves, or through contacts such as solicitors or accountants. In the end, a company's choice of Nomad often boils down to personal chemistry and a prospective AIM company would be well advised to meet more than one potential Nomad before deciding which one to appoint.



Things to look for when appointing a Nomad

- AIM experience
- sector expertise
- house type – is it an independent Nomad or an integrated house?
- global reach – ability to handle cross-border flotations
- willingness and resources to manage the flotation
- commitment to looking after the company post flotation
- personal chemistry.

appropriate level of due diligence remains paramount, this procedure significantly reduces the time and cost involved in bringing a company to AIM.

Identifying a suitable Nomad

The Nomad is the single most important adviser to any prospective AIM company and must be selected with care. Flotation can be an arduous process and it is essential that the company's directors have confidence in their Nomad and feel comfortable working with it. The Nomad must also demonstrate a clear understanding of the company's business and its surrounding issues.

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Role of the broker in an AIM flotation

Edward Wates and Ray Zimmerman of Zimmerman Adams International Limited

Most companies seek admission to AIM to access additional equity capital. The broker plays the lead role in raising funds for the business and creating a thriving market in the company's shares.

A company's broker is responsible for raising funds for the business and for developing and maintaining good relations with the investment community. From an AIM regulatory perspective, the broker is responsible for creating and maintaining a market in the company's securities.

AIM Rules relating to the broker

The AIM Rules for Companies, February 2007, define a broker as 'a partnership, corporation, legal entity or sole practitioner that is a current member of the London Stock Exchange'. Any member firm of the Exchange may act as a broker subject to any requisite authorisation by any other regulator. The Exchange publishes a list of current member firms that act as brokers to AIM companies on the Exchange's website www.londonstockexchange.com/aim.

Rule 35 of the AIM Rules stipulates that, in order to maintain ongoing eligibility, 'an AIM company must retain a broker at all times'. In addition, Rule 17 requires an AIM company to issue immediate notification of the resignation, dismissal or appointment of its broker.

The primary purpose of Rule 35 is to ensure capacity for a market in the company's securities. The AIM Rules specifically require that, 'the broker will, for all AIM Companies for which it acts, use its best endeavours to find matching business if there is no registered market maker.' The broker helps to ensure an orderly market in the company's securities. This is a crucial role as the Exchange may suspend AIM securities where trading is not being conducted in an orderly manner.

The broker's role in the primary market

While the AIM Rules require all AIM-quoted companies to have a broker once admitted, typically, the broker's role starts well before the admission. Most companies seeking admission to AIM require equity capital to grow their businesses and the broker plays the lead role in the fund-raising process.

Ideally, a company should begin working with a broker as soon as management identifies the need for external funding and starts to consider a flotation.



Selecting a broker

Different companies require different services from their brokers and there is a wide range of services on offer. The criteria for evaluating brokers will vary from company to company, but the general rule of thumb is to draw up a short-list of brokers with a proven track record of fundraising, preferably in the sector in which the company operates, as well as demonstrable influence with institutional and/or retail investors. Most brokers provide clients with information on their deal history, fundraising capacity and relationships with other joint brokers, institutional investment funds and/or retail investors. Once the short-list is finalised, it is advisable to arrange face-to-face meetings with each broker.

The company will also need to consider the brokers' pricing structure and, given the long term nature of this relationship, factors such as range of services, cultural compatibility, commitment to supporting the company post-flotation and client contact are key determinants for selecting a broker.

The company needs to be particularly clear on the level of funding that it intends to raise. This will enable it to focus on brokers that have the capacity needed to raise the amount they are seeking. At this stage, the broker should be able to provide an initial assessment of its ability to raise funds for the company through a flotation.

This assessment will be based on both company- and market-specific issues, including:

- the company's financial track record
- the company's expected financial performance
- assessment of the board and senior management
- the company's corporate governance standards
- the business plan and proposed investment returns
- sector analysis and a review of comparable companies
- the company's competitive environment
- general market sentiment towards new issues.

The broker may even advise against flotation where it believes that, following the initial analysis, the conditions are not favourable for admission to AIM. In these instances, the broker may still be able to offer other fundraising services, and help the company prepare for flotation at an appropriate time.

The key role of the broker starts once the company and the broker agree to proceed with an AIM flotation. Because of the size of most AIM companies and the costs associated with a full public offering, a 'placing' is the most common method of issue on AIM. In a placing, the broker

sells the company's securities to professional investors using an 'Admission Document', the content of which is described in the chapter dealing with the role of the nominated adviser. Larger companies seeking to raise large amounts of capital may consider a public offer where the securities are issued to the public via a 'Prospectus'.

Engaging a broker

The Engagement Letter

The commercial terms of the arrangement between the broker and the company, together with the scope of the broker's work, is formalised in a document known as an 'Engagement Letter'. The engagement letter will typically incorporate the commission to be charged on funds raised on flotation and outline the ongoing broking retainer post admission. The commission percentage varies depending on the amount of funds to be raised and type of company. For example, international companies typically pay a premium due to the additional work involved in the fundraising.

The Placing Agreement

Further on in the process, and usually once it is determined that the deal will go ahead, the company and broker enter into a 'Placing Agreement' which, typically, replaces the engagement letter. This agreement sets out the precise terms and conditions of the placing and how it will be conducted. Under the placing

agreement, the broker agrees to promote the company and to undertake the fundraising exercise. Typically, the placing agreement will contain warranties and indemnities to protect the broker with regard to the information and disclosures made in the admission document or prospectus and certain other information disclosed by the company to the broker. The company, directors and, possibly, controlling shareholders will be expected to provide these warranties. The placing agreement is usually signed around the time of completion of the 'Pathfinder' admission document.

The marketing or fundraising process

The main objective of the marketing process is to raise the money the company requires. This is done by delivering a clear investment proposal to well-targeted potential investors which explains the rationale for investing in the company, sets out the 'value proposition' and explains why the company expects to make money for the investors. In order to maximise the impact of the marketing process, the broker develops a marketing strategy and organises a series of meetings to visit interested investors.

The main marketing tasks are:

- targeting a pool of appropriate potential investors
- preparing marketing material, including the pre-admission research report, investor presentation

Once the broker has developed an understanding of the business, the first task is to draw up a list of potential investors

and providing input into the admission document/prospectus

- organising the 'roadshow' where potential investors meet the company management
- building the book (ie obtaining orders to purchase the shares, finalising the price and allocating the securities)
- organising the settlement of the issue.

Identifying potential investors

Once the broker has developed an understanding of the business, the first task is to draw up a list of potential investors. The broker's sales teams are typically divided into two primary areas:

Institutional sales team

An **institutional sales team** which has relationships with the major fund managers in a broad range of investment institutions including:

- *Domestic institutional investors*: These investors are the mainstay of the AIM investor community. They include the specialist fund managers running unit trusts and investment trusts investing in small-to-medium market-capitalisation stocks. They typically adopt a medium to long-term view in their investment objectives. These managers often have expertise in a particular sector and are likely to have in-depth knowledge of other

companies operating in these sectors.

Accordingly, they will be particularly interested in certain aspects of the company's investment presentation and may expect the management team to provide them with considerable additional detail about the company.

- *Overseas institutional investors*: These firms may have specialist sector or country funds for which certain flotations might be of interest. These investors are becoming increasingly important for any international company seeking admission to AIM, as their investment will signify that the 'local' investor understands the business plan and investment proposal, which in turn increases confidence amongst the domestic institutional investor community.
- *Venture Capital Trusts (VCTs)*: These funds are a unique category of institutional investor. VCTs that are listed on the Main Market of the Exchange are broadly similar to investment trusts. VCTs provide certain tax advantages to their investors and their purpose is to promote indirect investment by individuals in small, comparatively high-risk companies (whose main place of business must be the UK). VCTs are an increasingly important part of the AIM investment community.

Private client team

A **Private Client** or '**Retail**' sales team which is focused on private clients who typically comprise:

- *Experienced private investors and certified high net worth individuals:* These will usually be investors whose investment criteria are already known to the broker, who will assess the suitability of the company against their known risk appetite, informing them of the investment opportunity if it is deemed appropriate to do so.
- *Private client brokers, specialist sector brokers:* These firms may have in-house funds, discretionary clients or other clients who might be interested in participating in the admission.
- *Overseas brokers with retail clients:* AIM has seen very significant growth in the number of overseas companies being admitted and overseas brokers are often brought in to the distribution team if the flotation is of interest to overseas investors.

Preparing the marketing material

The marketing material typically comprises three primary documents, as well as press releases and the Intention to Float announcement. The primary documents are:

The research report

This is produced by an independent analyst working either for the broker, or for an independent investment research company:

- *Broker's in-house research teams.* A number of brokers have developed in-house research

departments that specialise in particular sectors. Brokers erect 'Chinese walls' to separate the sales team from the research team, ensuring that the research is independent and objective. However, the development of perceptions that such independence is gradually eroding has led to a growing trend to outsourcing research to specialist independent research firms.

- *An independent investment research company.* There is an increasing number of dedicated research firms providing institutional-quality research. These firms are often arranged to cater for specialist sectors and provide a high standard of objectivity due to their independent status.

Irrespective of the source, the report must reflect the analyst's impartial and objective view of the sector and the company's prospects and must be independent of the management's view. The report is based on publicly-available information, information given by the company during discussions with the management, from visits to the company or in written material. The report will also contain the analyst's forecasts of the company's future financial performance, together with a business valuation based on the forecasts. The report may also include share price predictions. As a result, research notes can have an influence on the company's share price when it starts trading on AIM.



Because of this potential influence, a 'blackout period' is typically imposed on the publication of the research report and any other market-sensitive information. The extent of the blackout period is not formally defined, but market practice is to impose a blackout period of 30 days before the date of publication of the pathfinder prospectus and 30 days after the final admission document has been published. This means that the research report must be organised very early in the marketing cycle.

The investor presentation

In addition to the admission document, the company's management will often prepare a presentation for use with investors during the roadshow. The broker will work closely with management and the public relations team to prepare the presentation and maximise the impact of the investment proposal. The presentation will summarise the business and its key strengths in order to provide a clear investment rationale for potential investors. It is important that the company recognises that the investor presentation is subject to verification by the lawyers. All statements have to be substantiated and conform to the regulations that apply to the promotion of the type of security and the target investor. To ensure accuracy and consistency, the investor presentation is prepared and

verified simultaneously with the pathfinder document.

The pathfinder/admission document

The pathfinder document is the first public version of the admission document that is sent out to potential investors. In most cases, the pathfinder document will not usually stipulate a price, although it may contain an indicative price which will be finalised during the placing process. Other information like placing statistics and the issue date may also be missing from the pathfinder, but will be finalised in the admission document after the completion of the marketing process.

The admission document is designed to give potential investors detailed information about the company on which they can base an investment decision. All the information in the document is verified by the directors and the company lawyers to ensure its accuracy. The Nomad will co-ordinate the production of the admission document (see chapters on the role of the nominated adviser, the role of the corporate lawyer and the role of the accountant) but the broker will ensure that the investment proposal contained in this document is fully consistent with the investor presentation.

In the case of a prospectus, the broker will also determine the share price based on its evaluation of the market, before agreeing the final price with management.

Once the book-building is completed and the pricing finalised, the broker will allocate the securities to the investors

Organising the roadshow

The 'roadshow' refers to the period when management meets potential investors. Depending on the targeted investor base, roadshows can be held in a variety of locations and countries. Typically, the broker will arrange for face-to-face meetings with each institutional investor. Depending on the size and numbers of the retail investors, the broker may arrange for a group presentation, or for individual presentations.

The broker will ensure that meetings are carefully scheduled and co-ordinated, but the company should recognise that this process will take up substantial amounts of senior management's time. The duration of a roadshow is driven by the amount of funds to be raised and the appetite for the company's shares. The typical roadshow will take from two to three weeks. The brokers will follow up and collect all the feedback from the investors.

Book-building, pricing and placing

As the roadshow progresses, the broker will keep a log of the investors who have expressed a potential interest in the deal and will 'build' a list, (which in times past was noted in a ledger, and is still known as the 'book') reflecting the amount each investor is prepared to invest.

The broker will also need to provide information in response to valuation queries and, having

gauged the level of investor interest, will advise on the final pricing based on this feedback.

It is important that the company should understand that the broker has a long-term relationship with its investor base. The broker has to marry the value expectations of its investors to those of the company. In the longer term, these interests tend to converge; if the company meets the outlined investment objectives then investors will be satisfied. In the short term, however, there are potential bridges to build between the expectations of both company and investor when pricing the shares. Skilled brokers will rely on their experience to price shares. The final pricing will be established by the company and the broker, having regard to the expectations of the company and its future investors.

Once the book-building is completed and the pricing finalised, the broker will allocate the securities to the investors. In a placing, investor interest is converted into legally-binding commitments through an agreement, known as the 'placing letter', between the company and investors. Under the terms of the placing letter, the investors commit to their involvement in the placing and consent to the way in which it will be carried out. The broker is responsible for co-ordinating all the documentation associated with the placing letters, as well as ensuring that the signed letters are returned within specified time-limits, in advance of the admission.

Settlement

Once the securities have been allocated, the broker will arrange for the company to send the securities to the investors, as well as ensuring the collection of funds from them.

Most investors will pay for and receive their securities through CREST. CREST is the electronic settlement system for UK securities which allows investors to hold and transfer securities in an 'uncertificated' form. In the final stages of marketing, the company, its broker and the registrar will apply for the company's securities to be admitted to CREST. However, investors are not obliged to use CREST and can still elect to receive and retain physical share certificates.

The broker is responsible for ensuring the security and efficiency of payments to the company, as well as being responsible for the secure delivery of the securities to the shareholders.

The broker's role in the secondary market

The secondary market refers to the market for the company's securities once the company has been admitted to trading on AIM. The broker has a number of crucial roles in this secondary market with responsibilities both to the company and to AIM.

Maintaining good investor relations

The broker will advise and assist the company in establishing and sustaining its investor relations programme. The primary objective should be to maintain a quality base of investors/shareholders by:

- providing the company's management with easy access to current and potential investors, as well as ensuring that these investors receive reliable, informative and current information on the company and its activities. If necessary, in support of this objective, the broker will arrange further meetings and company briefings with investors.
- generating investor interest by arranging the publication of regular research reports and liaising with analysts.
- ensuring that all statutory announcements are properly prepared and reviewed and are accurate and timely.

AIM Rule 26 now requires companies, from admission, to maintain a website which is accessible to the public and which contains information specified in the AIM Rules. The broker, together with the public relations company, will usually assist with this process (see chapter dealing with the role of the financial PR/IR company in an AIM flotation). The financial PR/IR firm retained by the



company will also be able to help with the important process of maintaining a media profile for the company.

Advising on market and trading issues

A key role played by the broker in the secondary market is to act as the company's 'eyes and ears' (and occasionally, voice). The broker should make sure that the company is kept completely informed of all relevant information, including:

- sudden share price volatility or trades in significant volumes
- institutional buying and selling activity
- peer and competitor news-flows, including results, significant movements in share prices or wider sector news which is likely to be of interest
- changes in market sentiment.

Corporate finance and funding

The more proactive brokers will also provide their clients with ongoing corporate finance ideas and advice including deal structuring, ideas on possible mergers and acquisitions and asset disposals. It will also assist in further fundraising activities including rights issues, new share issues and debt instruments.

Trading activities

The broker will also provide trading support for the securities by:

- providing after-market support and using 'best endeavours' to find matching business if there is no 'market maker' registered in the security during the 'mandatory quote period' (MDQ). The MDQ is the period of time from Monday to Friday when all registered market makers in a security must display their prices. The role of the market maker is explained in more detail below
- managing the sale and purchase of stock blocks in order to minimise price distortion
- placing and managing director and employee share transactions.

Creating and maintaining a secondary market

The broker's responsibility to maintain a secondary market in the company's securities is not just a service to the company, it is an AIM Rule specifically designed to benefit the overall market. A thriving and liquid secondary market where securities can be easily bought and sold is also essential for a healthy primary market.

Broker-Dealer role

A transaction is defined as 'On-Exchange' if one or both of the parties to the transaction is

a member firm (as agent or principle). Brokers involved in 'On-Exchange' transactions are subject to Exchange regulations.

Market maker role

Brokers can also take on the additional role of 'market maker'. Market makers are the focus of market activity. Their responsibility is to ensure that there is always a two-way (buy and sell) price in the securities for which they are registered as market maker. The market maker always acts as principal in these transactions and uses its own risk capital. In order to perform this role, a broker must register as a market maker in specific securities with the Exchange. A market maker does not need to be the registered company broker and multiple brokers can be market makers in any one security.

The market maker is obliged to:

- display the prices at which they are prepared to buy or sell securities of a particular company to which they are registered
- quote a size equal to or greater than the normal market size (NMS). A NMS is derived for each security and is based on a percentage of the security's average daily turnover in the previous year
- be prepared to deal, at a given price and up to the size quoted, with all enquiring member firms that are acting on behalf of clients.

However, market makers are not obliged to quote a price in domestic securities to firms dealing for their own account (as principal). When the enquiring customer is itself a market maker (or part of a group including a market maker) that is registered in that security, this obligation is limited to dealing in up to the minimum quote size (1 x NMS).

The process of market making has a significant impact on the liquidity, bid/offer spread and volatility of a company's securities. However, companies should note that their broker is not obliged to register as a market maker in its securities and the payment of an annual retainer to a broker is no guarantee that the broker will make a market or maintain a particular bid/offer spread. In the absence of a market maker, the broker's obligation is to use best endeavours to find matching business for trades in the company's securities.

Trading systems

The Exchange provides three alternative trading systems for AIM securities. These systems are designed to maximise liquidity in the stocks traded on them. According to the Exchange, each system is 'designed to provide the most efficient, transparent and cost-effective way to trade the various kinds of securities on our markets.'

- SETS (previously *SETSmm*) is the system on which the most liquid AIM securities are

traded. It is an electronic order book with an integrated market maker capability. The system provides guaranteed two-way orders that can be electronically executed within a prescribed bid/offer maximum spread. The system also provides for central counterparty functionality which enables post- as well as pre-trade anonymity. The order book enables continuous execution from the opening auction each day (which starts at just after 8am) until the closing auction (which begins at 4:30pm and which is scheduled to last for five minutes).

- *SETSqx* replaced SEATS Plus on 18 June 2007 and is the Exchange's new service for less liquid AIM securities. It provides a quote-driven market with quotes which are 'firm' to enquiring Exchange member firms. It also offers the ability to enter either named or unnamed orders during the trading day. The orders are executed during one of four scheduled auctions which take place at 8am, 11am, 3pm and 4:35pm. Where a security is eligible for inclusion with a central counterparty, auction executions have the benefit of post-trade anonymity. Executions outside the auctions are bilaterally cleared and settled.

- *SEAQ*, a quote-driven system, is the trading service used for all other AIM securities not traded on either SETS or SETSqx. Each security must have at least two registered market makers who are obliged to provide firm price quotes to enquiring Exchange member firms from 8am until 4:30pm.

Conclusion

The broker plays an essential role in an AIM flotation as well as in the performance of the company's shares post-admission. The broker is primarily responsible for the fundraisings that attract growth companies to AIM. As such, the broker acts as a catalyst for the efficient distribution of capital by promoting strong investment proposals to interested investors. In the secondary market, the company's share price performance is influenced by the ability of the broker to communicate important milestones in the company's development and maintain a healthy relationship with the investor base. Finally, the broker is responsible for creating and maintaining a secondary market in the company's securities – a role that is essential for AIM to function effectively over the long term.



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Role of the reporting accountant in an AIM flotation

Mo Merali, Partner and Sunil Patel, Senior Manager, Grant Thornton Corporate Finance

The reporting accountant's work is a critical part of the process of 'due and careful enquiry' that underpins the AIM admission document.

Overview of the reporting accountant's role

The reporting accountant is a key member of the team of advisers working on a flotation and takes responsibility for reviewing and reporting on a number of areas, including historical and forecast financial information. The reporting accountant's financial expertise, as well as its experience with the rigours and peculiarities of the flotation process, will help smooth the directors' progression through the process as it can quickly identify and assist in the resolution of issues that might otherwise hold up an AIM admission.

The reporting accountant also brings a valuable independent perspective to the flotation process as it does not have a vested interest in the outcome of the flotation. This independence enables the reporting accountant to express impartial and often robust views, even if these can seem unpopular at the time.

The company's directors have onerous responsibilities in relation to their AIM admission document and the reporting accountant helps the directors discharge their responsibilities in a

number of areas. Indeed, the reporting accountant's work is a critical part of the process of 'due and careful enquiry' that underpins the AIM admission document.

Qualifications required to act as a reporting accountant

A company's flotation on AIM is governed by the AIM Rules for Companies and the AIM Rules for Nominated Advisers. The AIM Rules for Companies require a company to produce an

This chapter examines the role of the reporting accountant, focusing on the following areas:

- qualifications required to act as a reporting accountant
- pre-flotation issues
- due diligence reports on the company
- financial information in the investment circular
- establishing ongoing financial reporting procedures.



AIM admission document which adheres to the form and content prescribed by Schedule Two of those rules. This is based on the contents of Annex I to III of the PD Regulations which represent the UK's response to the EU Prospective Directive (PD) with certain carve-outs (AIM-PD). In certain circumstances a full prospectus may be required and the form and content will be governed by the PD Regulations. As such, no carve-out provisions will be available, but this prospectus will then serve as the AIM admission document together with any additional information required by Schedule Two of the AIM Rules for Companies.

The qualifications necessary to perform the role of a reporting accountant are not strictly defined in the AIM Rules or statute. However, as the reporting accountant is often required to include an accountant's true and fair opinion (accountants' report) on the historical financial information of the company (references to 'company' also extend to 'group', where applicable), as prepared for the purposes of the AIM admission document, any such person would normally be expected to be qualified to act as an auditor in the UK (or overseas jurisdiction, where appropriate). The reporting accountant must also adhere to the Ethical Standard for Reporting Accountants issued by the Auditing Practices Board.

Although not a professional qualification as such, the most important issue when selecting a reporting accountant is to ensure that the

organisation and the specific team members assigned have had prior experience of acting as reporting accountants on AIM flotations. This may mean that this role is not automatically undertaken by the company's existing auditors.

The nominated adviser ('Nomad') will usually vet the company's selection of all its advisers and identify if there are any issues relating to the reputation and suitability of a proposed organisation or individual.

Pre-flotation issues

The most commonly used phrases by management teams in the final run-up to flotation are:

- 'I wish I had thought about and dealt with that matter earlier.'
- 'Why wasn't I advised earlier that this would be an issue?'

Typically, these phrases often come about as a result of inadequate planning at the outset of the process. With careful internal resource and project planning, together with the resolution of housekeeping matters prior to embarking on the flotation process, a company can often save money and – more critically – time. As part of that planning process, the reporting accountant plays an important role in grooming companies during the pre-flotation period and bridging any gap in expectations.

Corporate structure

It is imperative that due consideration is given to the entity that will be floating early on in the pre-flotation phase. The entity's legal constitution must allow the shares to be traded publicly, and in the case of UK companies, it is only public limited companies (plcs) that can be floated. Typically the entity that will be floated is a group's holding company, which principally holds the shares in the trading subsidiaries. The main activity of such a holding company is to employ the board of directors, declare and pay dividends to shareholders and sometimes act as the principal borrower in group borrowing facilities. Some groups will already have existing holding companies. The decision whether to use the existing holding company, however, will depend on a variety of different factors, including the following:

- in the case of UK companies, is the company a plc? If not, can it re-register as a plc?
- does the company have the ability to pay dividends (ie is there a significant deficit of distributable reserves)?
- what activities has the company undertaken in the past and are these likely to have legacy issues or contingent liabilities?

To address some of these issues a new holding company is sometimes put in place and used as the entity to be floated. This is of course, subject to the taxation

considerations of the existing shareholders and the group itself. If the company or business to be floated is part of a larger entity, and that business is to be carved out prior to flotation, then careful consideration needs to be given to any separation issues, whether real or perceived. It is easy to underestimate the time it takes to successfully carve out an entity contractually, operationally and financially, so it is always useful to put in place appropriate safeguards, such as memoranda of understanding and working protocols.

Financing structure

Where the company has historically had a complex capital and financing structure, possibly as a result of a previous management buyout (MBO) or private equity financing, a significant restructuring may be required. Simplifying the structure will ensure that at flotation potential investors need not be concerned about the possible complications brought about by a complex structure. More importantly, this will help provide transparency and clarity about the company's future.

In addition, the company, while raising some funds for the flotation, may well require ongoing funding both immediately prior to the flotation, as well as post-flotation. Therefore, proper consideration needs to be given to the likely current and future funding requirements.

Prior to flotation, companies should carefully re-evaluate their accounting policies and ensure that they are in accordance with accounting standards and industry best practice

Financial reporting

Sometimes companies going public have not been subject to audit, in which case the reporting accountant will need to perform a full audit on the historical financial information. This can be problematic in relation to the earlier years, as supporting documentation may not be readily available. If a company that has not been subject to audit is contemplating going public, it is worthwhile having an audit (even if this is not a legal requirement) to reduce delays once the flotation process starts. Ensuring that historical financial information is of appropriate quality, and is sufficiently up-to-date for inclusion in an AIM admission document, is a key part of pre-flotation 'grooming' that will save considerable time and anguish at a later stage in the flotation process.

In addition to providing a true and fair opinion on the company's historical financial information as prepared and presented by the directors, the reporting accountant will often need to guide the directors on the preparation and presentation of their historical financial information to be included in the AIM admission document. Common items that cause problems are:

- when groups have not been required to produce consolidated accounts
- audited financial statements that do not have sufficient disclosures for the purposes of the AIM admission document

- financial statements with qualified opinions, as it is usually unacceptable for an accountants' report to contain a qualified opinion
- changes to the group structure in the last three years. The reporting accountant will recommend options on how to deal with such situations based on its previous knowledge and will discuss, as necessary, particular issues with the Nomad. In certain instances, the reporting accountant and the Nomad will also confer with the London Stock Exchange on a specific situation and the proposed solutions.

Prior to flotation, companies should carefully re-evaluate their accounting policies and ensure that they are in accordance with accounting standards and industry best practice, as once they have joined AIM their accounting policies will be subject to close public scrutiny. In addition, the last two years of historical financial information must be presented in a form consistent with that which will be adopted in the company's next published annual financial statements, having regard to the accounting standards, policies and legislation applicable to such financial statements. This is discussed in more detail later in this chapter.

Tax planning

Tax is an area which is often thought of only after the event or when a problem arises, at

considerable cost to the company, its shareholders and its management. If proper planning is undertaken at the outset, significant savings can be achieved. Such planning can also make the process smoother and more cost-efficient. Tax planning is particularly important for the company's shareholders, management and key employees, and the company itself.

Shareholders

A company's flotation is expected to result in an increase in the value of the company's shares, thus benefiting incumbent shareholders. It is possible that some shareholders may be disposing of some or all of their holdings, and if proper planning is put in place, taxable gains can either be mitigated or managed to avoid unexpected exposure.

Because of the status of AIM, companies and their shareholders can, subject to certain conditions, take advantage of the EIS and VCT reliefs available to, respectively, individuals and venture capital trusts. Both offer significant tax benefits for new shareholders. Whilst the qualifying conditions for companies have been tightened in recent years, companies with EIS and/or VCT status are in a much stronger position to attract new investors seeking those reliefs. Advance planning will be critical in ensuring that potential pitfalls are addressed early and clarity is sought through advice

and advance clearances with the Inland Revenue.

Management and key employees

Often, management and key employees are incentivised using share-based compensation plans. Such plans may be in existence at the time of the flotation or may be put in place after the flotation. Whichever is the case, any such plans and arrangements will need to be carefully considered to ensure that there are no adverse tax and/or accounting consequences to the individual or to the company.

The company

If there is any form of reorganisation required, it is almost inevitably going to impact on the company. As noted previously such reorganisation may include:

- changes to and rationalisation of the corporate structure
- changes to the capital and financing structure
- changes to or implementation of employee remuneration plans
- disposal of non-core subsidiaries, assets or business lines

If proper planning is not undertaken early on, this can potentially derail the flotation process at a later stage.



Due diligence reports on the company

A substantial amount of the reporting accountant's time will be spent on conducting financial due diligence on the company and, if applicable, its subsidiary undertakings on behalf of its directors and its Nomad.

This will involve a detailed investigation (principally to support the Nomad's assessment of the appropriateness of the company being admitted to trading on AIM) of:

- the nature of the business and the company's historical trading performance and financial position
- the company's financial reporting procedures
- the company's future funding requirements to execute the business plan that it is putting forward.

This due diligence is often presented in two reports known as a long-form report and a working capital report. These reports are private and addressed only to the company's directors and its Nomad.

Long-form report

The long-form report is a detailed report on every aspect of the company's business,

Table 1 Typical contents of a long-form report	
Business history	
Business operations	<ul style="list-style-type: none"> • operational structure • company's products and services • markets, customers and competition and marketing methods • production, facilities and suppliers • research and development • business premises
Management and staff	<ul style="list-style-type: none"> • structure and adequacy thereof • remuneration packages • succession issues
Financial reporting and historical financial information	<ul style="list-style-type: none"> • trading results for the last three years (if available) • balance sheets for the last three years (if available) • cashflows for the last three years (if available) • accounting policies • accounting systems, financial and management information and controls • corporate governance
Taxation position	
Other matters	<ul style="list-style-type: none"> • eg insurance

Rapid identification of problems – so that solutions can be implemented in a timely manner – is a key aspect of the reporting accountant's work

excluding forecasts (which are covered in the working capital report). The actual scope of the long-form report is agreed between the reporting accountant, the company's directors and the Nomad.

Although the report is normally comprehensive, in some circumstances its scope may be restricted or, indeed, dispensed with entirely. This may be the case where, for example, the company floating has not traded previously, or the Nomad has obtained information from other sources, such as through commercial or technical due diligence.

The long-form report will provide a comprehensive overview of the company and the reporting accountant will typically spend a significant amount of time on site at the company, interviewing management and staff and reviewing documentation, books and records. The contents of a typical report are shown in Table 1 on the preceding page.

The reporting accountant will also highlight in the long-form report issues that need to be resolved before or after flotation, together with proposed solutions. Every company is unique but the types of issues that often arise include:

- inadequate financial reporting and management information systems
- inappropriate accounting policies

- concern over items included in the historical financial information (eg recoverability of receivables)
- taxation issues.

The reporting accountant will usually communicate the significant issues to the directors and the Nomad as they arise, rather than waiting until the written report is produced. Rapid identification of problems – so that solutions can be implemented in a timely manner – is a key aspect of the reporting accountant's work. In extreme cases, if major issues are incapable of resolution it may be necessary to delay or even abort the flotation, and it is important that such issues are identified early before excessive time and costs have been incurred.

Companies often find the long-form report an insightful document, as this may be the first time that anyone outside the company has spent time reviewing it and producing an independent appraisal of it.

Working capital report

The review of forecast financial information is usually included in a private report separate to the long-form report, although for smaller companies these may be combined. The working capital report has a specific purpose – to provide assurance to the company's directors and to the Nomad on the adequacy

of working capital. The directors are required by Schedule Two (c) of the AIM Rules for Companies to make a statement in the AIM admission document on the adequacy of the company's working capital. The wording can vary, but is typically phrased as follows:

'The directors are of the opinion that, having made due and careful enquiry and after taking into account the proceeds of the placing, that the company and its group has sufficient working capital for its present requirements, that is for at least 12 months from the date of admission of its securities.'

A working capital report, addressed to the directors of the company and the Nomad, is prepared by the reporting accountant to confirm that the directors have made their confirmation in relation to working capital after 'due and careful enquiry'.

The reporting accountant undertakes a series of detailed checks and review procedures on the company's working capital forecasts, which should be supported by an appropriately detailed integrated income statement, balance sheet and cashflow model, together with supporting assumptions. The working capital forecasts must cover at least 12 months from the expected flotation date, but it is preferable for

them to include at least the first 18 months (this is market practice rather than any specific regulatory requirement). Issues identified in the review, such as errors in the forecast model and unreasonable assumptions, should be notified to management so that the appropriate changes can be made.

The reporting accountant will try to resolve issues with the company during the review so that a 'clean' opinion can be given in the report in relation to the directors' statement. If issues cannot be resolved, for example because there is insufficient time to correct an error in the model, then the reporting accountant will assess the impact of such errors in coming to its conclusions. The reporting accountant will identify the company's vulnerabilities that may impact on its forecast working capital and will recommend sensitivity analyses to assess the extent of their potential impact. If the company's working capital is inadequate, then early recognition of this will give the company and its advisers time to seek additional sources of funds, such as bank finance or increased fundraising from the flotation.

Where the company intends to publish forecast information in the AIM admission document, which is onerous and therefore a rare occurrence, the working capital report may serve a second purpose by providing comfort on the reasonableness of those forecast figures. The reporting accountant's work and report will be



similar, but there will be an increased emphasis on the quality of the forecast information that is being disclosed. This may involve a more detailed review of the underlying assumptions than is necessary for the level of comfort given on working capital.

Financial information in the investment circular

The reporting accountant has certain responsibilities in relation to information disclosed in the AIM admission document. Such information could include:

- historical financial information
- pro forma financial information
- forecast financial information.

Historical financial information

Potential investors need to understand the historical performance of the company so that they can assess the extent to which this, together with other information in the AIM admission document, supports the proposed valuation of the company on flotation. Schedule Two to the AIM Rules for Companies (or Annex 1 of the PD Regulations where a prospectus is required) require disclosure of historical financial information in the AIM admission document.

Minimum period to be covered

Companies that are going public are

usually required to disclose audited historical financial information for three financial years prior to flotation, although there are some exceptions (if a company has not been trading for three years it may still be admitted to AIM on the basis of historical financial information covering the period from its date of incorporation).

If the AIM admission document is dated more than nine months after the end of the last audited financial year, it must also contain interim historical financial information, which may be un-audited, but must cover at least the first six months of the financial year following the last audited year. Any interim financial information presented must include comparative information for the corresponding prior period, except that the requirement for comparative balance sheet information may be satisfied by presenting the year-end balance sheet. Furthermore, even when interim financial information is presented, the end of the last full year of audited historical financial information must be within 15 months of the date of the document if the interim financial information is un-audited, or 18 months of the date of the document if the interim financial information is audited.

These are the minimum requirements under the regulations; the Nomad's and market expectations, however, may dictate that more recent financial information is included in the AIM admission document, as this will provide

The Nomad's and market expectations, however, may dictate that more recent financial information is included in the AIM admission document

more up-to-date trading information and will usually add further credence to the company's valuation on flotation.

Generally Accepted Accounting Principles ('GAAP')

Companies are required to present at least the two most recent financial years of their historical financial information under the same GAAP and accounting basis as will be adopted in their next set of published annual financial statements, having regard to the accounting standards, policies and legislation applicable to such financial statements.

Companies on AIM incorporated in the European Economic Area ('EEA') are required to adopt International Financial Reporting Standards ('IFRS') as adopted for use in the European Union for accounting periods commencing on or after 1 January 2007 if they have subsidiaries; they may use their local country GAAP if they have no subsidiaries.

Companies on AIM incorporated in a non-EEA country are required to prepare their future financial statements under one of the following GAAPs:

- IFRS
- US GAAP
- Canadian GAAP

- Australian IFRS, as issued by the Australian Accounting Standards Board (the directors should consult the reporting accountant on the suitability of Australian IFRS if an AIM admission document compliant with the PD Regulations is required)

- Japanese GAAP.

Companies must bear these future reporting requirements in mind when determining the GAAP that the two most recent financial years of their historical financial information should be prepared under.

The rules regarding acceptable GAAP in an AIM admission document are subject to change, particularly if a company is required to issue a document compliant with the PD Regulations. The directors should therefore consult the reporting accountant as to acceptable GAAP at an early stage.

Format of historical financial information

Assuming the financial information meets the GAAP requirements set out above, the company may meet its obligation to disclose historic financial information by publishing its audited financial statements in the AIM admission document, together with the audit reports previously given on those financial statements. Strictly, the company is not even required under the regulations to seek its auditor's permission to do so.

However, it is more usual for a Nomad to request that the reporting accountant issue its own true and fair opinion on the historical financial information, with the financial information to be set out in a columnar format showing all of the years together, for ease of comprehension by investors. This is particularly the case where the company that is being floated has had a complex financial history within the period being reported on, for instance when it has been carved-out of a larger group, or it has undertaken previous acquisitions or disposals, or has undergone a group reconstruction. A new true and fair opinion by the reporting accountant will also be necessary in cases where adjustments are required to the audited historic financial statements to represent the historical financial information to comply with relevant regulation in the AIM admission document. This could be where the historical financial statements were prepared under a GAAP different to that which the company will apply going forward; past audit opinions were qualified; there were mistakes or errors in the previously audited financial statements; or indeed where the company has never prepared consolidated financial statements or such statements have not previously been subject to audit.


Where the company has acquired a material subsidiary since the start of the first period being reported on, there will be a necessity to include historical financial information for the period prior to its acquisition on that entity too.

The requirements in relation to historical financial information can be complex. The reporting accountant can draw on its considerable experience to help directors identify solutions to difficult areas, including advising the directors on how to regard and make appropriate disclosure of accepted conventions which have been developed for the preparation and presentation of historical financial information in an AIM admission document.

Accountant's report on historical financial information

The preparation and presentation of historical financial information in the AIM admission document is the responsibility of the directors of the company. The financial information is presented in a similar format to the annual financial statements, except that there are typically three years of figures, and will comprise:

- the company's accounting policies
- the company's income statements
- the company's balance sheets
- the company's cashflow statements
- the company's statement of recognised income and expense or changes in equity
- notes to the financial information.



If the company has subsidiaries, information will be presented, whenever applicable, on a consolidated basis for the group.

The reporting accountant's true and fair opinion (accountant's report) on this historical financial information is presented in a similar format to an audit report. The reporting accountant will need to perform the necessary procedures to be able to give a true and fair opinion on the information, with relevant guidance provided by *Standards for Investment Reporting 1000 – Investment reporting standards applicable to all engagements in connection with an investment circular and 2000 – Investment reporting standards applicable to public reporting engagements on historical financial information.*

Where the underlying financial information has been previously audited, the reporting accountant normally reviews the auditor's working papers (even if the same firm acts as reporting accountant and auditor), if granted permission to do so under a release letter. It will then determine whether any additional procedures need to be performed, for example, where the audit work appears insufficient or access has not been granted to certain working papers. This may involve re-performing elements of the audit work. If access to working papers is denied by the auditors, the reporting accountant will effectively need to re-perform the audits.

Pro forma financial information

At the company's discretion (as this is optional under the AIM Rules for Companies), taking into account the views of its Nomad, the AIM admission document may include pro forma financial information to illustrate how, where relevant, the placing proceeds and/or any acquisitions or other adjustments directly attributable to the transaction, affect the financial information of the company. The most common financial information given is a pro forma statement of the company's net assets. If the AIM admission document is required to be compliant with the PD Regulations then the disclosure of pro forma financial information showing the effect on assets, liabilities and earnings is mandatory if there is a significant gross change as a result of the float/ transaction.

The reporting accountant may advise the directors in compiling their pro forma financial information and will discuss appropriate adjustments with them. However, the pro forma financial information remains the sole responsibility of the directors.

If such pro forma information is included, the reporting accountant will generally provide a letter giving limited comfort regarding the pro forma financial information. This comfort covers whether the pro forma financial information has been properly compiled on the basis

In certain circumstances the Nomad may advise the company to include forecast financial information

stated and whether such basis is consistent with the accounting policies of the issuer. Such a letter is mandatory where the AIM admission document is required to be compliant with the PD Regulations; for AIM-PD documents such a letter is not mandatory but often requested and provided.

Forecast financial information

Disclosure of forecast financial information is relatively uncommon as it gives investors an obvious target to attack if the performance of the company does not meet expectations. However, in certain circumstances the Nomad may advise the company to include such information.

If forecast financial information is included in the AIM admission document, the reporting accountant will generally provide a report that gives limited comfort on it. This report includes an opinion along the following lines:

'In our opinion the profit forecast has been properly compiled on the basis stated and the basis of accounting used is consistent with the accounting policies of the group.'

Such a letter is mandatory where the AIM admission document is required to be compliant with the PD Regulations. For

AIM-PD documents such a letter is not mandatory, but is 'expected' in accordance with the guidance notes to the AIM Rules for Companies, as the Nomad is expected to confirm that the forecast has been made after due and careful enquiry, typically requested in any event. However, in the case of an AIM-PD document, the reporting accountant may provide comfort to the Nomad through a private report rather than a public report – the exact nature of such a report would be agreed between the Nomad and the reporting accountant.

The reporting accountant will have to perform specific procedures, such as testing how the forecast information was compiled, in order to give its report. This work may be combined with the review undertaken as part of its preparation of the working capital report as discussed previously.

The AIM Rules for Companies place an onerous responsibility on the Nomad in relation to profit forecasts. Therefore, unless there is a commercial imperative for it, forecast financial information is included very infrequently.

Financial reporting procedures

It is important that quoted companies have robust and reliable financial information systems so that accurate information is readily available to management on a timely basis.

As part of its obligations, the Nomad will seek written confirmation from the company that the



directors have established procedures which give a reasonable basis for them to make proper judgements as to the financial position and prospects of the company and its group and that they have made their statement after due and careful enquiry.

Typically, companies being floated on AIM have been private companies up to that point and have been managed, controlled and operated as private companies. In most cases, their management information systems, accounting systems and internal controls would have been appropriate for a private company. Life as a public company is very different, not just because of the presence of external shareholders and stakeholders, but also as a result of the need for compliance with the rules and regulations governing public companies.

Consequently, one of the reporting accountant's key responsibilities is to provide an opinion to the Nomad on whether the directors' statement that they have established adequate financial reporting procedures has been made after 'due and careful enquiry'. As part of its work, the reporting accountant will review the company's financial and management information systems and controls. Using the information gained, together with its experience on the subject, the reporting accountant will then form a view regarding the directors' statement. The confirmation given by the reporting accountant is usually included in a separate letter

that refers to the reporting accountant's work in this area (which may be set out within the long-form report).

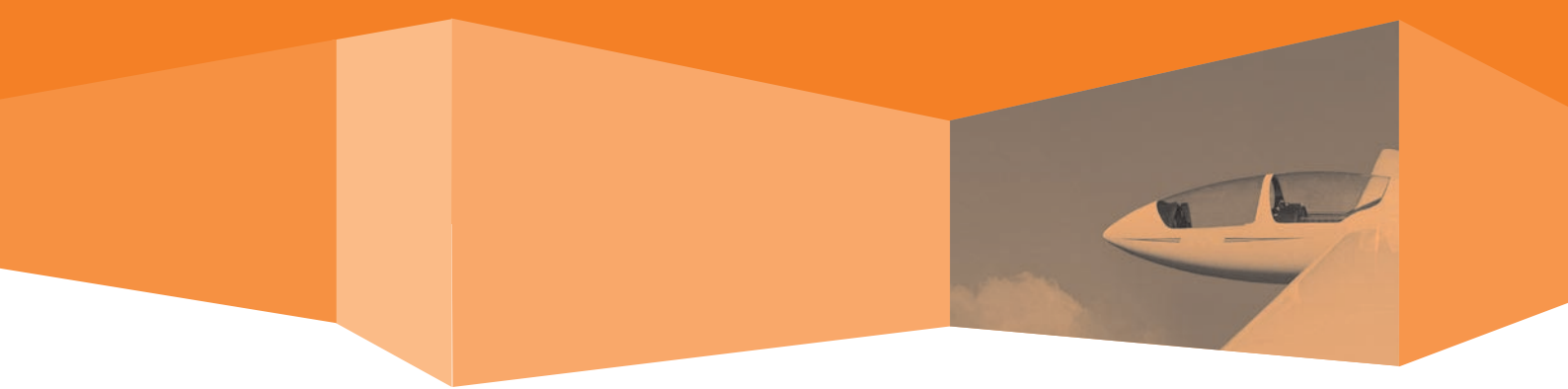
Occasionally, current systems and procedures are not of a sufficient standard for a quoted company and the reporting accountant's confirmation may refer to actions that must be taken within a certain time period and state that its confirmation is given only on the basis that the company will complete these actions.

Significant change statement

Any significant changes in the company's financial or trading position since the date of the latest financial information in the AIM admission document should be disclosed in the admission document. The reporting accountant is asked to provide a letter confirming that they are not aware of any such changes that have not been disclosed. To give this comfort, the reporting accountant will need to perform specific procedures just prior to the AIM admission document being published, such as reviewing the latest set of management accounts and discussing recent trading with management.

Other requirements

The reporting accountant also has to provide other documents as part of the flotation process. Most of these are short letters providing comfort to the company and/or the Nomad on various subjects.



For instance, the AIM admission document may include financial information outside the sections covered by the reporting accountant's opinion – a typical example is a summary of key financial data at the front of the AIM admission document. The reporting accountant will typically be asked to check that this information is correctly extracted from either

the directors' historical financial information, or from the company's records and to provide a letter confirming that this is the case.

The reporting accountant is also typically asked to give a comfort letter on the wording of tax disclosures in the AIM admission document relating to the tax treatment of shareholders.

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Role of the corporate lawyer in an AIM flotation

Max Audley, Partner, Faegre & Benson LLP

The company's lawyers play a central role in the flotation process, advising on the structuring of the company and its subsidiaries, on the documentation involved and on the responsibilities of the directors in relation to the flotation.

Qualifications for acting as a corporate lawyer

There is a need for at least two firms of lawyers on an AIM flotation and in any secondary issue by an AIM company – lawyers to act for the company and lawyers to act for the nominated adviser (or Nomad) and the broker. In the case of an overseas company or a company with significant businesses or assets outside the UK, there will also be a need for local counsel to act for the company to assist in the due diligence and verification process, both in the country of the company's incorporation and in other relevant jurisdictions.

Although there is no specific requirement for any of the lawyers to be legally qualified, it is invariably the practice that the UK lawyers are solicitors experienced in corporate finance law, while the overseas lawyers are legally qualified in their own countries.

Overview of the lawyers' role

The company's lawyers play a central role in the flotation process, advising on the structuring of the company and its subsidiaries, on the documentation involved and on the

responsibilities of the directors in relation to the flotation and any associated fundraising.

The principal responsibilities of the company's lawyers acting on an AIM flotation include:

- conducting legal due diligence on the company, establishing the corporate structure and standing of the company and its subsidiaries, verifying title to their respective assets, examining material contracts and employment agreements, reviewing any current or prospective litigation and preparing a legal due diligence report
- advising on any necessary corporate restructuring, including (if appropriate) the creation of a new holding company as the vehicle for the flotation
- advising on the drafting of the admission document, which may also constitute a prospectus, with a general role in assisting the directors and other advisers, including local lawyers, in ensuring that the document is accurate and complete, and a primary role in preparing the statutory and general section which usually appears at the back of the admission document



- negotiating the terms of the placing or introduction agreement between the company, the directors and the Nomad and broker, and the scope of the warranties and indemnities to be given by the company and the directors under that agreement
- preparing employment agreements for directors and other key staff
- drafting share option schemes for directors and employees
- advising the company's directors on their responsibilities both under the admission document/prospectus and generally, on corporate governance and on the liability of the company and its directors under the warranties and indemnities in the placing or introduction agreement
- preparing verification notes, in the form of questions designed to ensure that the contents of the admission document (and the pathfinder and placing proof of the admission document) are accurate, and liaising with the directors and other advisers to obtain answers to those questions together with supporting documentation
- negotiating and advising on the terms of the agreements which will govern the relationship between the company and the Nomad and the broker in relation to their respective roles and responsibilities following the flotation
- preparing board minutes, terms of reference for any board committees, powers of attorney and responsibility statements to be signed by each of the directors, confirming that they have understood the responsibilities they are accepting by approving the issue of the admission document/ prospectus
- advising generally on the legal aspects of the flotation process and the continuing obligations of the company and the directors following the admission of the company to AIM.

The lawyers to the Nomad and the broker are responsible for reviewing the admission document and supporting documentation, as well as any other investment communications proposed to be issued by the Nomad or the broker. They also draft and negotiate, on behalf of the Nomad and the broker, the placing or introduction agreement and the Nomad and broker agreements, and assist the Nomad in ensuring it complies with the AIM Rules for Nominated Advisers in relation to the admission.

The legal and regulatory basis of AIM

AIM is a market regulated by the London Stock Exchange. Companies wishing to join AIM must comply with the AIM Rules published by the Exchange and, following admission to AIM, they must comply with the continuing obligations of the AIM Rules.

In recognition of AIM's role as a market for growing companies, the Exchange has made the

AIM Rules relatively simple and clear, with entry requirements and continuing obligations which are less prescriptive than those of many other markets. For example, the UKLA Listing Rules which apply to companies seeking to list on the Main Market of the London Stock Exchange are significantly longer.

It is the nominated adviser system which makes the balance of the AIM regulatory regime possible – the AIM Rules require the Nomad to take appropriate steps to ensure that the directors of a company applying to join AIM are aware of their responsibilities and obligations under the AIM Rules, and that each AIM company complies with the Rules. The directors themselves are required to seek advice from the Nomad and to take that advice into account. The Nomad is also required to confirm to the Exchange that it considers an applicant company and its shares to be appropriate for admission to trading on AIM. The Exchange can impose sanctions on the company (which may include a fine and suspension or cancellation of the company's quotation on AIM) and on the nominated adviser in the event that the rules are breached.

Any company applying to join AIM must, in addition to complying with the AIM Rules, also comply with (i) the UK legal requirements for offers of securities; (ii) the restrictions on financial promotions imposed by the Financial Services and Markets Act 2000 (FSMA); and (iii) in the case of a company incorporated

outside the UK, the securities laws of the country in which it is incorporated.

The UK law on public offers of securities is governed by the Prospectus Rules published by the Financial Services Authority.

The Prospectus Rules are relevant for AIM companies for two reasons:

- First, they will determine whether a proposed fundraising on AIM will constitute an offer to the public; if it will, then the admission document will constitute a prospectus; this will mean that the prospectus will (i) have to comply with additional content requirements; and (ii) require prior approval of the UK Listing Authority. In addition, the directors will be assuming certain additional legal liabilities. These rules will also apply to subsequent fundraisings by a company already on AIM
- Secondly, the AIM Rules stipulate that an applicant to AIM must produce an admission document which contains information equivalent to that which would be required by the Prospectus Rules (an 'AIM-PD' document), with the exception of certain specified categories of information.

The company's lawyers will advise on whether an admission document constitutes a prospectus – broadly speaking, an offer directed at no more than 100 persons or to 'qualified investors' will not be an offer to the public under the Prospectus Rules.

AIM's admission requirements permit young and growing companies from around the world with limited or no trading records to join the market

The company's lawyers will also advise on which documents (such as the investor presentation, the pathfinder, the placing proof, draft placing letters and roadshow materials) will, to comply with the financial promotions restrictions in the FSMA, need to be approved or issued by an authorised person.

Eligibility for joining AIM

AIM's admission requirements permit young and growing companies from around the world with limited or no trading records to join the market. The London Stock Exchange does not impose any minimum requirements for market capitalisation, trading record, share price, shares in public hands (or 'free float'), and the Exchange does not make the decision as to whether a company is suitable for admission to AIM – this responsibility is placed on the nominated adviser.

The AIM Rules set out some basic requirements for eligibility:

- An AIM company must appoint and retain a Nomad at all times
- As part of its obligations under the AIM Rules for Nominated Advisers, the Nomad must confirm to the Exchange that it is satisfied that, in its opinion, an applicant company and its securities are appropriate to be admitted to trading on AIM
- With certain limited exceptions, securities admitted to trading on AIM must be free from restrictions on transferability
- All securities of the same class must be admitted to trading on AIM – this does not prevent certain shares being subject to contractually imposed restrictions on dealing such as 'lock-ins' (see below)
- An AIM company must retain a broker at all times
- An AIM company must ensure that appropriate settlement arrangements for its securities are in place, and in particular, AIM securities must be eligible for electronic settlement (except in very limited circumstances agreed by the Exchange, for example in relation to a 'Reg S' offering by a US company)
- An AIM company must pay AIM fees in accordance with the Exchange's tariff
- An applicant which is an 'investing company' (ie a company which has as its primary business the investing of its funds in the securities of other companies or the acquisition of a particular business) must make it a condition of its admission that it raises a minimum of £3 million in cash via an equity fundraising at the time of admission to AIM
- An AIM company which is a mining or oil and gas company must comply with the Guidance Note for such companies, including the preparation of a Competent Person's Report.

The AIM admission document

The general rule is that all new applicants to AIM must publish an admission document. There is an exception for companies already listed on one of the AIM Designated Markets – (see below). There are few requirements as to the form in which the information required an AIM admission document must be set out. In practice, however, the document is usually divided into sections as follows:

- key information in relation to the company
- a detailed description of the company and its activities, investments and holdings, directors and management, dividend policy, corporate governance policies, current trading, trends and prospects, details of the fundraising (if any) and the proposed application of the proceeds
- risk factors of which prospective investors should be aware
- historical financial information relating to the company and its subsidiaries – usually audited accounts for the last three years, or a shorter period of time if the company has been in existence for less than three years. If more than nine months have elapsed since the company's financial year end, interim financial information must also be included
- in the case of a company with a specialist business (such as technology, intellectual

property, mining or oil and gas), an expert's report – this is not a regulatory requirement, except in relation to mining and oil and gas companies, but will almost certainly be required by the Nomad and broker as part of the due diligence and verification process and to give prospective investors sufficient information on which to base their decision on whether to invest in the company

- a statutory and general section, setting out details of the share capital of the company and the rights attaching to its securities; a summary of the constitution documents of the company; summaries of material contracts, material litigation, interests of directors and substantial shareholders in the share capital of the company; share option schemes, level of dilution resulting from any offer, expenses of the issue/offer, and the terms of engagement of the directors and senior personnel.

In addition to specific content requirements, the AIM Rules impose a general duty of disclosure, requiring the company to ensure that the document contains:

any other information which it reasonably considers necessary to enable investors to form a full understanding of:

- (i) the assets and liabilities, financial position, profits and losses, and prospects of the applicant and its securities for which admission is being sought;*



*(ii) the rights attaching to those securities;
and*

*(iii) any other matter contained in the
admission document.*

The company's lawyers will advise on the specific content requirements, which include:

- a statement by the company's directors that, in their opinion, having made due and careful enquiry, the working capital available to the company and its group will be sufficient for its present requirements, ie, for at least 12 months from the date of admission of its securities to AIM
- certain 'health warnings' to prospective investors to reflect the fact that the securities are not being admitted to the Main Market and that the Exchange has not examined or approved the admission document
- a responsibility statement confirming that each of the directors accepts responsibility, individually and collectively, for the information contained in the document, and that to the best of the knowledge and belief of the directors (who have taken all reasonable care to ensure that such is the case), the information contained in the admission document is in accordance with the facts and does not omit anything likely to affect the import of such information
- a 'lock-in' statement that 'where an applicant's...main activity is a business which has not been independent and earning revenue for at least two years... all related parties and applicable employees as at the date of admission agree not to dispose of any interest in its securities for one year from the admission of its securities' (it is likely that the Nomad and/or broker will require further lock-ins in order to protect prospective investors and maintain an orderly market). 'Related parties' include directors, shareholders owning 10 per cent or more of the voting shares, and their respective families. An 'applicable employee' is one who, together with his family, owns 0.5 per cent or more of any class of the company's securities quoted on AIM
- information relating to each director, including involvement in previous personal or company insolvencies
- the name of any person who, so far as the directors are aware, holds an interest of three per cent or more of the company's issued share capital, and the level of that interest
- in the case of investment companies, details of their investment strategy.

The company's lawyers will play a major role in the due diligence which will be required in order to prepare the admission document/prospectus, and the verification exercise which is designed to

The AIM Rules do not require AIM companies to be incorporated in the UK or in any other specific jurisdiction

ensure that every sentence in the document is accurate and not misleading in the context in which it appears.

The placing or introduction agreement

Whether or not a company is raising funds contemporaneously with its admission to AIM, the Nomad and broker will require comfort from the company and its directors that the contents of the admission document are accurate and not misleading. The solicitors to the issue will therefore prepare a draft placing agreement or, where no funds are being raised, an introduction agreement. In either case, the agreement will contain:

- warranties by the company and its directors on the accuracy of the admission document
- an indemnity from the company (and frequently from its directors) to the Nomad and broker in relation to liabilities arising out of the admission
- any lock-ins to be given by the directors
- in the case of a placing agreement, an undertaking by the broker that it will use all reasonable endeavours to find placees for the shares which are the subject of the fundraising and, if applicable, that it will subscribe for any shares for which placees have not been found
- the fees, commissions and expenses to be paid by the company to the Nomad and broker

- the obligations imposed on the company to consult the Nomad before engaging in transactions which are material in the context of the placing or the admission to trading on AIM
- the events which will entitle the Nomad and/or broker to terminate the agreement and therefore not proceed with the company's admission to trading on AIM.

Considerations for overseas issuers

The AIM Rules do not require AIM companies to be incorporated in the UK or in any other specific jurisdiction.

Overseas companies are subject to the same eligibility requirements as UK-incorporated companies. In cases where the AIM Rules requiring free transferability and electronic settlement of shares are difficult to comply with, it may be appropriate to set up a UK holding company, whose shares would be traded on AIM instead. The decision to use a UK holding company may also be affected by tax considerations and, in certain circumstances, the desire of institutional investors to invest in a UK entity.

An overseas AIM company is also subject to the continuing obligations under the AIM Rules referred to below. In particular:

- it must ensure that announcements required under the AIM Rules are announced simultaneously on all markets

- it must publish annual audited accounts prepared in accordance with prepared in accordance with International Accounting Standards or (in the case of non-EEA AIM companies) equivalent standards – which include US GAAP, Canadian GAAP and Australian IFRS)
- all documents required by the AIM Rules must be in English and, where the original document is not in English, an English translation must be provided.

The fast-track process for issuers from AIM Designated Markets

The AIM Rules allow a fast-track admission procedure for companies quoted on certain overseas exchanges or on the UK Main Market. (see page 11)

AIM Rule 3 provides that a company which has had its securities traded upon an AIM Designated Market for at least 18 months prior to applying to have those securities admitted to AIM is not required to produce an admission document when it applies for admission to trading on AIM. Instead, the applicant must publish additional information in the form of a press announcement which complies with detailed content requirements as specified in the Supplement to Schedule 1 to the AIM Rules, including a catch-all requirement for 'information equivalent to that required for an admission document which is not currently public' (ie publicly available at an address in the UK or

at a website address accessible to users in the UK).

As a consequence of this requirement, the company will still have to ensure that it publishes all the information required for an admission document, even though it will not have to concentrate all this information into an admission document. The Nomad will still have an obligation to confirm that the overseas applicant is suitable for AIM and will therefore require legal and financial due diligence and verification to be carried out. There is a requirement for a working capital statement, albeit couched in less onerous terms than that for a conventional admission, and it is likely that a Nomad will want comfort in relation to that statement.

If a company is applying to AIM in the context of a fundraising which constitutes an offer to the public, it will in any event be obliged to produce a prospectus to comply with Prospectus Rules. Even if the fundraising does not constitute a public offer, it is possible that, for marketing reasons, the Nomad or broker will advise that an admission document should be prepared. For this reason, the fast track route will probably be most attractive to overseas companies which are being admitted to AIM without an associated fundraising.

Continuing obligations

Once admitted to trading on AIM, companies are subject to continuing obligations, involving assistance from their advisers, including lawyers. These obligations include:



- retaining a nominated adviser (Nomad) and broker
- in order to preserve an orderly market in the company's shares, publishing price-sensitive information and other stipulated information without delay
- publishing details of any transactions with related parties, other than those which fall below a 5 per cent class test, without delay
- publishing details of changes to the holdings of shareholders with a holding of 3 per cent or more
- imposing a code on share dealing for directors and applicable employees
- where an acquisition would result in a reverse take-over, obtaining shareholder approval and producing a new admission document
- Where a disposal would result in a fundamental change of business, obtaining shareholder approval
- In the case of an 'investing company', having an 'investing strategy', which must be put to shareholders for approval on an annual basis
- ensuring that the securities admitted to trading on AIM remain freely transferable and eligible for electronic settlement
- producing and filing annual financial statements (within six months of the year-end) prepared in accordance with International Accounting Standards or (in the case of non-EEA AIM companies) equivalent standards – which include US GAAP, Canadian GAAP and Australian IFRS)
- producing half-yearly reports (within three months of the end of that half-year period)
- maintaining a website on which specified financial, constitutional and corporate information is available.



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Role of the financial PR/IR company in an AIM flotation

Sarah Gestetner, Director, and Justin Griffiths, Associate Director, Citigate Dewe Rogerson

A company intending to join AIM should look for a PR firm that has advised not only domestic companies on their IPOs, but also international companies on successful primary, secondary or dual listings in London.

Communication is at the heart of a successful flotation, and the flotation process is the beginning of a very visible and high profile life as a public company. Ensuring that a company's operations, growth potential, strategy and management are introduced and communicated in the best possible manner to the investment community is therefore of paramount importance. There is one window of opportunity to get the positioning right – you don't get another chance.

AIM is the largest, most professional and liquid growth market in the world. It is also part of one of the world's most diverse, competitive and sophisticated capital markets – London. This brings with it a host of well-documented and well-understood advantages, but also means that a company seeking a quote on AIM will be competing with many other companies for the attention of the global investor base, the media and the wider business community.

Perceptions regarding the quality of a company and the attractiveness of its share offering are as important as the underlying reality. This is where communications, and using an established, experienced and reputable financial public

relations (PR) or investor relations (IR) firm becomes particularly important.

Qualifications for acting as financial PR/IR adviser

Unlike the other advisers used by a company to assist it in obtaining a successful admission to AIM, public relations firms are not regulated by any of the UK's financial market regulators. Nor do they need approval to offer themselves as advisers to companies looking to float in London. Partly for that reason, some overseas companies unfamiliar with the London market will discover that selecting a PR firm that will really add value can be as difficult as finding a needle in a haystack.

A proven track record advising on IPOs should be the first pre-requisite when choosing a PR agency. A company intending to join AIM should look for a PR firm that has advised not only domestic companies on their IPOs, but also international companies on successful primary, secondary or dual listings in London and on a wide number of flotations on both AIM and the Main Market. The PR agency should also be able to demonstrate a solid



understanding of the sector within which the company operates. This knowledge should extend not only to the technical and operational aspects of the industry, but also to the challenges and intricacies of communicating the business model and strategy to the investment community.

PR companies are successful for the most part because of their relationships with the financial media and the wider investment community. These relationships are fundamental to ensuring that a company positions and markets itself effectively to those audiences who will ultimately determine the success of its AIM flotation. When selecting a PR adviser, a company should look for strong evidence of such relationships, including client references.

A PR agency should also be able to demonstrate a varied and diverse skill set, drawn from a variety of backgrounds, ensuring that any potential obstacles or issues that surface can be managed and dealt with effectively. Ideally, the PR firm will also be well-resourced to ensure that it can provide the changing levels of tactical and strategic advice that are required by a company during the flotation process and beyond.

Lastly, and perhaps most importantly, choosing a PR firm that fits culturally with the company is crucial. The AIM flotation process can be intense, with incredibly heavy demands made of senior management. For this reason, choosing a team of PR advisers that are both liked and

trusted should be a deciding factor in the selection process.

PR issues specific to an AIM flotation

When bringing a company to AIM, there are a number of communications issues to be addressed that are similar to those faced by virtually any company seeking a listing on almost any stock exchange, anywhere in the world.

These include developing a differentiated and exciting investment case by highlighting, for example, historical financial performance, competitive advantages, future prospects and quality and experience of management - together with, of course, pricing and valuation. However, seeking an admission to AIM presents its own set of public relations challenges.

Perhaps the overriding communications issue unique to a company seeking a quotation on AIM is, rather bizarrely, a by-product of AIM's success as London's smaller company public market. For many, AIM is the market of choice, thanks in part to its more balanced, simplified regulatory environment, especially when compared to markets subjected to highly prescriptive regulation such as the US. By the end of 2006, AIM was home to over 1,600 companies and companies raised a record £15.7 billion on AIM during the previous 12 months.

For this reason, investors are often spoilt for choice, making it arguably more important for small and growing AIM companies to differentiate

Key to a successful flotation on AIM is endorsement from the audiences that will determine and define how a company is perceived

themselves from the competition, than is often the case for larger companies listed on the Main Market. A successful flotation and a healthy life as a quoted company thereafter depends on the company's ability to attract good quality investors, maintain liquidity and consistently prove that it can fulfil its commercial objectives. To help achieve this, it must plan well in advance and prepare targeted and well thought-out communications.

A key factor in this process is to get the PR advisers on board at an early stage.

A further issue facing an overseas company seeking admission to AIM is that the management team may be relatively unknown to the UK market. In addition, given the increasing number of foreign businesses seeking admission to AIM in recent years, these companies are increasingly becoming subject to ever closer scrutiny by the investment community. This, coupled with a sometimes sceptical financial media, means effective financial public relations becomes all the more integral to the flotation process.

Regulatory issues for PR/IR advisers

PR advisers form an essential part of the advisory team and should have a broad and deep knowledge of the regulatory requirements that any company seeking to join AIM must meet. This will ensure that all communications are conducted within the regulatory framework and that they are able to support the Nominated Advisers, brokers, and other advisers in achieving

the very best outcome. A detailed understanding of the AIM Rules, together with general statutes on areas such as insider dealing and corporate governance, should all be familiar territory to the PR team. Such knowledge can only be gained from a wealth of experience in advising on flotations in London. Without this knowledge and understanding of the regulatory environment, the communications strategy could potentially harm the flotation process and jeopardise the company's chance of a successful IPO.

Communications objectives

Key to a successful flotation on AIM is endorsement from the audiences that will determine and define how a company is perceived. To this end, the key communications objectives during the flotation process should be:

- to disseminate consistent and clear messages
- to communicate a thorough and favourable understanding of the business, strategy and management experience/expertise
- to explain the investment philosophy and IPO rationale
- to achieve endorsement of the valuation from key opinion formers, particularly the national media and sell-side analyst community
- to maintain momentum in the aftermarket.

Paid-for communications, such as advertising and corporate literature, also have an important role to

Table 1

Audiences and stakeholders: Who are you talking to?

Financial audiences	<ul style="list-style-type: none"> • sell-side analysts • buy-side analysts • industry analysts • fund managers • private investors • ratings agencies • capital providers • existing shareholders
Media	<ul style="list-style-type: none"> • financial – city editors, sector writers, investment commentators and market reporters • investment media – professional and retail • regional press • domestic and international business press • broadcast and online media • newswires • specialist/trade media
Commercial audiences	<ul style="list-style-type: none"> • existing and potential customers • existing and potential partners • existing and potential licensors • existing and potential employees • competitors
Other	<ul style="list-style-type: none"> • regulatory bodies • standard setters • consumer associations • trade bodies • government(s) • local/regional politicians • unions

play in terms of raising awareness of the business and communicating hard facts, but these communications cannot recommend the share offer as a good investment opportunity, in part because of regulatory restrictions, but also due to a lack of credibility. A positive third-party endorsement, with the authority of independence, is the most credible recommendation a prospective flotation can receive.

These core communications objectives should support the overall goals of the flotation, namely:

- to position the company as a 'must-have' investment opportunity
- to achieve the best and most accurate valuation

- to attract a diverse, high-quality and supportive investor base
- to ensure the company is well-placed for the next stage in its development.

At no point should the communications objectives in a flotation process (or afterwards) adversely affect the commercial and strategic goals of the business. Too often, communications surrounding a flotation are not taken in context and the IPO is treated as an end in itself rather than a stage, albeit a very important one, in the company's development. The communications strategy in the run-up to the flotation should, therefore, reflect the long-term strategic goals of the company.

Co-ordinating the communications strategy

Effective co-ordination of communications enables the release of information in a controlled, strategic way. The PR agency, following discussions with the company and the rest of the advisory team, will design and implement a communications strategy which will run in parallel with the overall IPO timetable.

For a company based outside the UK, any domestic public relations, marketing or other communications programme would need to be aligned with the flotation communications strategy. The UK-based PR agency would take the lead in co-ordinating the overall strategy, ensuring that consistency of messages, regulatory compliance and support of the IPO objectives are achieved

across the relevant time-zones and in all communications.

Communications timetable

The IPO communications timetable can be broadly split into four key phases. The duration of each phase will be determined by a number of factors, including, but not limited to, the macroeconomic environment, investor appetite for new issues, the size and nature of the issue and how well the company has organised and planned its run-up to flotation. As mentioned above, these stages will be closely aligned with the key landmarks of the overall IPO timetable.

Phase 1: Preparation and corporate communications

A company will be best placed to achieve a successful flotation if it has begun planning for its flotation at an early stage. As a rough guideline a company should begin to formally plan for its IPO anywhere between a year and 18 months prior to the proposed flotation date. This plan should incorporate the communications strategy. This would entail using any ongoing corporate or consumer PR programme to develop and refine the messages that would ultimately support the IPO process. That is **not** to say that the company should announce that it is intending to join AIM, in fact the company must ensure that details of its proposed IPO remains **strictly confidential**, but rather that the corporate PR programme should be used to raise the profile of the business and the management, promoting a wider and more in-



depth knowledge of the company's products or services and achieving a position in the market that is clearly defined *vis-à-vis* competitors.

Other preparatory work that a company should do during this phase could include some, or all, of the following:

- appointing advisers
- reviewing the structure of the company's board
- reviewing existing communications materials, including background briefing notes and case studies
- performing an audit of media coverage/perceptions
- providing media training for senior spokespeople
- developing a corporate website, specifically to ensure investors and the media are well catered for
- building the corporate photography and image library
- designing an internal communications strategy
- ensuring that the company begins to act and communicate to public company standards.

Phase 2: 'Intention to Float' announcement

This is perhaps the most important phase in the IPO communications timetable. The Intention to Float announcement will be the first time the company communicates publicly its desire to float and will set the scene for how it is perceived during the IPO process. Although there is no formal regulatory requirement to issue an Intention to Float announcement, best practice is to make such an announcement anywhere between two months and two weeks prior to the expected date of admission. However, this timing could be influenced by a number of external factors including investor appetite for new issues at the time and the likelihood of the IPO leaking.

The first regulatory announcement that the company must make is the pre-admission or 'ten-day' announcement in accordance with AIM Rule 2, Schedule 1. This announcement, completed by the company's Nomad, must be submitted at least ten clear business days before the expected admission date and will contain basic factual information about the company, its board of directors and the proposed issue. It is extremely important that the Intention to Float press release is issued before the ten-day announcement otherwise the company's IPO plans will be in the public domain and the initiative will be lost.

The Intention to Float announcement usually takes the form of a relatively brief press release stating

Management, together with its PR advisers, will need to promote its business and its activities amongst the financial and investment media

the intention to seek admission to trading on AIM, together with the following information:

- details of the company, its scope of business and strategy
- outline historical financial information
- details of the management team
- the amount of money the company is looking to raise
- the outline timetable for admission
- possibly an indicative range of the likely market capitalisation on admission
- contact details for company spokespeople.

It is important to note that all information contained within this and other announcements during the IPO process will be based on legally verifiable information and subject to agreement from the company and advisory team.

This press release begins a process which will place the company very much in the public eye and from this point forward the company and its activities will be both highly visible and subject to close media, investor and public scrutiny. Therefore, it is critically important to ensure that this announcement contains the key messages that the company wants to convey.

At around the same time as the Intention to Float announcement is made, the house broker will usually publish its pre-flotation research on

the company, giving potential institutional investors access to a large amount of previously unavailable information on the company. This can, and often does, find its way into the financial media and consequently management should be well-rehearsed and prepared to answer any questions on the subject of both the Intention to Float announcement and the research.

The release of the Intention to Float announcement also signals the beginning of an intense period of media relations activity to support the IPO marketing. Management, together with its PR advisers, will need to promote, in an open and active way, its business and its activities amongst the financial and investment media, positioning the company as a 'must-have' investment opportunity. It is also the first opportunity for the PR advisers to speak with unconnected research analysts from brokers not involved in the IPO (i.e. not the house broker) to gauge their perception of the company, appetite for the story and willingness to cover the stock post-flotation to provide the all-important third-party endorsement.

Phase 3: Publication of the pathfinder document

The pathfinder document is essentially the same as the company's prospectus (admission document), excluding the final pricing and allocation details, which have yet to be decided. The document is very detailed and contains extensive information on the company. Along with the investor presentation, it is used as the

primary marketing tool for the investor roadshow which will start on publication of the pathfinder document. It is at this point that anything controversial or unusual about the company will be available in the public domain. As with the pre-flotation research, the pathfinder document is not distributed to unconnected third parties, but can find its way into the hands of the press. The PR agency should ensure that management is well-prepared to answer any potentially difficult questions, as well as ensuring that executives are capable of communicating the company's key messages effectively.

Phase 4: Prospectus, Pricing, Allocation and Trading

The publication of the Prospectus, Pricing, Allocation and Trading can happen simultaneously but are often split, with a few days separating the commencement of final pricing and allocation from first day of trading. From a communications perspective, over-subscription to the offer or a strong market debut on the first day of trading represent good opportunities to emphasise the success of the AIM flotation to the financial media, reinforcing the messages communicated throughout the IPO process. A press release will be issued on final pricing and allocation informing the market of the number and price of shares to be issued. A further press release will usually be issued on the first day of trading, if announced separately.

It is possible, though unusual, that the market appetite for the company's shares is over or

underestimated on admission and that the share price falls, or indeed rises, beyond expectations in the first few days of trading. If this should happen then management needs to be prepared to respond to any market queries as to an inaccurate valuation. Supporting a fair valuation for the shares post-IPO is critical and forms a significant part of the long-term communications strategy of the business (see below).

Approval of marketing materials

The company must produce, along with its advisers, a number of key documents during the IPO process, including the pathfinder and final admission document, the institutional roadshow presentation and the press releases for the various stages of the process, as outlined above.

The AIM admission document or prospectus is the 'official' document of the flotation process pertaining to the company's business, the competitive environment, the company's financial performance, its prospects and the rationale for the IPO. The document can take many months to produce and is subject to a rigorous verification process. Once completed, the document forms the basis of the investment decision for both institutional and retail shareholders (if the company has a retail offering). Any other marketing material must strictly adhere to the information contained in the prospectus. If any new information then becomes available in the public domain, the



prospectus may need to be amended accordingly.

The design of the prospectus (and pathfinder document) front cover should also reflect the company's business and the key messages that it wishes to communicate to the market during the flotation process. There is little scope for impact marketing or the use of visual design outside of the formal documentation during an IPO and a company should take the opportunity to create a prospectus cover that reflects the brand values and strategy of the business. A prospectus is a document on public record and will serve as the primary reference document for the company until it produces its first annual report as a public company.

The institutional roadshow presentation is also a key document and should not be an afterthought in the drafting and design process, since it will form the basis for the face-to-face meetings with investors during the investor roadshow. While it cannot contain any information that is not in the admission document, it must be structured in an appropriate and compelling fashion to maximise its effectiveness as a sales tool. The PR agency will work closely with the company's brokers, financial advisers and lawyers to ensure that consistency is achieved in all the documentation, that all marketing materials meet regulatory requirements and that the messages are clear, concise and tailored to the needs and expectations of the financial community.

Internal communications

An audience that is often neglected during the IPO process is the company's own employees. It is absolutely imperative to communicate with them during the IPO process, explaining the IPO rationale and reassuring them about their future.

Following a successful admission, there will also be an opportunity to speak with employees about the company's new status and obligations as a public company. A well-planned and informative internal communications programme may also encourage employees to support the offer directly if the IPO structure permits this. Any employee communications must strictly adhere to the agreed public relations strategy to ensure consistency of messages both internally and externally. Furthermore, the timing of such communications is very important: too early and the story could leak into the public domain, too late and employees may resent the lack of communication.

The role of the PR firm in the flotation process

Besides designing and implementing a communications strategy for the IPO process itself, the PR firm should also act as the company's 'eyes and ears' within the media and investment community. The strength of the PR firm's relationships with the financial media and analyst community puts it in a position to accurately judge market sentiment towards the company and its proposed offering, as well as to monitor sentiment towards the sector in general.

Many UK-based financial PR agencies offer investor relations consultancy services along with public relations and communications advisory services

The PR firm should at all times be part of the IPO advisory circle, supporting the other advisers in their roles and providing specialist financial communications advice to the team.

Post-flotation: ongoing PR strategy

Maintaining interest in the company post-flotation is every bit as important as generating interest during the flotation process. The company should go beyond the minimum level of disclosure required under the AIM Rules and should take the initiative in its communications with the financial markets and the media. Maintaining the interest achieved during the IPO is vital in an ever growing market. The PR firm will work with the company to implement a comprehensive programme incorporating the following areas:

- Regulatory reporting requirements:
 - financial calendar (quarterly, interim, preliminary results and AGM announcements)
 - trading updates
 - M&A, restructurings and disposals
 - future equity or capital raisings
 - board and senior management changes
 - significant ad hoc newsflow (eg key contract wins)
- ongoing media and analyst relations

- private client broker relations (if appropriate)
- strengthening and broadening company and management profile
- market intelligence
- management of expectations
- crisis and issues management
- market research.

Investor relations

Once a company has been admitted to trading on AIM, its transition to its new status as a public company is complete. However, it now has new responsibilities to its shareholders. An effective investor relations programme will be necessary to achieve a share price that truly reflects the company's value. The investor relations programme should be run in tandem with the financial PR and communications programme. Many UK-based financial PR agencies offer investor relations consultancy services along with public relations and communications advisory services.

The core aspects of an investor relations programme would be to provide advice and guidance on areas such as:

- the regulatory obligations of an AIM company to its shareholders
- the timely release of financial and corporate information

- preparation of communications and marketing materials in accordance with best-practice disclosure requirements of the institutional investment community
- review of the company's share register in an effort to identify key holders and weightings (the findings would then be used for ongoing targeting)
- promoting the company and its management to the fund management community through specific roadshows and events such as site visits and capital markets days (the latter can include a number of activities, but usually involves a half to full day of presentations from the Board and possibly other senior directors, for example, heads of particular divisions and product demonstrations, if appropriate)
- regular sentiment research to refine messages and address misconceptions and potential issues in all written and verbal communications
- management of expectations (to build confidence and avoid surprises)
- benchmarking the company's performance, materials and guidance levels against its peer group

- advice on corporate governance issues, corporate social responsibility and other developing interest areas for investors.

Conclusion

Seeking admission to trading on AIM is obviously a very significant decision for any company. On its own, a PR firm cannot guarantee a successful flotation nor guarantee that the best value is achieved for the vendor.

However, good PR advisers can help ensure that the process is effectively managed and that the company's management is given the very best opportunity to communicate its story and strategy for the business, giving crucial support to the overall IPO marketing.

Increasingly sophisticated investors and financial commentators demand the very best in communications from public companies listed in London. A PR firm that has a successful track record in advising on IPOs will help ensure that a company's management is in the best possible position to make their AIM flotation a great success.



It's all about trust...

With today's financial markets demanding the very best in disclosure, engagement and communications you need public relations advisers you can trust.

Whether it's for an IPO, M&A transaction or for implementing an ongoing communications programme, leading companies around the world trust Citigate to give them the very best independent strategic and practical advice.

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