A guide to AIM
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Foreword
By Marcus Stuttard, Head of AIM, London Stock Exchange

Today AIM is firmly established as one of the world’s leading growth markets with a universe of companies from a wide range of sectors around the world. Companies, intermediaries and investors recognise AIM as the market of choice for smaller, growing companies as it continues to help them raise capital at admission and throughout their time on market.

Since its launch in 1995, more than 3,100 companies have joined AIM, raising over £67 billion to fund their growth. A number of factors have contributed to this success including:

- a balanced approach to regulation which facilitates a smooth transition to becoming a public company and allows companies to focus on growing their business once on market
- a network of advisers that is experienced in supporting companies from the time they first consider a flotation, through to helping them raise capital to fulfil their growth potential
- an international investor base that has the knowledge and understanding to effectively provide capital to companies as they progress and has confidence in the regulatory environment.

To build on these foundations, the London Stock Exchange continues to support the expansion of the unique community that makes AIM a success. Looking to the future, we remain committed to providing a highly regarded and efficient market for small and medium-sized companies to raise the capital they need to realise their ambitions and potential.

The decision to take your company public is one of the most significant steps you may take. With this in mind, this publication brings together in-depth knowledge and insight from some of the key advisers experienced in bringing companies to AIM. Their perspectives will inform readers about the principal issues that can arise during the process of joining AIM, as well as the ongoing responsibilities and opportunities that arise once on market.

I hope you find this publication useful, and wish you every success in the future development of your business.
AIM is London Stock Exchange’s (the ‘Exchange’s’) market for smaller and growing companies. Launched in 1995, it is now firmly established as a leading growth market with the critical mass to provide firms from a wide range of countries and sectors with access to a diverse set of investors, who genuinely understand the needs of entrepreneurial businesses.

AIM serves as a mechanism for companies seeking access to capital to realise their growth and innovation potential and since launch has helped over 3,100 companies raise over £67 billion through new and further capital raisings. AIM plays a vital role in the funding environment for small and medium-sized enterprises as they develop their businesses.

Unique global community

Dynamic, growing companies from across the world continue to be attracted to the benefits of being on AIM. AIM is home to 1,253 companies with a total market value of almost £65 billion, 20 per cent of which are incorporated overseas. Together, these companies comprise a unique global community of innovative businesses representing the future of the world economy. As well as being geographically diverse, AIM is able to support the financing needs of companies from over 40 different sectors.

AIM is the only major growth market that has lived through two complete economic cycles. The fact that AIM companies raised £4.7 billion through further issues during 2009, a year of uncertainty and upheaval in capital markets worldwide, demonstrates how interest in small and mid-cap companies remains strong amongst the internationally focused investor community in London.

Why join a public market…?

Joining a public market – be it AIM or the Main Market – is a way to grow and enhance your business. When considering the available financing options the following factors will often be viewed as the key benefits of admission to a public market:

Money raised at admission and through further issues: 1995 – 2009

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Companies that choose to join a public market in London have a choice depending on their size, stage of development and capital raising requirements and should discuss the options available to them with their advisers. The Main Market is for larger more established companies and companies have the further option of two types of listing – a Premium Listing or a Standard Listing. Companies with a Premium Listing are required to meet the UK’s super-equivalent rules which are higher than the EU directive minimum requirements for a Standard Listing, and as a result benefit from access to a wider range of investors.

The table on page 6 highlights the key differences between the admission criteria for AIM and the Main Market.

**Balanced regulation**
AIM’s success is underpinned by its regulatory environment, which has been specifically designed to meet the needs of smaller and growing companies while offering appropriate investor protection. AIM also benefits from being an integral part of the portfolio of markets offered by the Exchange.

The entry criteria for AIM are tailored for growing companies with no trading record required, no minimum size criteria and there is no prescribed level of shares to be in public hands.

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**Key reasons why small and growing companies choose to join AIM**

- **Balanced regulation**
  AIM’s balanced regulatory environment, specifically tailored to support the needs of smaller companies

- **International investor base**
  Access to a wide and diverse range of institutional and retail investors

- **Geographical reach and wide sector coverage**
  The diversity of sectors and regional coverage on AIM, with companies from 40 different industries from over 28 countries

- **Expert adviser network**
  A large and experienced community of expert advisers to help companies join AIM and support them once they are trading on the market

- **Visibility and profile**
  With customers, suppliers, investors and other key stakeholders
Once admitted to AIM, the ongoing responsibilities continue to remain straightforward and are aimed at encouraging growth. For example, there is no requirement to seek shareholder approval or prepare circulars except in circumstances where a transaction is classed as a reverse takeover or a disposal resulting in a fundamental change in business. Integral to both the admission process and life on AIM is that the company must work closely with their Nominated Adviser (‘Nomad’) to ensure that their actions are fair and reasonable for shareholders.

As AIM has grown, the Exchange has ensured that the market’s regulatory framework has continued to evolve and develop to meet the changing needs of investors and companies. These changes have always balanced strong investor protection principles with the needs of smaller companies, allowing them to grow.

There are two sets of rulebooks, one for companies, and one for Nomads. The AIM Rules for Companies (the ‘AIM Rules’) are tailored to the needs of businesses joining AIM, and are designed to be easily understood. The development of the AIM rules has included the creation of specific guidance notes for particular sectors, such as oil & gas companies and investing companies.

**International investor base**
AIM provides a robust and proven platform for companies seeking to raise growth capital, both through an IPO at the time of admission, and through further fundraisings. The total of £67 billion raised by AIM companies since the market’s launch is evenly split between new capital raised by companies joining the market, and further capital-raisings by existing AIM companies.

This track record reflects AIM companies’ ability to access London’s large and highly receptive investor base. As a result, AIM, along with private equity, has come to represent a vital link in the global risk capital ‘funding ladder’, supporting innovation, enterprise and job creation.

Institutional and retail investors invest in AIM companies. Given the variance of market capitalisations on AIM the market appeals to a wide range of investors. For example, larger international investment firms can be found on the shareholder registers of the larger AIM companies and specialist

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**Differences between admission criteria and continuing obligations for AIM and the Main Market**

<table>
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<th>AIM</th>
<th>Main Market</th>
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<tr>
<td>No minimum market capitalisation</td>
<td>Minimum market capitalisation</td>
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<tr>
<td>No trading record requirement</td>
<td>Normally three-year trading record required</td>
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<tr>
<td>No prescribed level of shares to be in public hands</td>
<td>Minimum 25 per cent shares in public hands</td>
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<td>No prior shareholder approval for most transactions*</td>
<td>Prior shareholder approval required for substantial acquisitions and disposals (Premium Listing only)</td>
</tr>
<tr>
<td>Nominated Adviser required at all times</td>
<td>Sponsors needed for certain transactions (Premium Listing only)</td>
</tr>
<tr>
<td>Admission documents not pre-vetted by the Exchange or 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</td>
<td>Pre-vetting of prospectus by the UKLA</td>
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*unless the transaction is a reverse takeover or disposal resulting in a fundamental change of business*
Geographical reach and sector diversity

In terms of industries, the 40 sectors represented on AIM reflect the full spectrum of business activity across the world (see sectoral chart above). A feature of AIM that is increasingly evident is the growing diversity of companies ranging from software to mining and computer services to real estate and support services. AIM also provides an opportunity for an increasingly important global theme, renewable energy, and is ideally positioned to support the financing of exciting growth stories within the cleantech sector. This diversity underlines AIM’s continuing appeal to growing companies in all industries.

The increasing scope, profile, size and maturity of AIM have confirmed the validity of the underlying premise upon which AIM is built – that ambitious smaller and growing companies require markets that are specifically designed for their needs. While AIM was initially launched to meet these needs among UK businesses, the market has become increasingly international, underlining the similarities between growing companies all over the world.

As a result, some 520 international companies incorporated outside the UK have joined AIM since it was founded, and 241 of these remain on the market today. In recent years, AIM’s international momentum has been maintained by strong interest from companies in emerging markets in Asia Pacific, India and Central/Eastern Europe, alongside the market’s longstanding and continuing success among companies in territories such as Australia and Canada.

Adviser network

AIM is supported by a large and highly experienced community of expert advisers, ranging from Nomads and brokers to accountants, lawyers and public relations and investor relations firms. The outstanding success of AIM is largely due to the dedication and professionalism of these advisers.

Each company applying to AIM must appoint and retain a Nomad to guide it through the admission process and to advise it during its time as a public
company. The Exchange sets strict criteria for becoming an approved Nomad, in order to safeguard the integrity of the market, and to ensure that existing and prospective AIM companies have access to the high-quality advice they deserve. More details on the various advisers to AIM companies are provided in the next chapter.

**Visibility and profile**
Admission to AIM provides international visibility and credibility for companies not only with their customers and suppliers but with a wider set of stakeholders including investors, advisers and analysts. Proactive communication with investors and focused investor relations activities can have a positive impact on the visibility and liquidity of a company’s stock.

**Other market developments**

**AIM Designated Markets**
The Exchange has made it possible for some companies whose securities have been traded upon an ‘AIM Designated Market’ for at least 18 months prior to the date of admission to AIM to apply to be admitted to AIM without having to publish an admission document. These companies are known as ‘quoted applicants’.

Instead of publishing an admission document, a company qualifying as a quoted applicant is required to make a detailed pre-admission announcement at least 20 business days prior to its expected admission date. The supplement to the pre-admission announcement requires additional disclosures, which include a confirmation that the company has adhered to any legal and regulatory requirements of the AIM Designated Market; a description of any significant changes in the company’s financial or trading position; and a statement by its directors that they have no reason to believe that the working capital available to it will be insufficient for at least 12 months from the date of admission.

Although a full AIM admission document is not required, other material information needs to be included in the announcement, and therefore a similar level of due diligence and preparation for admission needs to be undertaken as for a standard admission. It is advisable for a quoted applicant’s proposed Nomad to speak to the AIM regulation team at the earliest opportunity to discuss whether a company is able to take advantage of this route to AIM.

**AIM indices to support companies**
Today, trading in AIM securities is encouraged and supported through a number of indices that have been developed to improve investors’ ability to benchmark and trade AIM securities in a variety of ways. The FTSE AIM Index Series includes the FTSE AIM UK 50 Index, FTSE AIM 100 Index, FTSE AIM All-Share Index and FTSE AIM All-Share Supersector Indices.

The Supersector indices provide investors with 18 industry-based benchmark tools, helping them to identify macroeconomic opportunities for investment and trading, and to differentiate between the performance of Main Market and AIM companies in a given Supersector. These help to boost institutional interest and investment in AIM. A further innovation came in 2009, with the launch of the FTSE Environmental Opportunities UK AIM Index, designed to help investors identify and gain exposure to companies in six environment-related sectors.

**The outlook for AIM**
The Exchange is committed to maintaining and extending AIM’s attractiveness to issuers and investors in the UK and worldwide. With this in mind, the Exchange is continuing to work closely with policymakers and regulators at a national and European level. Our objective is to ensure AIM continues to deliver its distinctive offering to the growing businesses that will be the global multinationals of tomorrow.

If you are an ambitious and growing company – whatever your business, wherever you are based and whatever your sphere of activity – then AIM is an attractive route to a public quote on one of the world’s most prestigious markets.
AIM is the London Stock Exchange’s market for innovative growing companies from the UK and around the world. Firmly established as the world’s leading growth market, over 3,100 companies have raised more than £67 billion since its launch 15 years ago.

AIM continues to help smaller and growing companies from a wide range of sectors raise capital at admission and through further issues to fund their expansion.

For further information on joining AIM, please contact one of our business development managers:
UK companies +44 (0)20 7797 3429
International companies +44 (0)20 7797 4208
or visit www.londonstockexchange.com/aim
AIM advisers
By London Stock Exchange

Once you have decided that a quotation on AIM is right for the next stage of your company’s development, your first step should be to identify and appoint a Nominated Adviser (‘Nomad’). The Nomad will be your key adviser during the admission process and throughout your life on AIM.

A range of other advisers will also play integral roles in supporting you throughout the admission process and thereafter. These will usually include a broker, a reporting accountant, and legal, public relations and investor relations firms. Depending on your business, you may also need other specialist advisers in areas such as real estate, intellectual property and technology to conduct due diligence relevant to your business.

After selecting and appointing your advisers, you will work in close consultation with them and your Nomad to prepare an admission document which details your investment proposition. The admission document is critical for investors as it includes details of your company’s directors, financial position, business activities and strategy, together with any other relevant information.

The Nomad

The Nomad might be an investment bank, a corporate finance firm or an accountancy firm and must be approved to act in such capacity by the Exchange. To obtain approval as a Nomad, a firm must first meet the relevant criteria set out in the AIM Rules for Nominated Advisers. This approval process ensures that all Nomads have a deep understanding of AIM itself, they recognise the needs and aspirations of companies seeking admission to the market, and are experienced in guiding them through the flotation process.

It is the Nomad’s role to assess the company, each of its directors and its potential advisers for suitability and reputation issues. It must be able to demonstrate to the Exchange that it has carried out these responsibilities.

A company admitted to AIM must appoint and retain a Nomad throughout its time on market. Among other things, the Nomad will:

- undertake due diligence to ensure your company is suitable for AIM
- ensure the directors are appropriate and capable of acting as a board for a company trading on a UK public market
- provide guidance to the company throughout the flotation process
- co-ordinate and oversee the preparation of the AIM admission document
- confirm to the Exchange that the company is appropriate for AIM
- prepare the company for life on a public market
- act as the primary regulator throughout a company’s time on AIM by keeping abreast of developments at the company, and ensuring the company continues to understand its obligations under the AIM Rules.

A full list of approved Nomads and their contact details is available on the Exchange’s website at www.londonstockexchange.com/aim

Selecting the right Nomad is a significant decision for your company. It is important that your chosen Nomad has relevant sector experience and understands your company’s business as you are likely to have a long and close relationship with the firm.

The broker

Under the AIM Rules, every AIM company must retain a broker at all times. Your broker will be a securities house that is a member of the Exchange and will have the following key roles in relation to your AIM flotation:

- support the financing needs of the company by assessing the level of investor interest in your company’s shares at the time of admission to AIM, and in any further fundraisings
- provide ongoing advice on market and trading related matters
- advise on the pricing of shares and investment opportunities.
The firm you choose to be your Nomad may also have a broker function, and your company may decide to appoint the same firm as Nomad and broker. Alternatively, you can choose to appoint separate firms to act as Nomad and broker, and you should explore the options most suitable for your company.

When selecting your broker, the firm should demonstrate that it is capable of raising finance in the sector in which you operate and has good relationships with investors suitable for investing in your company.

The broker will often have its own institutional research department which is responsible for producing research on companies to provide investors with analysis of the company and its assets. Alternatively, analyst research can be written by a firm independent of the company but paid for by the company. Analyst research is a valuable tool in raising investor awareness and can be published at admission and on an ongoing basis. Improving the information flow about your business to investors is key to ensuring a greater understanding of your company’s activities, strategy and future prospects and can have a positive impact on liquidity and share price performance.

A full list of AIM brokers and their contact details is available on the Exchange’s website at www.londonstockexchange.com/aim

Market makers

‘Market makers’ are responsible for ensuring that there is always a two-way price in the securities in which they are registered as market maker. They play an important role in the secondary market as providers of liquidity, ensuring investors have an efficient means for buying and selling a company’s security.

A broker can take on the additional role of market maker in a company’s securities, and must be registered with the Exchange to act in this capacity.

Maximising liquidity will be a key focus for your company once on market but planning can take place during the admission process to positively influence the level of trading from the outset. While a market maker’s role is to improve liquidity, there are a number of factors that influence liquidity. A company which actively engages with investors, considers the level of shares in public hands and implements a comprehensive communications strategy can improve the level of knowledge about its business amongst both existing and potential investors, and have a positive impact on the liquidity of its securities.

The reporting accountant

Your reporting accountant’s role will include reviewing and reporting on several key aspects, including financial position, financial reporting procedures, working capital, tax and share incentive schemes and the disclosure of historical financial information. In fulfilling these roles, the reporting accountant is responsible for raising potential problems early on in the process so that they can be addressed as soon as possible. The reporting accountant brings a valuable independent perspective to the flotation process, and provides additional assurance to investors that the appropriate financial due diligence has taken place on the company.

The law firm

During the flotation process, your law firm will advise on a wide range of issues, including the structuring of the company and its subsidiaries, the required documentation, and the directors’ responsibilities in relation to the AIM flotation and any associated fundraising. More specifically, your lawyers’ role will include:

- conducting legal due diligence on the business, including verifying ownership of assets
- advising on the drafting of the admission document
- negotiating the terms of the placing agreement between the company, the directors and the Nomad and broker
- preparing employment agreements for directors and other key staff
- advising your company’s directors on their responsibilities and corporate governance in conjunction with the Nomad who has these responsibilities in accordance with the AIM Rules
- advising generally on the legal aspects of the flotation process and the continuing obligations on AIM.
Also, other lawyers may be instructed separately by your Nomad and broker to assist in the review of your admission document and any other investment communications that may be issued, in order to provide advice that is independent from the company.

The public relations (PR) firm

Clear and effective communication with the media about your company’s growth story, strategy and management team will be critical both for achieving a successful admission to AIM and for maintaining your profile and reputation once you are on the market. To achieve these goals, your financial PR firm will design and implement a communications strategy around your admission to the market, while also acting as your ‘eyes and ears’ in the media, providing useful feedback on how your company is perceived and on how these perceptions can be improved. The PR firm will work closely with your other advisers in producing the institutional roadshow presentation which will form the basis for the face-to-face meetings with investors during the roadshow. While it will not contain information that is not in the admission document, it should be structured in a format to maximise its effectiveness as a sales tool. Once your company is on AIM, the PR firm will continue to work on an ongoing basis to build and maintain media interest, going beyond the regulatory disclosure requirements and communicating regularly and proactively with selected media organisations.

Investor relations (IR) firm

Many leading financial PR firms are also strong in IR, and there is significant overlap between the two roles. Both focus on communication and while the target audiences differ, the IR programme should be run in close coordination with financial PR. As a result, many companies coming to AIM choose a single firm to handle both PR and IR. The IR firm’s core role is to communicate effectively with the investment community and – post-admission – with the company’s shareholders in particular, to ensure that company’s share price on AIM truly reflects its value. The IR firm’s role will include managing expectations in the investment community, and researching market sentiment to help fine-tune the company’s messaging. The IR programme may also involve a detailed review of the company’s share register to enable targeting of key shareholders and roadshows to promote the company to fund managers and retail investors.

Registrar

Although it is not a specific requirement in the AIM Rules, a company will normally appoint a registrar in order to maintain and keep the register of shareholders up to date. The registrar will also provide information to the Nomad and your other advisers when appropriate, such as in instances where the company may need to distribute a circular or similar shareholder publication.

The team of advisers that a company chooses to appoint will be integral in supporting it throughout the flotation process and once admitted to AIM. It is imperative that you select firms that have appropriate sector and market experience and are committed to working with you after admission. One of the key pieces of advice that existing AIM companies feed back to the Exchange is that it is vital to have personal chemistry with your advisers, since you will be working very closely together.
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AIM continues to help smaller and growing companies from a wide range of sectors raise capital at admission and through further issues to fund their expansion.

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IPO groundwork
By Colin Aaronson, Director, Grant Thornton UK LLP

As you will have seen from the ‘AIM advisers’ chapter, one of the Nomad’s principal tasks is to assess, on behalf of the London Stock Exchange (the ‘Exchange’), whether a company is appropriate for admission to AIM. In this chapter, we will look at the factors that a Nomad will consider when determining suitability.

While a company may be suitable for AIM, there may be other options better suited to the company and its shareholders. In this chapter we will also consider the factors that the prospective AIM company should take into account when deciding whether to seek admission to AIM.

Finally, while a prospective AIM company may be ideally suited to the market, and AIM may be its best option, the company may not yet be ready for admission. In this chapter we will look at the different matters the prospective AIM company should consider in order to prepare itself for life on a public market.

Determining suitability for admission

The Nomad’s primary responsibility and duty of care is owed to the Exchange and it must ensure that the admission of a company to AIM and its conduct following admission do not impact adversely on the reputation or integrity of the Exchange. For a Nomad, the reputation and integrity of the market are of paramount importance.

A Nomad should only proceed with the admission 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 ask if it really wants to be associated with that company. Central to this decision will be strong management that will strive for best practice in corporate governance and communicate effectively with the market, a sound strategy and a realistic possibility of creating value for shareholders.

Sector
There are over 40 business sectors represented by AIM companies, so there are very few types of business that would not in principle be able to find a home on AIM. It is preferable, however, that the business is operating in a market with good visible growth over the medium term, although a company that is operating in a static or declining market may be attractive, if it has strong management and is growing its market share or consolidating the sector.

For certain types of company – for example, mining and natural resources or biotechnology companies – its assets and the track record of management in exploiting such assets are most important. For investment funds, many of which have chosen to join AIM, the track record of the investment manager is the critical factor in deciding whether to invest in the business. A Nomad considering advising a start-up business – a rarer event in risk-averse market conditions – will largely base its decision on management, strategy and preparatory work undertaken.

However, irrespective of sector, in determining whether a trading business is likely to generate value for shareholders, the Nomad will carefully consider the company’s past performance.

Historic track record
As AIM is designed for smaller, growing companies, there are no requirements in the AIM Rules for a prospective company to be of a certain size, or to have an established trading record.

However, a Nomad would expect that a strong AIM candidate (other than a pre-revenue business or perhaps a natural resources business) has the following characteristics:

- a record of sustained growth over at least three years
- forecasts that show sales continuing to grow
- a record that compares favourably with its peer group.

Where sales growth appears to have slowed or even reached a plateau, this presents a warning light to advisers and investors. Raising funds at initial public offering (‘IPO’) to provide the company with the resources to fulfill orders it is unable to complete, or to ensure quality control before continuing to expand, is a much more compelling reason to support the company than purely to expand its sales and marketing.
For a trading business, margins should be steady or increasing and gross profit should be growing in line with or better than sales. If it is not, it could imply supply constraints or difficulty generating marginal sales. Even if gross profit is growing in line with sales, care needs to be taken to ensure that direct costs are correctly attributed at the cost of sales level and not included in indirect costs. For that reason, gross profit cannot be read in isolation and must be looked at alongside EBITDA (earnings before interest, taxation, depreciation and amortisation) and net profit (or loss) before taxation.

EBITDA can be helpful in that it shows the operating performance of the business, although the true operating performance must take account of the cost of using fixed assets. Taken alone, it can be misleading as costs can be eliminated at this level by capitalising them. Accordingly, EBITDA must be reviewed in line with sales, gross profit and net profit (or loss) before taxation.

The Nomad will also review the balance sheet to ensure that it supports the reported historic trading results. Particular emphasis will be placed on debtors – increasing debtor days could indicate quality issues or lack of financial control, or even call into question the validity of the sales numbers.

When analysing the financial track record of a business, the Nomad will also look at:

- whether the company has a history of meeting its forecasts
- whether the company has a record of clean audit reports by an appropriate firm of auditors
- whether the accounting policies adopted are in line with best practice for the industry
- the extent to which the company has managed to raise finance from external investors and whether each round has been at a higher valuation than the previous round.

The Nomad’s review of the historic financial information about a company forms a vital part of its assessment of a business and its prospects. It will, however, be reviewed in greater depth by reporting accountants as part of their financial due diligence.

Other aspects of a company’s track record

Whilst the financial record provides the most objective and testable record of a business, the Nomad will look at other aspects of a company’s history in assessing its ability to manage future growth. These include factors such as:

- does the company have a record of successfully acquiring and integrating other businesses (this is particularly relevant for a company that is seeking to use quoted paper to grow through acquisition)
- level of staff turnover
- compliance with health and safety and other statutory regulations
- compliance with quality management and other non-statutory standards
- publicity about the business (both good and bad)
- litigation.

Management

A company will be judged by investors, above all, on the quality of its management. To a large extent, the financial performance of the company will give a clear indication of the way a business has been run and, by extension, the quality of the management team. 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 its peer group. Management may also be reacting to events rather than driving the business forward. The Nomad will therefore need to analyse and assess the structure and composition of the management team.

A strong management team typically has the following characteristics:

- a clearly defined structure, with a clearly identifiable leader
- 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 IPO process can be extremely time-consuming for management and the company must be able to continue its business 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, this impacts the company’s ability to have the appropriate systems necessary to run the business. Indeed, the Nomad has an ongoing obligation to the Exchange to be satisfied that the company has sufficient procedures and controls;
- the accounting policies selected by the management team should reflect industry best practice 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.

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.

Non-executive directors
In the UK, the board of directors has responsibility for running the company. It is made up of executive directors, managers of the business and non-executive directors serving as representatives of all shareholders. At board meetings, the financial and operating performance of the company are considered and major decisions about the business are taken. It is also the forum where the non-executives can question and challenge their executive colleagues.

In order to fulfil that role, the non-executives need to be experienced, financially literate and independent of the company. The ideal candidate has a successful track record in business, a reputation to protect and sufficient resources such that he or she is not dependent on the income received from the company and is uninterested in short-term share price movements. The ideal candidate will also offer industry-relevant expertise and contacts.

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.

Strategy
The fundamental question that a Nomad should ask is whether the prospective AIM company has a sustainable competitive advantage that can be further exploited to create shareholder value. Competitive advantage can take many forms including patent, copyright or other form of intellectual property protection. It could reside in the company’s brand, its people or the time and resources taken to build its systems, processes and facilities or a combination of all of these.

To a large extent, a company’s ability to exploit profitably its competitive advantage will depend on its ability to control its destiny. In this regard, a Nomad will look at:

- whether it is a significant player in a large market or whether it operates in a niche that it can control;
- whether the company is subject to market forces that are beyond its control and will affect its future
growth; these include both limits on demand and supply-side resource constraints
- whether it is dependent on a limited number of staff, customers or suppliers
- the extent to which the market is characterised by barriers to entry.

**Market considerations**

Fundraising and management of the after-market in the shares is the responsibility of the company’s broker and is discussed in greater detail in the ‘Raising finance’ chapter. However, in determining whether to act for a company seeking admission to AIM, the Nomad will need to consider, in consultation with the broker, whether there is likely to be sufficient investor appetite for the company’s shares to ensure a successful IPO, support for secondary fundraisings and an effective market in the stock.

**Why float on AIM?**

Part of preparing to join AIM involves considering the alternatives and deciding that for all of the costs and additional work that being public entails, AIM is the right option for the company. Anyone thinking of floating their company should have considered and have ruled out the alternatives such as private equity, trade sale, debt finance or even an alternative equity market. Although the Nomad’s formal role is regulatory, in practice it would be expected to give corporate finance advice and would be remiss if it did not challenge the owner manager and ensure that he or she was taking their company to market for the right reasons.

**Is it right for the company?**

Traditionally, joining a public market was seen as the last stage of a company’s evolution and a means of the owner-manager securing an exit. AIM is different, in that it is a source of development capital, designed originally as a solution to the equity gap faced by smaller companies. In this regard it has been remarkably successful, raising sums of less than £5m for many businesses. It should not, however, be seen purely as an exit.

Raising funds to provide an exit to existing investors is a reason to float on AIM that most investors will find unappealing. Indeed, large shareholders may be asked to agree to lock-ins as a condition of the broker raising funds.

The primary reason for most businesses considering a flotation is to raise capital for expansion. For shareholders seeking to realise their investment, a trade sale or sale to an institutional buyer or a management buy-out team may well be a better solution.

Whilst AIM is an effective source of capital for smaller companies, finance may also be available from private equity providers, possibly on better terms than would...
be available through an IPO on AIM. A private equity-funded company will have outside shareholders usually with board representation and possibly additional reporting requirements; going public also brings public accountability and scrutiny and the risk of a loss of control to parties not yet known to management. In addition to weighing up the different sources of equity capital, a company should also consider whether debt finance may be either a partial alternative or even a complete alternative to equity finance. What is important is that the prospective AIM company has examined and rejected the alternatives.

While for most companies, their admission to AIM forms part of a fundraising exercise, there are other good reasons for a company to join AIM.

The ideal AIM company is looking to come to AIM for one or ideally several of the following reasons:

- to raise funds to expand the business
- to raise funds at future dates to continue growing the business
- to enhance the value of employee and management share option schemes
- to allow the company to acquire other businesses using quoted shares as partial or even total consideration
- to enhance credibility with key customers and suppliers.

The ideal AIM company also has management that is willing to embrace the opportunities that being a quoted company offers, is comfortable dealing with outside investors and the market and welcomes the disciplines that being quoted brings. The ideal company will also have the additional resources to cover the costs of being public and has concluded that the benefits of being on AIM outweigh those costs.

Whatever the reasons to float, the reasons for joining AIM and the use of funds must be clearly articulated.

The next step

A company that is considering AIM as one of its expansion options should approach one or two Nomads for an initial discussion. Ideally, these should be firms positioned to give a broad range of corporate finance advice. When approaching such advisers, the company should have a business plan or at the very least an executive summary along with summarised historic financial information and forecasts. Through these discussions, the company should learn at an early stage both whether a flotation is a viable option and whether it is in the best interests of the company and its stakeholders.

A company can choose to appoint a firm that has both Nomad and broker functions or an independent Nomad which uses its knowledge of the broking community when advising on the right broker to approach.

For many business owners considering flotation, the decision they take may well be determined by succession issues and a Nomad that has experience of advising on these matters may be particularly helpful.

Once the decision in principle to float has been taken and a Nomad and a broker have been appointed, the broker together with the company should undertake some test marketing to confirm their belief that a fundraising is achievable.

The final decision to be taken is how to raise the funds. The company may be in the position of having to decide whether to float the company directly, or whether to reverse into a cash shell, if one is available. Reversing into a shell involves slightly more documentation than a straight IPO, and takes around four weeks longer as the transaction requires both a full AIM admission document and approval of the shareholders of the cash shell and, usually, additional wording to satisfy the requirements of the Panel on Takeovers and Mergers.
who must approve the document prior to publication. However, reversing into a cash shell provides an expanded shareholder base and obviates the need for a fundraising roadshow, production of a presentation to investors and possibly brokers’ notes. It also removes the risk of a fundraising failure. In this situation, the company should fully evaluate the alternatives in conjunction with its Nomad.

**Preparing for admission**

As far in advance of admission as possible, a company considering AIM should ensure that a number of key issues are dealt with prior to commencing the admission process. Good planning will save time, money and possibly aggravation.

The admission process itself typically takes three to six months from the time an initial all-parties meeting takes place until publication of a pathfinder AIM admission document. This will be delayed if there are major structural issues that have to be dealt with. It is important, therefore, that any potential issues are raised at an early stage to avoid any negative impact on timing.

**Funding**

The company should ensure that there are sufficient funds to pay the costs of flotation, irrespective of the result of the IPO fundraising. A significant portion of the professional fees will be payable regardless of whether the company secures admission to AIM. Whereas the fees of the Nomad and broker are mainly or wholly contingent on success, lawyers will usually require staged payments and reporting accountants cannot work on a contingent basis so as to ensure their independence. If necessary, a pre-IPO fundraising at a discount to the proposed IPO valuation should be arranged.

**Board composition**

The board that will run the company following admission to AIM should be in place by the time the flotation process begins, if only because they will be taking responsibility for the AIM admission document and should therefore have time to get to know the business. Key operational management should have been in place for considerably longer, but non-executives may be appointed closer to the IPO. A strong finance director is extremely valuable and will usually be involved in presenting to potential investors. The finance director will often be the main point of contact between the company and the advisers, ensuring that information and documents are made available on a timely basis. It may be necessary to bring in temporary staff to provide support.

The same applies to the rest of the board and the company’s senior management; the flotation process is intensive and time consuming and management of the business must continue during the IPO.

**Non-executive directors**

Most private companies do not have non-executive directors, other than to provide industry contacts, although venture capital or private equity providers will usually require board representation. However, it is very good practice for all prospective AIM companies to appoint non-executive directors well in advance of admission to AIM. During the pre-IPO period, non-executive directors should:

- impose good practice in corporate governance
- ensure industry standard accounting policies are adopted
- get to know the company sufficiently well so as to accept responsibility for the AIM admission document
- by their presence, give comfort to potential investors.

**Corporate governance**

Main Market companies, being admitted to the Official List, are required to adhere to the Principles of Good Governance set out in the The UK Corporate Governance Code (formerly the Combined Code), a set of guidelines designed to ensure that each listed company is headed by an effective board acting in the interests of all stakeholders in the company.

The UK Corporate Governance Code separates the role of chairman, whose job is to run the board from that of the chief executive, whose job is to manage the business, to ensure that there is a balance of power within the company. For the same reason, the The UK Corporate Governance Code requires that there is a balance between executive and non-
executive directors including independent non-executive directors, so that no one group dominates decision making.

An AIM company should aspire to this level of corporate governance. It is advisable that at the very least, an AIM company should adhere to the QCA (Quoted Companies Alliance) Guidelines, which are similar to, but not as prescriptive, as the The UK Corporate Governance Code. The QCA Guidelines require at least two independent non-executive directors whom the prospective AIM company should appoint prior to admission.

As far in advance of the IPO as possible, companies should establish the necessary board committees – audit, remuneration and nominations. It is also advisable to start holding formal, minuted board meetings as far in advance as possible of the IPO. For further detail, see the ‘Legal work and due diligence’ chapter.

Corporate structure

The simpler the better. Complex corporate structures that are difficult to understand or which have different classes of shares giving preferential rights are an excuse not to invest. Ideally, there will be one class of shares and a simple share option scheme or schemes.

Where there are minority shareholders in subsidiary companies, consideration should be given to buying out their interests or exchanging shares in the subsidiary for shares in the AIM (holding) company.

Where a private company has undertaken transactions with related parties, these may need to be formalised or terminated.

Statutory

The company’s shares need to be capable of being traded under the laws of the country where the AIM company is incorporated. For a UK incorporated company, this may mean re-registering as a public limited company. The company should adopt articles of association appropriate to an AIM company.

Taxation

It may be advisable to re-organise the structure of the group to optimise the company’s taxation position.

Financial and management systems

An AIM company needs to have management information and financial reporting systems that enable it to produce monthly management accounts on a timely basis – within no more than three weeks of the month end – and to comply with its reporting obligations under the AIM Rules, particularly where there is a need to notify the market on a timely basis of a change in the performance of the business compared with market expectation.

The reporting accountants will review and report on the adequacy of financial reporting so the company will reduce their work (and cost) by ironing out any problems before due diligence begins, taking on additional staff if necessary.

Accordingly, it may be necessary to get tax clearances and confirmation as well as to the position of the company with regard to EIS and VCT investment. Together with clarifying the corporate structure, this should be done as far in advance of the IPO as possible.

VAT and PAYE should be up to date.

Accounting

Accounts should be brought up to date. Where a change in accounting policy is required, accounts should be re-stated as early as possible to give the reporting accountant historic financial information on which to report.

Assets

Where a company is dependent on assets, for example intellectual property or mining exploration rights, the company should ensure that ownership of the assets and its ability to use them is unfettered. Ownership or leases of land and buildings should be secured. The insurance policies should be reviewed to ensure there is adequate coverage.

Where a company is being valued on earnings, it may be of benefit to the owners to transfer certain assets out of the business before admission.

Staff

Employment contracts should, where possible, be
standardised and changed to ensure they are appropriate for an AIM company. Key members of the management team should have notice periods of sufficient length and should have the benefit and incentive of shares and/or suitably structured share options. Where necessary, the company should take out keyman insurance.

**Other matters**

Other matters that a company would benefit from dealing with at an early stage include:

- establishing a website that is compliant with AIM Rule 26
- ensuring all litigation is resolved or, at least quantified
- terms and conditions of sales should be reviewed
- where major contracts have change of control clauses, these are reviewed and the position regarding the IPO agreed with the counterparty
- certification of compliance with quality management and other standards are obtained.

**Project managing the admission 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.

The two key tasks in any AIM admission are preparing an AIM admission document (which can sometimes be referred to as a prospectus if there is to be an offer of shares to the public) and arranging the fundraising itself.

**Starting the admission 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. 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 company to the market, having regard to holiday periods, 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) and the detailed due diligence that is discussed in the ‘Legal work and due diligence’ and ‘Financial considerations’ chapters.

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 – for example, specialist reports on mineral resources, technology or intellectual property – it will also set the scope of work for the professionals undertaking such due diligence, in consultation with the company.

**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 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. Information about the structure and contents of an AIM admission document are discussed in the ‘Legal work and due diligence’ chapter.

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).
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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 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 public relations advisers will work on the press coverage to be sought for the issue.

If a pathfinder is to be produced, it is likely to be required some ten to 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, 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 theNomad and broker want to know the amount that may be raised prior to finalising the AIM admission document.

To Impact Day

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 obliged to maintain under the AIM Rules.

With an institutional placing, admission usually takes place within a fortnight of Impact Day. The admission 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 admission process and coordinating the work of the various parties, the Nomad will need to liaise with the AIM Regulation team at the Exchange. An AIM company will need to issue to the market a statement of its intention to seek admission to AIM ten 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 for admission to AIM, which must arrive at least three business days before admission.
We’ve always had a great deal of confidence in our AIM.

At Grant Thornton, we meet the needs of our clients by remaining flexible. We treat each client individually, dedicating the right people to the job in hand. It’s been a successful formula. And by investing our time in understanding the needs of AIM companies, we continue to be retained auditor or nominated adviser to over 210 of them. More than any other firm*. That’s why we are the leading adviser to AIM.

*Source: Hemscott June 2010

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Audit • Tax • Advisory
Financial considerations
By Mo Merali, Partner, and Sunil Patel, Director, Grant Thornton UK LLP

The financial considerations relevant to a company seeking admission to AIM can be split into two broad categories:

- private financial reports typically required as part of the IPO process; and
- public financial disclosures required within the admission document itself.

Private reports are typically commissioned to undertake historical financial due diligence, reviews of systems and controls and to assess the company’s working capital position.

Public financial disclosures primarily revolve around disclosure of audited historical financial information and, where relevant, interim financial information, although pro forma financial information is often also included. Very occasionally, forecast financial information may also be included.

This chapter summarises the principal obligations and market expectations with respect to financial matters. Unless the context indicates otherwise, references to a company within this chapter also refer to its group if it has subsidiaries.

Financial due diligence

Long form report
As part of the IPO process, the company’s reporting accountants are typically commissioned to prepare a financial due diligence report on the company. This report is referred to as a ‘long form’ report and its primary purpose is to assist the Nomad in its assessment of the suitability of the company to be admitted to AIM.

The long form report is a detailed report on the company’s business, focusing mainly on the company’s financials and business operations. Sometimes a separate commercial due diligence report is commissioned, focusing on the company’s business and market. The long form report excludes forecasts (which are covered in a separate report). The long form report is a private document, usually addressed only to the Nomad and the company itself. It is not made available to the wider public, or to potential investors.

The due diligence work undertaken for this exercise can be quite onerous for a company and can take a significant length of time. The company will need to supply significant amounts of data and explanations concerning its business and financial history and management should not underestimate the time and effort that it, and its finance department, will need to dedicate to this exercise. This will often occur concurrently alongside numerous other IPO-related work streams, all of which will be competing for management’s attention alongside its need to run and monitor the company’s day-to-day business. Prior to beginning the IPO process, management should consider whether the company has adequate internal resources to meet these competing needs or whether it should bring in additional temporary resource to help project manage the process.

It may be beneficial for the company to populate a data room with its financial information in advance of the work commencing. The company should request its reporting accountants to send them a preliminary information request list to assist them in this exercise.

Scope of the long form report
The long form report is usually expected to provide detailed commentary on the company and its business. The actual scope of a long form report is agreed between the Nomad, the company and the reporting accountants. Although the report is normally comprehensive, in some circumstances the scope may be restricted; for example, where the company has not traded (as in a ‘cash shell’ or investing company) or where the Nomad is obtaining information from other sources, such as commercial or technical due diligence.

Although the scope in each instance will be bespoke, as illustrated in the box ‘Typical contents of a long form report’, a long form report will typically cover the company’s:

- financial performance
- taxation position
- business operations
- financial reporting systems
- accounting policies; and
- management and employees.
The long form report will set out key financial or commercial risks and exposures identified during the due diligence exercise, highlighting any issues that need to be resolved before IPO. Whilst no two companies are alike, issues that often arise include:

- inadequate financial reporting systems and controls
- potential tax exposures
- concerns over items in the balance sheet (e.g., potentially irrecoverable receivables, obsolete inventories)
- trading risks (e.g., customer or supplier concentration); and
- over-reliance on key management.

Any significant issues identified during this exercise will usually be communicated to the company and the Nomad as they arise, rather than waiting until the formal written report is produced. Doing so maximises the time available to the company to rectify any matters. Also, if critical issues are incapable of resolution and it becomes necessary to delay or even

## Typical contents of a long form report

| Financial performance | • analysis of historical trading performance over last three years |
|                       | • analysis of historical cash flows in last three years |
|                       | • analysis of balance sheet items |
|                       | • analysis of financial trends, key performance indicators and risks |
|                       | • financing arrangements |
|                       | • capital expenditures |
|                       | • contingent liabilities and off-balance sheet arrangements |
| Taxation              | • tax compliance status |
|                       | • corporate taxes, sales taxes and employment taxes |
|                       | • international tax structure and withholding taxes |
|                       | • transfer pricing |
| Business operations   | • operational structure |
|                       | • products and services |
|                       | • markets and competition |
|                       | • customers and suppliers |
|                       | • trading terms |
|                       | • production facilities |
|                       | • research and development |
|                       | • business premises |
|                       | • insurance |
| Financial reporting systems | • management information systems |
|                         | • accounting procedures |
|                         | • controls environment |
|                         | • corporate governance |
| Accounting policies    | • assessment of accounting policies |
|                         | • recent and planned changes in accounting policies |
| Management and employees | • key management personnel |
|                         | • remuneration arrangements |
|                         | • succession arrangements |
|                         | • headcount metrics |
|                         | • pension and other benefit obligations |
abort the IPO, it is important that such issues are identified early before excessive time and costs have been incurred. Although, if the company has gone through a comprehensive grooming process, most critical issues should have been identified and rectified prior to the long form work commencing. In cases where the long form work is expected to take a number of weeks, it is often beneficial to schedule regular meetings with the reporting accountant to update on progress.

Prior to a draft of the long form report being sent to the Nomad, a copy is made available to the company for review. This allows management both to check the factual accuracy of the report and also to consider any key points raised and challenge any they disagree with, prior to its distribution to the Nomad.

Financial reporting procedures
Assessment
It is important for public companies to have robust and reliable financial reporting procedures so that accurate information is readily available on a timely basis.

As part of their initial due diligence responsibilities and continuing obligations, Nomads are required to be satisfied that the directors have established procedures which provide them with a reasonable basis on which to make proper judgements on an ongoing basis as to the financial position and prospects of the company. Nomads are also required to be satisfied that the company has sufficient systems and procedures to enable its compliance with the AIM Rules. In turn, Nomads seek such confirmation from both the directors of the company and the reporting accountants. To provide comfort in this area, the reporting accountant will assess and comment on the company’s financial reporting procedures, including its management information systems and its control environment. This work often forms part of the overall long form report, but may form part of a separate report to the company and the Nomad.

Typically, companies undertaking an IPO on AIM will not previously have been on a public market. Instead, they will have been managed, controlled and operated as private companies, sometimes with a dominant owner-manager. Life as a public company is very different in most cases, not just because of the presence of external stakeholders but also as a result of the need for compliance with rules and regulations governing public entities. Accordingly, whilst a company’s systems and controls may have been appropriate for life as a private company, they may need to be strengthened prior to joining AIM.

Assessing the company’s financial reporting procedures is considered one of the most important elements of due diligence for an IPO. A thorough pre-IPO grooming process should result in significant weaknesses being identified and addressed prior to the IPO process formally commencing.

Scope of a financial reporting procedures review
A typical review of financial reporting procedures may include consideration of the following:

- high-level financial controls and extent of documentation
- risk identification and assessments undertaken by the company
- corporate governance framework
- forecasting and budgeting procedures
- treasury operations and management
- assessment of key accounting procedures and controls
- organisation of the finance function and sufficiency of resources
- reporting framework and frequency, timeliness and reliability of key information.

Working capital
Working capital statement
In accordance with the AIM Rules, the admission document is required to contain a statement from the company’s directors as to the adequacy of working capital. This statement, which must be clear and unambiguous, requires the directors to confirm that the company has sufficient working capital to last at least 12 months from the date that it is admitted to AIM. The wording of the statement can vary but is typically phrased along the following lines:

‘The directors are of the opinion, having made due and careful enquiry, that the company and its group has sufficient working capital for its present
Financial considerations

requirements, that is for at least 12 months from the date of admission.'

This working capital statement is considered one of the most important statements made within the admission document. Furthermore, the requirement for this statement to be made after ‘due and careful enquiry’ places a relatively onerous burden on the directors.

Working capital forecasts

In order to substantiate the working capital statement, the company is expected to prepare a set of trading and cash flow forecasts. Although the technical requirement as per the AIM Rules is to give a statement covering 12 months from the date of admission to AIM, the forecasts prepared by the company should extend further than this – a period of at least 18 months is typical. Given the importance of the working capital statement, assessing the sufficiency of working capital over a longer period than technically required under the AIM Rules provides greater protection to the directors of the company when making the statement.

It is important for the company to build a robust forecast model. In most cases, this should be a monthly forecast with integrated monthly income statements, balance sheets and cash flows. As far as possible, the model should be formula driven, with clearly identified input cells to allow sensitivities to be run easily. Some companies will need to construct a new model; other companies will already have or be able to adapt an existing model, such as one used for budgeting purposes. Management should not underestimate the importance of ensuring the forecast model is robust, built on reasonable assumptions and easily sensitised. The model should reflect the key business and financial drivers for the company and also be consistent with the business plan as set out in the admission document. Investing time on the model up front will save time and cost during the latter stages of the IPO process, when pressures are at their highest.

A selection of things to consider when preparing a robust working capital model are set out in the box ‘Tips for preparing a robust working capital model’ above.

The directors of the company should also prepare a working capital memorandum summarising all relevant information available to them to support the working capital statement in the admission document. It should include a summary of the key assumptions used in the forecasts and an analysis of the headroom between forecast cash flows and the cash facilities available to the company.

Bank and other lending facilities can be taken into account, but only to the extent they are committed. For instance, it is not normally appropriate to include an overdraft repayable on demand within any forecast facilities; nor is it appropriate to assume any committed bank debt expiring in the forecast period will be rolled over. Therefore, if the forecasts rely on bank facilities, the company will need to ensure committed facilities are available for the entire working capital period under review.
Working capital report

The reporting accountants will prepare a report on the company’s forecasts. This report is referred to as a ‘working capital report’ and its primary purpose is to provide comfort to the Nomad and the directors of the company as to the adequacy of working capital. The working capital report is a private report, usually addressed to the Nomad and the company itself. It is not made available to the wider public, or to potential investors.

In carrying out this work, the reporting accountant will undertake a series of detailed checks and review procedures on the company’s forecasts. These will include checking the model for errors or inappropriately applied assumptions and considering the reasonableness of key assumptions, taking into account historical trends and known changes in the business. The report will highlight key risks and vulnerabilities within the forecasts and the impact of applying appropriate sensitivities on working capital headroom and covenant tests.

A draft of the working capital report is made available to the company’s management for review prior to it being sent to the Nomad, giving management an opportunity to challenge any findings they disagree with. However, significant issues identified during the work are usually communicated to the company as they arise, allowing the company to amend its model or, should working capital be inadequate, seek additional sources such as bank finance or increased fundraising at IPO.

Financial information in the admission document

Types of financial information

An issuer is required to include audited historical financial information on itself in an admission document. In addition, it may also include pro forma financial information and forecast financial information in its admission document, although the latter is rare in practice.

Most admission documents prepared by companies seeking an IPO on AIM fall outside the scope of the Prospectus Rules published by the Financial Services Authority. However, under certain circumstances they can be caught within its scope (these circumstances are discussed in the chapter ‘Legal work and due diligence’). An admission document caught by the Prospectus Rules must be approved by the UK Listing Authority at the Financial Services Authority and must include certain information which is not required in an admission document that falls outside that regime; for example, the potential need for pro forma information.

Audited historical financial information

The basic requirements

The AIM Rules require audited historical financial information to be included in an admission document covering three consecutive financial years prior to IPO. If a company has not existed for three years, then the requirement is limited to those years it has been in operation.
existence. The directors of the issuer are responsible for preparing this financial information.

At least the last two years of this audited financial track record need to be presented and prepared in a form consistent with the accounting standards and policies to be adopted in, and legislation applicable to, the issuer’s next set of annual financial statements to be published after the admission document. The AIM Rules restrict the choice of accounting standards that may be adopted once a company is admitted to AIM, depending on its country of incorporation and whether it is a standalone company or the parent of a group. Except in rare circumstances, the last two years of audited financial information published in the admission document will need to be presented in accordance with one of the suites of Generally Accepted Accounting Principles (‘GAAP’) shown in the box ‘Allowable GAAP’.

When a company is determining which accounting standard to use, it should be mindful of what current and future investors may demand as well as market practice. It is common practice for AIM companies to generally report in International Financial Reporting Standards (‘IFRS’).

Alternative methods of including audited financial information
A company essentially has two choices when including audited financial information in its admission document:

- it can reproduce its last three sets of audited financial statements and the audit reports thereon; or
- it can publish specially prepared historical financial information covering the three years and instruct its reporting accountant to issue a report thereon (effectively a special purpose audit report).

Reproducing the last three sets of audited financial statements is only an option if no adjustments to the previously published financial statements are required to comply with the regulations (such as the requirement that the last two years are presented in a form consistent with the accounting standards and policies that will be adopted in the next published annual financial statements). Therefore, this option would not normally be acceptable in cases where the issuer needs to adopt a new suite of accounting standards post-IPO (such as a requirement to transition to IFRS). It also assumes that there were no audit qualifications. Moreover, Nomads and brokers often prefer the alternative route of including specially prepared historical financial information with a new audit opinion by the reporting accountants. This is because doing so effectively ‘refreshes’ the old audit opinions, which may not have been given in contemplation of an IPO, and also allows the three-year financial track record to be presented as one set of financial statements, making it easier for potential investors to compare the different periods. As a result, it is more usual practice to see specially prepared historical financial information in an admission document than it is to see the reproduction of existing financial statements.

A simplified decision tree for determining whether existing financial statements or specially prepared historical financial information should be included in the admission document is set out in the box ‘Presentation of audited financial information’ on page 33.

The reporting accountant, which will issue an opinion on the specially prepared historical financial information for inclusion in the admission document, does not have to be the company’s auditor. However, when carrying out its work, a reporting accountant will typically review the audit working papers of the auditors for the past periods. In order to do this, the past auditors will need to grant the reporting accountant access to their audit working papers. This is usually done on a ‘hold harmless’ basis (i.e. a no liability basis), with the company indemnifying the auditor as a condition of granting access.

If access to existing audit files is not granted, the reporting accountant would be obliged to re-audit the financial statements of the company from scratch, which would likely have significant time and cost implications for the IPO process. As a result, where a company is intending to use a reporting accountant that is different to its firm of auditors (or where it has had a change of auditor during the three-year track record period), it is important for the company to establish as early as possible in the process whether the auditor or auditors concerned are willing to grant
access to their audit working papers. It would be unusual for a UK audit firm to not grant such access, as they understand the reporting accountant process and, through appropriate hold harmless arrangements, that they would not be exposing themselves to additional risk. However, such concepts are not always as well understood by foreign firms of auditors. The granting of access may also depend on the state of relations between the company and its auditor or ex-auditor.

Age of the information
The permitted time gap between the date of the latest annual audited financial information and the date that the admission document is published depends on whether any interim financial information for the intervening period which is included in the admission document has itself been audited. The last annual audited financial information may not be older than:

- 18 months from the date of the admission document if audited interim financial statements are included in the admission document; or
- 15 months from the date of the admission document if unaudited interim financial statements are included in the admission document.

Notwithstanding these regulatory limits, Nomads and brokers often wish to include more recent audited information than this. This is particularly the case where the company is looking to raise new funds at the time of admission, as investor expectations would need to be taken into account.

For instance, if a company included audited annual financial statements for the three years ended 31 December 2009 and audited interim financial statements for the six months ended 30 June 2010 in its admission document, then the latest date that admission document could be published would be 30 June 2011. However, in practice, many investors would expect to see audited annual financial statements for the year ended 31 December 2010 in such a document.

Companies should also bear in mind that slippage in IPO timetables is not uncommon. Therefore, at the outset of the process, it is sensible to ensure that the age of the financial information planned to be included in the admission document, when compared to the expected date of publication of the admission document, allows for potential slippage in the timetable. Otherwise, the company may find itself having to undergo an additional audit late on in the IPO process.

Potential complications
Whilst the basic requirements concerning the inclusion of audited historical financial information appear simple, in practice the financial disclosure requirements can be more complicated.

This is especially the case where a company has made (or will make) substantial acquisitions or disposals pre-IPO. For instance, depending on the size of an acquisition, there may be a requirement to include audited historical financial information on the acquired entity for all of, or part of, the same three-year track record period as needed for the issuer. Alternatively, it may be necessary to restate past audited financial information to take account of subsidiaries or divisions not forming part of the group on IPO.

In cases where one or more businesses are being combined for the IPO, multiple sets of financial statements may be required. An issuer is required to present the financial information for all of these businesses under common accounting standards and policies so that the historical financial information is comparable; this may require past audited information to be restated or translated into a different GAAP.

The issuer’s own financial information may also need translating from its previous GAAP to its future GAAP. For instance, a company that previously reported under German GAAP may need to restate its financial statements into IFRS. Such GAAP translations can cause complications where the new GAAP requires disclosures of information that was not required under the old GAAP and, thus, for which data may not have been captured at the time.

Some companies may not have been subject to audit historically, in which case a full audit will need to be conducted on each of the periods covered by the historical financial information. This may be problematic for the earlier years, as supporting documentation may not be readily available. This issue may be particularly relevant where there is a need to
show financial information for a subsidiary for periods prior to its acquisition. If the company (or a material acquired subsidiary) has not been subject to audit historically then it is worthwhile commissioning an audit before the IPO process formally begins, in order to reduce delays once the process starts.

Any audit opinions on the historical financial information included in the admission document (whether via reproduction of past audited accounts or via a special purpose opinion) must be unqualified. If past audited accounts were qualified, the cause of the qualification will need to be resolved pre-IPO and a new unqualified opinion obtained.

There are a number of accepted conventions that have been developed for the preparation and presentation of historical financial information in an admission document and guidance has been published to assist companies when preparing such information. A company should seek advice from its reporting accountant on how to regard and interpret these conventions and how to deal with difficult areas. The reporting accountant will recommend options on how to deal with such situations based on its previous experience and market practice and will discuss, as necessary, particular issues with the Nomad.

Management should ensure that they allow sufficient time to prepare financial information for the admission document, especially if it involves translating past sets of accounts to a different GAAP such as IFRS. Time to audit any specially prepared information also needs to be built into the IPO timetable. The earlier this work commences, the better.

The box, ‘Matters which may complicate financial disclosure’ sets out a non-exhaustive list of factors to consider when including historical financial information in the admission document. If any of the factors are applicable, management
should discuss the matter with the reporting accountant and Nomad.

**Interim financial information**

There are two circumstances when interim financial information is required to be included in an admission document:

- where the company has already published interim financial information (e.g., quarterly or half-yearly results) since the date of the last audited annual financial information; or
- where the admission document is dated more than nine months after the end of the last audited annual financial information included in it.

If the admission document is dated more than nine months after the end of the last audited annual financial information, the required interim financial information must cover at least the first six months of the following financial year and must include comparative information for the same period in the prior financial year.

Although interim financial information included in an admission document does not necessarily need to be audited, the Nomad or broker may request that it be audited in order to meet market expectations and assist marketing efforts with respect to any fund raising.

**Pro forma financial information**

Admission documents often include pro forma financial information on the issuer. The purpose of this pro forma financial information is to show the impact of transactions (such as an acquisition or a fundraising) on the company.

If the admission document has to comply with the Prospectus Rules then the inclusion of pro forma information is mandatory if the transaction is over a certain size. In all other cases, there is no requirement to include pro forma information; instead, the Nomad would typically determine whether or not such information should be included, taking into account market practice and the interests of investors.

The most common type of pro forma information included in an admission document is a pro forma net asset statement, which illustrates the impact of transactions on a company’s balance sheet. A pro forma income statement may also be included, although this is less common.

The directors of the issuer are responsible for preparing any pro forma financial information. Guidance has been published to assist companies when preparing pro forma information and a company should also seek advice from its reporting accountant. Where pro forma information is included and the admission document has to comply with the Prospectus Rules, the reporting accountant is required to report publicly on the pro forma information. If the
admission document does not need to comply with the Prospectus Rules, a public report is not required on any pro forma information included in it. However, the pro forma information itself must still comply with Annex II of the Prospectus Rules.

**Forecasts**

It is rare for forecast financial information to be included in an admission document. Doing so gives investors an obvious target to attack should the company not meet its expectations and increases risk for the directors of the company, who are responsible for all information in the admission document.

There are times when a Nomad may advise the company to include forecast financial information. Such a recommendation may be made where the historical track record does not convey a transformation in the profitability of a business. However, Nomads and companies generally resist including such information unless deemed essential to the success of a fundraising.

In the rare cases that forecast financial information is included, it would typically take the form of a profit forecast (the forecast profit for a period not yet completed) or a profit estimate (the estimated profit for a completed period not yet audited). Guidance has been published to assist companies when preparing such forecasts and the company should also seek advice from its reporting accountant.

If a profit forecast or profit estimate is included in an admission document, the reporting accountant is typically asked to report on the information, as the company’s Nomad is required to confirm to the company that the forecast has been made after due and careful enquiry by the company’s directors. A statement must also be included in the admission document that the forecast has been made after due and careful enquiry. In cases where the admission document has to comply with the Prospectus Rules, such a report by the reporting accountant is compulsory and has to be published in the admission document alongside the forecast.

Given the risks associated with publishing a profit forecast or estimate, the work undertaken by a reporting accountant to substantiate the disclosures may be substantial and would need to be reflected in the IPO timetable.

**Significant change statement**

There is a requirement for the company to disclose in its admission document whether there have been any significant changes in its financial or trading position between the balance sheet date of its latest published financial information and the date of the admission document.

Management will need to carry out a review in the latter stages of the IPO process to identify any such changes. This review should include consideration of the latest available management accounts and flash trading figures, together with consideration of such matters as changes in banking facilities, crystallisation of contingent liabilities, new post balance sheet events and other relevant developments. A final review should be carried out as close as possible to the date of the admission document to identify any late changes.

The reporting accountant will also perform specific procedures in order to identify any undisclosed significant changes in the company’s financial or trading position.

Should there be any material changes to the information in the admission document (or any new material factors which come to light) a supplementary admission document may be required between the publication of the initial admission document and the admission date. This may delay the admission date.

**Summary**

To summarise, a company seeking admission to AIM will typically need to undergo due diligence on its historical financials and business operations, its systems and controls, and its trading and cash flow forecasts. The exact scope of this due diligence is subject to agreement between the company, its Nomad and the reporting accountants.

In addition it will also need to publish an audited financial track record, and possibly other financial information about itself or recently acquired subsidiary undertakings, in its admission document. The specific requirements for this published financial information
are set out in the AIM Rules (primarily driven by Schedule 2 to those rules, together with the continuing obligation to publish financials in accordance with Rule 18 and Rule 19). Although they appear relatively straightforward, they can sometimes be complicated to apply in practice and a company should seek advice early on in the process as to the exact requirements.
Big decisions follow you around.

Half the board say now, half the board say wait. Which is the riskier option?

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Legal work and due diligence
By Max Audley, Partner, Olswang LLP

The legal and regulatory basis of AIM

AIM is a market regulated by the 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 UK Listing Authority’s Listing Rules, which apply to companies seeking to list on the Main Market of the London Stock Exchange, are significantly longer and more prescriptive.

It is the Nomad system which makes the balance of the AIM regulatory regime possible – the AIM Rules for Nominated Advisers (the ‘Nomad Rules’) ensure the Nomad is responsible to the Exchange for assessing the appropriateness of an applicant for AIM. The Exchange imposes detailed requirements on the Nomad 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 Nomad is required to make a declaration to the Exchange that it considers an applicant company and its shares to be appropriate for admission to trading on AIM. Following admission, the directors themselves are required to seek advice from the Nomad and to take that advice into account. Where a Nomad believes that an AIM company for which it acts as Nomad is no longer appropriate for AIM, it must contact the Exchange.

The Exchange can impose sanctions on the company for failure to comply with the AIM Rules (which may include the company being issued a warning notice, fined, censured, or the cancellation of its AIM securities) and on the Nomad in the event that the Nomad has breached its obligations pursuant to the Nomad Rules.

Any company applying to join AIM must, in addition to complying with the AIM Rules, also comply with:

- the UK legal requirements for offers of securities
- the restrictions on financial promotions imposed by the Financial Services and Markets Act 2000 (‘FSMA’)
- any legal requirements in other countries where its shares are being offered, and
- in the case of a company incorporated outside the UK, the corporate and securities laws of the country in which it is incorporated.

AIM Rules – basic requirements for eligibility

- an AIM company must appoint and retain a Nomad at all times
- with certain limited exceptions, securities admitted to trading on AIM must be free from restrictions on transferability. This does not prevent certain shares being subject to contractually imposed restrictions on dealing such as ‘lock-ins’
- all securities of the same class must be admitted to trading on AIM
- 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’ (i.e. 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 comply with the ‘Note for Investing Companies’ and 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. It must also state and follow an investing policy
- an applicant which is a mining or oil and gas company must comply with the ‘Note for Mining Oil and Gas Companies’, including the preparation of a Competent Person’s Report and specific content requirements.
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:

- 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 certain specified categories having been carved out.
- They will determine whether a proposed fundraising on AIM will constitute an ‘offer to the public’; if it will, then the admission document must comply with the Prospectus Rules, requiring prior approval by 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.

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. In order to avoid the complications, delays and cost involved in producing a prospectus, most IPOs on AIM are structured as placings to institutions and possibly a small number of non-qualified investors, so that the fundraising is not an offer to the public and the invitation to subscribe for shares falls within exemptions to the FSMA restrictions on financial promotions.

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 Exchange does not impose any minimum requirements for market capitalisation, trading record, share price or shares in public hands (‘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 Nomad.

The AIM admission document

The general rule is that all new applicants to AIM must publish an admission document. There are few requirements as to the form in which the information required by an AIM admission document must be set out. In practice, however, the document is usually divided into the sections as shown in the box ‘AIM admission document’.

General duty of disclosure

In addition to specific content requirements, the AIM Rules impose a general duty of disclosure, requiring
AIM admission document

The very front
- cover page, including certain “health warnings” and important information for non-UK investors
- summarised key information in relation to the company
- index
- list of directors and advisers
- list of definitions and glossary of technical terms
- timetable
- placing statistics

The front end:
detailed description of the business and the investment proposition
- history of the business
- information about the present-day business, current trading and investments
- key business and market trends and prospects
- in the case of an investment company, details of its investment strategy
- summarised information about directors and key personnel
- intellectual property
- information about the placing or offer for subscription
- use of funds
- corporate governance policies
- share option arrangements and dividend policy
- City Code information (if applicable)

Risk factors
- risk factors relevant to the business

Historical financial information
- 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, which may or may not be audited.
- an auditors’ or reporting accountants’ 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 – necessary for mining and oil and gas companies and may be desirable for a company with a specialist business (eg technology, life sciences, intellectual property)

Statutory and general information: the back end
- a responsibility statement confirming that each of the directors and proposed directors accepts general information: responsibility, individually and collectively, for the information contained in the document, and that to the best of their knowledge and belief (having 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
- details of the incorporation and legal status of the company, its registered office and its objects
- information about share capital, including rights attaching to the shares and authorities to issue
- further shares
- information about the company’s articles of association and constitution documents
- directors’ interests in the company, directorships of other companies and involvement in previous personal or company insolvencies
- the name of any person who, so far as the directors are aware, holds an interest of 3 per cent or more in the company’s issued share capital, and the level of that interest
- share option plans
- material contracts, including the placing or introduction agreement
- related party transactions
- terms of engagement of the directors and senior personnel
- summarised tax position
- 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
- material litigation
- any ‘lock-in’ statement required by the AIM Rules or the Nomad
- level of dilution resulting from any offer
- expenses of the issue
- terms and conditions of any offer for the sale of shares
- sundry information
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:

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

**Pathfinder and placing proof**

The AIM admission document will usually be published in final form shortly before admission to AIM. Marketing of the fundraising will have been done using a draft admission document, known as a ‘Pathfinder’, which will be almost complete, with the possible exception of the placing price. Shortly before admission to AIM, placing letters will be signed by investors, attaching a later draft of the admission document (the ‘placing proof’). Any significant differences between the Pathfinder, the placing proof and the admission document must be drawn to the attention of investors prior to admission, to give them the opportunity to withdraw.

**Verification**

The company’s lawyers produce verification notes, which test each statement in the admission document, any Pathfinder and any investor presentations. The verification exercise is designed to protect the directors and the company from legal liability by ensuring that:

- each statement in the offer documentation is accurate and not misleading in the context in which it appears
- the directors have reasonable grounds for any opinions which they express in the documentation
- there is evidence to substantiate factual statements
- statements are not selectively presented so as to be misleading.

Verification is an interactive process that assists in the drafting of the admission documentation.

**Due diligence**

The Nomad, the lawyers and the accountants will undertake a comprehensive review of the company’s business, prospects and commercial risks. The purpose of the due diligence is:

- to identify information to be disclosed under the general duty of disclosure
- to establish the corporate structure and standing of the company and its subsidiaries and assess whether any corporate reorganisation should be undertaken to facilitate the AIM admission
- to verify title to assets, including intellectual property, and establish what needs to be done to ensure the company owns what it should do
- to examine the historical financial information and working capital requirements of the applicant
- to examine material contracts and employment agreements and recommend remedial action
- to review any current or prospective litigation
- to ensure the Nomad has complied with its admission responsibilities under the Nomad Rules (see the box ‘Admission responsibilities under the AIM Rules for Nomads (a summary)’) and is able to provide the Nomad declaration on the applicant.

A legal due diligence report and a long form report will be produced by the lawyers and the reporting accountants respectively.

**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 Nomad and broker 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 (and possibly also significant non-director shareholders) on the accuracy of the admission document
- an indemnity from the company (and often from its directors) to the Nomad and broker in relation to liabilities arising out of the admission
Admission responsibilities under the AIM Rules for Nomads (a summary)

In assessing the appropriateness of an applicant and its securities for AIM, a Nomad must satisfy the admission responsibilities, which include:

- achieve a sound understanding of the applicant and its business, using in-house specialists or external experts where necessary to achieve this
- investigate and consider the suitability of each director and proposed director of the applicant and key managers and consultants
- consider the efficacy of the board as a whole
- consider making investigations in relation to substantial shareholders
- oversee and assess the due diligence process, satisfying itself that it is appropriate and that any material issues arising from it are dealt with or do not affect the appropriateness of the applicant for AIM
- consider whether commercial, specialist (eg intellectual property) and/or technical due diligence is required
- oversee and be actively involved in the preparation of the admission document, satisfying itself that it has been prepared in compliance with the AIM Rules with due verification having been undertaken
- consider whether any specialist third-party reports are required (eg for companies in particular sectors such as property or biotechnology)
- satisfy itself that the applicant has in place sufficient systems, procedures and controls in order to comply with the AIM Rules and understands its obligations under those Rules (eg release of unpublished price-sensitive information, significant shareholding notifications, regulation of close periods)
- be satisfied that the directors have been advised of their and the company’s continuing responsibilities and obligations under the AIM Rules and that the directors are aware of when they should be consulting with or seeking the advice of the Nomad.

- any lock-ins and orderly market undertakings 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 the issue is underwritten, 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.

Lock-in agreement

The AIM Rules require 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 (an ‘authorised person’ and certain other entities are carved out from this rule), and their respective families. An ‘applicable employee’ is one who, together with his or her family, owns 0.5 per cent or more of any class of the company’s securities quoted on AIM.

Other legal documentation

The company’s lawyers will prepare and/or advise on and negotiate:

- agreements for the engagement of the Nomad and broker, reporting accountants, public relations advisers and registrars
• articles of association and constitution documents
• documentation for any necessary corporate restructuring and share re-organisations, including (if appropriate) the creation of a new holding company as the vehicle for the flotation
• the statutory and general section which usually appears at the back of the admission document
• employment agreements for executive directors and other key staff
• appointment letters for non-executive directors
• share option and incentive plans for directors and employees
• memoranda and letters of advice to the company’s directors on their responsibilities under the admission document/prospectus, on their continuing obligations under the AIM Rules, on corporate governance and on the liability of the company and its directors under the warranties and indemnities in the placing or introduction agreement
• 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 admission
• any ‘relationship agreement’ that may be advisable to ensure that transactions between the company and its substantial shareholders are conducted at arm’s length
• detailed board minutes recording that the directors have reviewed, considered and approved the Pathfinder and supporting documentation and, subsequently, the placing proof and the final admission document
• terms of reference for board committees (eg audit committee, remuneration committee, investment committee and nomination committee)
• 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 offer documents
• placing letters
• comfort letters
• a contents list for the financial, constitutional and corporate information which the company is obliged, under AIM Rule 26, to publish on its website.

Considerations for non-UK issuers

No stipulation as to jurisdiction
The AIM Rules do not require AIM companies to be incorporated in the UK or in any other specified jurisdiction. Non-UK issuers are subject to the same eligibility requirements as UK-incorporated companies.

Free transferability requirement
In cases where the AIM Rules requiring 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.

Continuing obligations
A non-UK company is subject to the same continuing obligations under the AIM Rules as apply to UK companies. In particular:

• if it is dual listed, 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 International Accounting Standards or (in the case of non-EEA AIM companies) equivalent standards – which include US GAAP, Canadian GAAP, Australian IFRS or Japanese GAAP)
• 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.

Overseas selling restrictions
A company incorporated outside the UK must also comply with the corporate and securities laws of the country in which it is incorporated and in those territories where its shares are being offered.

Local lawyers
Lawyers will be needed in the jurisdictions in which the company is incorporated and operates, to work with the UK lawyers to advise on due diligence, verification, supporting documentation and corporate and securities laws.
The City Code on Takeovers and Mergers

The 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. It applies to all AIM companies resident in the UK, the Channel Islands and the Isle of Man. Its purpose is 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 a company. In simple terms, ‘control’ is defined as a 30 per cent (or greater) shareholding in a company.

In circumstances where the City Code does not apply to a non-UK applicant, the Nomad may advise that, to make the applicant attractive to prospective investors, or generally suitable for admission to AIM, the applicant’s constitutional documents should include provisions which are similar to the requirements of the City Code. However, the City Code cannot be imported in its entirety, as companies within its scope are regulated by the Panel on Takeovers and Mergers, which is unable to accept jurisdiction over companies to which the City Code does not apply.

Disclosure and transparency rules

These rules (‘DTR’), issued by the UK Financial Services Authority, stipulate requirements for the notification of significant shareholdings. In relation to AIM, they only apply to UK-incorporated companies. However, companies to which the DTR do not apply are still subject to the obligation in the AIM Rules to disclose shareholdings of 3 per cent or more and any relevant changes to those shareholdings. The AIM Rules advise such a non UK-incorporated company to include provisions in its constitution requiring significant shareholders to notify it of any relevant changes in their shareholdings in similar terms to the DTR. The Exchange also advises such a company to make appropriate disclosure (eg in the admission document) that the legal requirements for disclosure are different and may not always comply with the AIM Rules’ disclosure obligations.

After admission

Once a company has been admitted to AIM, it is subject to the continuing obligations in the AIM Rules. These are summarised in the ‘Being on AIM Chapter’. A transaction which involves a reverse takeover will require legal work and due diligence in relation to the shareholder circular and admission document to the same standard as that required for the initial admission.

A detailed ‘Illustrative admission timetable’ can be seen in the ‘IPO groundwork’ chapter.
AIM to be the best?

Talk to a business law firm with a distinctive approach.

Olswang is a leading business law firm with a distinctive approach. We act for companies, nominated advisers, sponsors and brokers on flotations and fundraisings on AIM and the Main Market of the London Stock Exchange. We work on projects that stand us apart from others.

We have advised on some of the largest IPOs and secondary fundraisings in the history of AIM, with expertise that ensures that we are the law firm of choice to a broad range of domestic and international issuers and advisers in relation to the full range of AIM-related transactions. Our AIM IPO and secondary fundraising work alone has seen us working on transactions with an aggregate value in excess of £1.8 billion since 2006.

At Olswang the passion of our lawyers, the confidence of our approach and the commercial edge to our advice provide a unique and compelling service.

To find out more please visit www.olswang.com. Or contact Max Audley at max.audley@olswang.com or Paul Blackmore at paul.blackmore@olswang.com
Raising finance
By Oliver Cardigan, Director of Operations, and Simon Blank, Associate Director, Corporate Finance, Numis Securities Ltd

An IPO is a transforming event for a company. The main benefits can include:

- access to a deep pool of equity capital to fund corporate growth and development
- providing a new form of acquisition currency – ie paper as opposed to cash
- partial or full exit from the company for private shareholders
- potentially cheaper financing instrument than debt
- raised profile for the company and its board of directors
- attracting and retaining the best management and employees through equity incentivisation.

AIM has proved to be remarkably successful for IPOs as over 3,000 companies have raised a total of over £33 billion since the market was created in 1995. This is largely the result of the regulatory framework and the large community of equity fund managers located in London who are willing to invest in the high-growth companies which typically characterise AIM companies. The role of a broker in this process is to source the potential demand for new stock at a valuation acceptable to the company.

The role of your broker

The nature of the broker’s work is multi-faceted and it is more accurate to view the broker as an intermediary with the fund management community, acting as a conduit of information from the company to the market and vice-versa, rather than simply as a fundraising function. Generating interest from supportive institutions is crucial to the success of any IPO but the relationship between the company and the market must be built over the long term. Support in the aftermarket is therefore essential to the ongoing success of the company as a publicly quoted entity. For example, the company may wish to raise further equity capital from

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**Typical structure of a broker**

- **Price-sensitive information**
  - Corporate finance/
    - Corporate broking

- **Chinese Wall**
  - AIM quoted company

- **Publicly available information**
  - Corporate broking
  - Research
  - Sales and trading
  - Fund management community
Raising finance

the market in the future (known as a secondary 
raise) and the company’s financial results and share 
price performance following admission will be crucial to 
its success. An IPO must, therefore, be viewed as only 
the first step in the relationship between a company, the 
market and its broker.

The typical structure of a broker is illustrated on the 
page opposite.

**Research**
Teams of analysts cover a number of London public 
companies, generally on a sector basis. They 
produce research notes and any updates to 
significant news flow which include their own 
forecasts of the company’s financial performance and 
often include their view of what should be the target 
share price. They will also offer a recommendation 
whether the stock should be a ‘buy’, ‘hold’ or a ‘sell’ 
at the current trading price. These notes are 
distributed to in-house sales teams and traders and 
to external fund managers.

**Sales and trading**
Equity salesmen speak directly to fund managers and 
provide research and trading ideas in order to 
generate demand for client and other traded stocks. 
The traders will deal on behalf of fund managers in the 
market at the most competitive prices.

**Corporate broking**
The corporate broking team is responsible for the daily 
management of the relationship with the company and 
is its first point of contact. As it sits on the other side 
of the Chinese wall, it can receive price-sensitive 
information and discuss with the company the 
potential impact of an item of news flow (including 
financial results) or a transaction on the market’s 
opinion and rating of the stock. The Nomad remains 
the company’s first contact for all regulatory matters.

**Raising finance on an AIM IPO**

**Valuation and structure**
Raising finance essentially involves balancing the 
forces of supply and demand using the lever of

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**Valuation pressures**

- **Supply pressure to maximise valuation**
  - Highest price for exit
  - Minimise dilution from new equity

- **Demand pressure to lower valuation**
  - Entry at lowest possible price
  - Maximise ownership

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Valuation range
valuation. The most important initial considerations will therefore concentrate on the valuation of the company and potential structure of the equity raise. There are always competing interests – such as those of existing shareholders retaining ownership, existing shareholders selling their shares and new shareholders investing in the company for the first time. For example, those existing shareholders aiming to achieve full exit at admission will want to achieve the highest valuation possible, whilst those investing for the first time will have the converse desire as illustrated in the diagram ‘Valuation pressures’.

The broker’s pivotal role is performing this balancing act, providing initial advice on its perception of the most attractive valuation and structure to the market, followed by final advice subsequent to an assessment of the demand generated from meetings with potential institutional investors. In order to crystallise its initial views, the broker may choose to perform a limited amount of pre-marketing, presenting the story to a small group of investors with the potential to provide ‘cornerstone’ support for the fund raise.

It should be appreciated that there must be general consensus from the company’s owners on its future, approximate valuation and funding requirements before embarking on any public marketing exercise.

Marketing by the broker - research
Once the requirements of the existing shareholders have been ascertained and the approach to the market agreed, the broker's next task is one of market education through the provision of research. Typically, AIM fundraisings at IPO are institutional offerings rather than offers to the wider public (which are more common for large IPOs of companies with highly recognised brand names). The broker will therefore seek to access funds from institutional fund managers who typically invest money on behalf of insurance companies, pension funds, banks, mutual funds, hedge funds and private clients.

In many cases, institutional investors will not be familiar with the company and the broker will educate them through the publication of a note by their sector specialist research analyst. This will set out the company's investment case in significant detail, positioning the company within its sector and providing financial forecasts and valuation guidance. This note is composed by the analyst following discussion between the company and the research analyst, but is typically produced independently from the company in order to preserve the divide of the Chinese wall and thereby have credibility in the market. In essence, to have any value to a potential investor the research must promote the views of the analyst rather than act as a marketing document produced by the company. The reputation of the analyst is therefore absolutely critical as he provides an independent endorsement of the investment case.

Marketing by the company - roadshow
The research note will be distributed to potential investors by the broker’s sales team who will draw attention to the salient points to promote the story. On the back of these conversations, they will arrange a roadshow of meetings between the company’s management and potential institutional investors. These meetings typically last for approximately one hour, the first half of which involves the management team (usually CEO and finance director) taking the fund manager through a presentation compiled by the company with the assistance of the corporate broker. This sets out the investment case but will not usually have forecasts or valuation materials. The company will also provide the investor with a Pathfinder admission document, the regulatory document compiled by all advisers (discussed further in the ‘Legal work and due diligence’ chapter) which contains detail on the company’s development, operations, financials and outlook. This roadshow is the main marketing effort; it puts investors and management face to face and is in most cases the point at which investment decisions crystallise.

The dissemination of research and construction of the roadshow by the sales team is a delicate process as it is essential that the meetings are only held with appropriate investors. The roadshow can last up to a month and requires commitment from management who give the same presentation up to six times per day. This takes them away from running the business and the broker must ensure that the company is marketed to an appropriate audience in order for this to be fruitful and drive demand for the offering.
Pricing - ‘both an art and a science’

Pricing is a continuous, dynamic process comprising full participation from the company. The sales team will have a constant dialogue with potential investors during the marketing period and feedback will be collated and communicated throughout the roadshow. Having derived feedback on demand and valuation from the roadshow, the corporate broker will recommend a final price and structure of the issued shares for the approval of the company. The aspiration is always to provide a sound base for long-term share price performance and this involves balancing the immediate benefit in maximising the issue price with the implications for longer-term share price performance.

Following a successful roadshow, there may be demand for more investment in the company’s shares than was originally envisaged. Although this is a good problem to face, the company must exercise restraint and not accept more money than it can successfully deploy in a reasonable time period, which is usually taken to be 12 to 18 months. The company’s intentions will have already been communicated to investors and to change these at the last minute could harm management’s credibility. Furthermore, investors do not appreciate invested cash remaining untouched on a company’s balance sheet as this affects their potential overall return. Equally, the temptation to inflate the issue price and therefore the company’s valuation should be resisted as, in the future, the market will compare the valuation of the company to that of similar quoted companies in the sector and may well correct mis-pricing in the longer term. Management would then be left in the unenviable position of a portion of the company being owned by investors who have...
experienced share price underperformance since admission.

It is rare that demand results in the exact amount being raised at the precise valuation level initially envisaged. The role of the corporate broker is to recommend a price that will adequately balance the forces stressing the price whilst leaving sufficient demand ‘on the table’ to ensure healthy trading in the aftermarket: this is illustrated in the box ‘Driving demand and valuation’.

The broker’s role in the secondary market

Introduction
As admission should be viewed as only the first step in the relationship between the company, the broker and the market; the broker’s real work commences once the company is on AIM. It is essential for a company to maintain good relations with existing and potential investors to ensure support for long-term growth. As management time is considered best spent running the business, it is the broker’s role to promote these relations through ensuring effective communication between the company and the market. The aim of the broker now is to strengthen and broaden the share register with investors who are supportive of the management’s strategy through a disciplined sales and investor relations process.

Corporate broking
Once a company is quoted on AIM, the corporate broking department manages the day-to-day relationship with the company, monitoring trading and providing feedback from the market, reviewing announcements and presentations and co-ordinating communication with the investor base. The corporate broker will also provide advice on market reaction to planned corporate actions, such as acquisitions, disposals, further fundraises and returns of capital.
The disciplines learned during the IPO process in relation to the lines of communication within the broker remain essential once the company is trading on AIM. The corporate broking team remains inside the Chinese wall and is therefore able to receive inside information in the same way as the Nomad. However, communication from the company to the sales, research and trading departments must be controlled by the corporate broker as these departments must only have access to publicly available information (i.e., that released via regulatory announcements). Should a salesman or research analyst receive inside information, they will become ‘offside’ and will be precluded by the broking house from acting on the company’s behalf until such information is made public.

Research
Fundamental to ongoing communication with the market will be the research provided by the company’s broker. The research analyst will publish notes in reaction to company news (such as results, trading updates, and acquisitions) and events within the sector, explaining their implications on the company. The investment case elucidated at flotation has been accepted, but the market will want to track progress and the company’s success in meeting and exceeding the milestones set out. This will underpin and indeed drive the market valuation.

Regular news flow allows the analyst to adjust forecasts and recommendations accordingly, which permits both existing and new investors to assess the company and perform their own analysis ahead of making any investment decision. As the company is a public entity, analysts from other brokers may well initiate coverage on the company which is always a welcome development as it is usually in response to increasing investor interest and results in an elevation of the company’s profile. Indeed, a recent development is that some companies now pay independent research houses to produce notes on top of those already provided by their own broker.

Sales
The broker’s sales team circulates the house research notes and ensures continued dialogue with existing investors. It will also have meetings with the company’s management team on a regular basis to ensure it keeps up to date with corporate developments.

As the company’s story matures and milestones are achieved, the sales team will also market the company to new investors who did not purchase shares at IPO. Once a company has delivered on its expected performance, it is much easier to convince investors that it will do so again on the basis of a demonstrable track record.

Investor relations
Some broking houses also have an investor relations team in the corporate broking department. Roadshows will be arranged after results and the company may be invited to participate in special investor events such as sector conferences. These provide a valuable opportunity for the company to remain directly in contact with its shareholders. Following a roadshow or conference, investor feedback will be provided to the company, summarising the market’s thoughts on the company, its progress, and the management team. On occasion, this may contain criticism from the investment community, but it is essential that this is accurately communicated back to the company so that issues may be addressed.

As this again requires management time, the IR team will work closely with the company to agree a communication plan and ensure that a disciplined approach is taken.

Trading – market makers
The fundamental reason for a company to join a public market is to create a market for its shares so that they may be freely traded. The trading arm of a broker facilitates this by making a market for the company’s shares, essentially acting as the focal point for buyers and sellers to congregate. This function is essential to providing liquidity and determining price.

Secondary fundraisings
One of the main benefits of being traded on a public market is continued access to equity capital from both existing and new shareholders. As on admission, there must be a compelling investment case carefully explaining the reason for the new capital requirement and the effect that it will have on the company, such
as an earnings enhancing acquisition. Though this section will not seek to summarise technical details, the significance of AIM’s regulatory environment is that it provides a flexible environment for a secondary fundraising which can be performed in a number of ways.

If time is of the essence, a fund raise can be limited to an institutional audience as on flotation. Alternatively, the company may wish to include a pre-emptive element to the fundraising, whereby all shareholders are offered the ability to participate, including retail investors. This is typically performed through a rights issue or open offer, which is viewed as a positive decision as shareholders are not diluted by the issue of new shares and therefore not seen to be ‘disenfranchised’.

As the previous sections imply, access to further funds from the market will be dependent upon the company’s performance since flotation and the track record that it has established by accomplishing that which was promised. This emphasises the importance of establishing a realistic initial investment case on admission to AIM, for whereas supportive shareholders would most likely be willing to provide further funding to a successful management team, disappointed shareholders are unlikely to ‘throw good money after bad’.

**Summing up**

The role of broker is often seen solely as enabling access to equity capital upon admission to AIM. This chapter hopefully demonstrates that the relationship between the company, broker and market is considerably more complex and long-lasting. When appointing a broking house, a company should seek one with expertise in the relevant industry sector. This can be ascertained by ensuring that the research department covers the sector and that the sales team has a track record of raising finance for similar propositions. Speaking to institutional investors and clients of broking houses should allow a company to distinguish between those that support their clients in the aftermarket and those that are primarily interested in the IPO fee and may offer a reduced level of service following admission. It is vital for a company to consider these factors when selecting a broker.

The ability of a broking house to raise finance upon admission to AIM is a key factor in deciding which firm to appoint, but placing power alone does not lead to a successful existence on the public market. It is important to appoint a broker that understands the business model and believes in the future prospects of the company. This allows the broker to communicate effectively progress to the investment community, thereby ensuring a healthy long-term relationship with the market as well as access to further finance.
A leading UK independent investment banking and stockbroking business.
THE CHIEF EXECUTIVE: ‘I want this IPO to be perceived as a success in the media. I want my employees to be looked after, and my customers to be reassured. I want to be assured that my reputation is in good hands if I am not in the UK to monitor it.’

Going public may be one of the most taxing and time-consuming things you do as a company. Not only do senior management consistently underestimate the workload, but they are shocked by the probing nature of their audiences, whether about how much the seller stands to make personally, or in areas of commercial sensitivity. No matter how well prepared the management team is, when asked if things ran as expected, the answer invariably is a unanimous ‘no’. While there are processes to follow and principles to rely on, engaging with the right Public Relations (‘PR’) adviser who knows the process, the sector you operate in, and has strong relationships with your audiences and other advisers, can take away some of the strain.

By joining AIM, companies are able to access growth capital within a flexible regulatory system and at the same time be part of an international market with sector knowledge, expertise and an appetite for risk. By its very nature, the journey to and beyond AIM will attract fans and detractors in a company’s stakeholder base. The key to being a successful company is to build and protect your reputation and brand.

Your audience is wide

The audience to whom a company will be communicating goes well beyond investors. It includes all stakeholders, including employees, customers, suppliers, partners, analysts, online investor services, rating agencies, capital providers, regulators, unions, governments, opinion formers, trade associations, and media.

Today, ‘the media’ is a broad term, including online, blogs, commentators, editors, correspondents, investment columns, trade, social and broadcast (radio and TV). In the age of 24-hour news, the speed at which information changes hands is breathtaking. For small companies, worrying about whether CNN will pick up good or bad news will not be relevant, but what investors are saying on internet message boards will be. Communication across all stakeholder groups must be consistent and viewed with equal importance.
as the lines defining the groups are often blurred; your employees might also be your shareholders.

**Does PR make a difference?**

A common question posed by companies looking to join AIM is how much influence public relations can really have on the outcome of an IPO. Media commentary, analysis, message boards and blogs are key sources of information among investors during an IPO, so clear communication really does matter. The principles of a successful communications strategy around admission are to have a strong credible story, be well organised with a clear plan, ensure your ‘fan club’ is built and ready to support you, and position the IPO as a means to an end, not an end in itself. The journey is just as important as the destination.

**Communication principles around an IPO**

- have a strong, credible story
- be well organised – have a proper plan
- have the right friends at the right time
- position the IPO as a means to an end – not as an end in itself

**Building the story**

It is stating the obvious to say that companies need to have a strong credible story, but the story needs to be just as compelling to an investor as it does to a journalist, and the two audiences often view AIM companies in different lights. Journalists, analysts and investors will look for the positive core story but they will also be sceptical. In smaller AIM companies, a journalist often takes on an investigative role and becomes less of a reporter and more of an investment adviser. He may pick up on issues that matter less to an analyst but could detract from the core story. Good communications around the IPO becomes as much about anticipating questions and having robust answers as it is about the overarching narrative.

The company should start by thinking about how the story might be heard in the newsroom and on a trading floor. When the correspondent has one minute to pitch his story to the editor in morning conference, what angle will he take to make the story a ‘must read’. And when the analyst briefs his sales desk, what will they say when they pick up the phone to their clients?

The equity story will focus on the growth and the ‘uniqueness’ of the company. It may be the appeal of
the sector in which it operates that makes the equity story attractive. One PR issue specific to AIM is that small companies often come with big personalities and as a result, the track record of the company and its management will be closely scrutinised. This may be the case, but it shouldn’t detract from the core story although it may be an issue to be managed.

Part of the story is the management’s track record and conviction. Are you committed to joining AIM and are you ready for the new levels of transparency and disclosure? We have seen executives hesitate at this question or talk about other options and it looks awkward. Having the mindset to embrace transparency and governance as a public company is a giant step in the IPO process. If a journalist believes market conditions to be difficult and receives a less than confident reaction to the question, his confidence that the float will be taken up at the right price will evaporate and he is likely to find that a story in itself. One of the most frequently asked questions by a journalist pre- and post-IPO is: ‘Why list in London and why on AIM?’

**THE JOURNALIST:** ‘Why list in London and why on AIM?’

The use of the proceeds from the flotation will be analysed by the investment community as part of the equity story – will it fund the next stage of growth for the company; is it being used to pay down debt; or will the proceeds pay for the existing shareholders to exit their holding?

**THE SELLING SHAREHOLDERS:** ‘We are worried about our personal profile. We want publicity to focus on the value we have put into the business rather than the money we have made from it’

There will invariably be the two-hour powerpoint presentation for analysts, but can the CEO tell the story in a compelling way? If you sat next to him at a dinner party and he told you the business story in a couple of minutes, would you be getting your cheque book out?

There is no need for jargon and ‘banker speak’ in a good story if the key facts are honest and compelling, useful for investors, and indispensable for time-starved correspondents. A good spokesperson for the company is a tremendous asset but as is often the case with international companies, management teams may not have English as their first language. This can be overcome with good media and presentation training and is highly recommended. Needless to say, there is a fine line between being over-promotional and telling a compelling story. The skill is to find the balance and to resist over-promising; reputations are made and lost by tipping the balance.

**The strategy paves the way**

Having a clear communications strategy is part of the planning process and it should take you well beyond the admission date. It is about thinking creatively to determine the news angle or hook that goes beyond the corporate story. It is about developing the company’s website to tell the story as this is often the first port of call for a newcomer to the story. It is imperative to work closely with the other advisers on the team to ensure publicity guidelines are followed to remain within the regulatory framework pre-IPO and to ensure the investment case set by the bankers is not compromised. When the communication strategy is agreed, it will be incorporated as a separate workstream into the IPO timetable and managed by regular conference calls, a strict timetable of deliverables and responsibilities, and rehearsals. International companies will have the added complication of different time zones and busy travel schedules.

**THE FINANCE DIRECTOR:** ‘I want to know I am getting value for money, I want to understand the legal implications of what we say and I want to learn about how PR fits into the process overall.’

The communications strategy and plan is executed around the IPO timetable which has very little flexibility once the Intention to Float announcement (‘ITF’) is released to the market. Ideally, a PR adviser is appointed well before this date in order to raise the awareness of the business while remaining within the guidelines of regulation. It is around the events of the IPO timetable that the PR activity intensifies to the outside world. This may be the first time that your external stakeholders are hearing your story from a management team that may not be well
known within the UK and with assets outside the country.

The communications objectives should be set with the strategy in mind which will vary according to issues or vulnerabilities the company might be facing. The objectives are to introduce the management team, tell the story, identify the news hook or media angle, focus on the investment case, link the company with sector or broader trends, work hard to argue the valuation case, use third-party commentators to endorse the story, reach out to investors by targeting specific media, and to set long-term expectations. Don’t over-promise!

Looking for the media-friendly angle needs creativity as some issues specific to AIM are size and whether the company has a well-known brand, management team or assets in the UK. These issues may act as barriers with some media, but there are ways to overcome them. The use of good photographs can never be underestimated. There have been instances where a UK national newspaper has published a good photograph with nothing more than a few sentences below the photo containing the key message the company wishes to convey; a fantastic result.

Media will engage with a story when there is corporate news flow, but there is an opportunity to begin building relationships between news with background briefings. However, beware of the sceptical journalist or editor and be creative whilst operating in the realms of regulatory requirements. It may be the case that the appeal to the journalist is the sector and that the
corporate story fits into a broader piece. Attracting the investors you want can be done by targeting the media they read, whether it be trade journals, share tip columns, or online investment services where private investors can research and trade shares.

Having the right friends at the right time will provide an invaluable support during and after the IPO process. A company should begin identifying and building their stakeholder ‘fanclub’ early on. Look to friendly media who understand the sector, the brand, the company or the management, and to non-aligned and house analysts, employees and third-party commentators such as trade associations, investors, or partners. Building and maintaining strong relationships in the context of the legal restrictions will pay dividends in the long term.

When building support amongst the analyst community, the tendency is to neglect the non-aligned analysts. Companies will want these analysts to begin writing about them after admission so early relationship building is important. Holding a group presentation to the sell side can often be done before pricing or if not, after admission. Hosting site visits is often welcome by analysts as is access to management.

The most important and loyal supporters are your employees; they are a company’s best ambassador. Demotivated or disenfranchised employees in today’s age of the internet could create a difficult situation. Implementing an internal communications programme to fit with the corporate communications strategy and the regulatory guidelines around the IPO will ensure employees feel like they are part of the process and will engender a positive response to the company’s strategy of going public.

**Life as a public company**

And finally, your IPO is a means to an end. Life beyond admission day brings with it new challenges but establishing a positive communications message from the outset will enable a company to negotiate the journey. Remember, the company will now be under the spotlight as a public entity.

Building relationships with the media, managing market and media noise, and observing disclosure requirements will all continue after admission. Once the company is admitted to AIM, management may be tempted to refocus on the business and may neglect its new stakeholders. It is important that the commitment to best practice in investor relations (‘IR’) demonstrated from the onset is maintained. It is worth noting that the day of admission will be one of the few times that a company will know exactly who their shareholders are as the list will change daily, reflecting trading and changes in share ownership. An effective IR programme will keep your shareholders close.

The objective of the IR programme is to ensure the value of the company is reflected in the share price. The PR adviser will often provide the IR support, as the two should mirror the company’s strategy and ethos. Building a following of non-aligned analysts increases the breadth of investors the company can reach out to. Private clients can be accessed through specialist brokers who, in turn, can be introduced to the company’s story by the media. If there is a good share-tip in an investment magazine read by private clients, their broker may express an interest to meet the company and listen to the story.

Between the rigorous financial reporting calendar and reporting requirements, news flow, site visits, and creative story ideas can maintain the momentum and keep the story intact. Clear communication with all stakeholders on the road to admission to AIM and beyond will not only help the company navigate the twists and turns of the journey, but will build and protect the company’s reputation and brand. And that matters.
At Brunswick we have built our reputation as one of the world’s leading strategic communications firms by providing senior counsel and support to corporations worldwide, where they need it, when they need it.
Continuing obligations

The AIM Rules for Companies (the ‘AIM Rules’) set out the continuing obligations of a company on AIM. The company needs to retain certain advisers, most importantly a Nominated Adviser (‘Nomad’), to maintain a transparent market in the company’s securities and ensure compliance with the continuing obligations rules. There are various other rules and regulations which may apply to a company’s ongoing life on AIM, depending on the company’s country of incorporation.

Continuing eligibility

Retaining a Nomad
A company must retain a Nomad at all times. There is a complete list of approved Nomads on the London Stock Exchange website. The Nomad is responsible to the London Stock Exchange (the ‘Exchange’) for assessing the appropriateness of a company on AIM and for advising and guiding an AIM company on its responsibilities under the AIM Rules.

Responsibility to the Nomad
A company is required to seek advice from its Nomad and provide any information the Nomad might require in order to carry out its responsibilities under the AIM Rules. For example, a company must provide advance copies of all proposed changes to the board and notifications required under the AIM Rules. A Nomad must maintain regular contact with the board of the client company. This can include attending certain board meetings and monitoring internal company forecasts and trading figures as well as consulting on strategy and all other matters relating to management of the company.

The Nomad should be the first point of contact for the directors of an AIM company regarding any regulatory, market or corporate issue. The Nomad will then advise the company how to deal with those issues, in consultation with the relevant regulators where necessary, to ensure compliance with the AIM Rules. It is usual, but not always the case, that the company’s Nomad is also the broker to the company.

Ceasing to engage a Nomad
If a company ceases to engage a Nomad and a replacement Nomad is not appointed immediately, the Exchange will suspend the company from trading on AIM with immediate effect. If a replacement Nomad is not appointed within one month, admission of those securities will be cancelled.

Other eligibility requirements

Retention of a broker
An AIM company is required to retain a broker at all times. A company may retain more than one broker.

Transferability, settlement and admission
In order to maintain a fully transparent mechanism for trading, the AIM company must ensure that its securities are freely transferable and appropriate settlement arrangements have been put in place. AIM securities must be eligible for electronic settlement unless otherwise agreed with the Exchange. Application must be made for the admission of all securities within a class and the securities must be unconditionally allotted in advance of admission.

Fees and contact details
An AIM company is required to pay fees set by the Exchange at the required time. Furthermore, contact details including an email address must be provided to the Exchange and updated with any changes.

Announcements
A key ongoing requirement for an AIM company is to disclose certain information to the market in a timely manner. The failure to release price-sensitive information is a breach of the AIM Rules as well as of certain provisions of the FSMA (Financial Services and Markets Act) relating to market abuse. Information requiring notification to the market pursuant to the AIM Rules must be released as an announcement via a regulatory information service (‘RIS’). Information notified via an RIS must be of a regulatory or legal nature; it is not the place for the company to generate market interest in the company, for example, by making marketing-style announcements.

In order for the Nomad to execute its obligations under the AIM Rules and the AIM Rules for Nominated Advisers, internal company procedures should be in
place for the company’s Nomad to review and authorise all non-routine announcements in advance of release to the market.

**Release of price-sensitive and other miscellaneous information without delay**

**Price-sensitive information**
An AIM company must issue without delay notification of any new developments which are not in the public knowledge concerning a change in its financial condition, its sphere of activity, the performance of its business or the expectation of its performance which, if made public, would be likely to lead to a substantial movement in the price of its securities. The AIM Rules also require that announcements are not misleading, false or deceptive or leave out anything significant.

This can be a complex assessment to make and there are several areas of subjectivity and opinion relating to these rules. Therefore, the assessment of the requirement to make such an announcement should be made following a detailed consultation with the company’s Nomad.

**Announcement of share dealings**
A company is required to announce without delay any dealings by directors and any relevant changes to the holdings of significant shareholders (holders of 3 per cent or more of the shares).

Directors should take advice from the company’s Nomad before any form of dealing in the securities of the AIM company. An AIM company must ensure that its directors and applicable employees – defined as an employee who is likely to be in possession of unpublished price-sensitive information relating to that company – do not deal in any of its AIM securities during a close period. This is typically the period of two months ahead of the notification of the company’s annual or interim results, one month ahead of the notification of quarterly results, or any other period when an individual at the AIM company is in possession of unpublished price-sensitive information.

Directors and applicable employees should also take note that the definition of ‘deal’ is wide ranging. For example, it not only includes any sale or purchase of securities, but also grants of options and other rights over financial products. Certain members of a director’s family, trusts and companies of which they have more than 20 per cent equity or voting rights will also be included under the definition of deal. Directors are advised to consult the Nomad in advance of any deal in which they have a beneficial or non-beneficial interest.

**Announcement of other information**
An AIM company should also notify other miscellaneous information including changes to the board, the year end, the registered office and the company name. If trading performance is likely to differ materially from expectations, if there is a change to the Nomad, the broker or the website address, or if certain information relating to its directors needs to be updated, an announcement must be made.

The company must also disclose details of any payments pertaining to its AIM securities, reasons for the admission or cancellation of AIM securities, and the occurrence and number of shares taken into and out of treasury. Finally, the company must disclose the admission to trading or cancellation of AIM securities on any other exchange or trading platform, where such application is at the request or agreement of the company.

Companies carrying out corporate actions (e.g., the payment of dividends) which have the effect of changing the rights of existing shareholders are required to make announcements to the market about such events. This should be discussed with the company’s Nomad and the Exchange in advance.

**Transactions**
The disclosure requirement for transactions carried out by an AIM company varies depending on the size and nature of the transaction. In order to establish the size of the transaction and the nature of the disclosure required, the class tests found in Schedule 3 of the AIM Rules need to be calculated.

It is important to note that in some cases, the class tests need to be calculated taking into account previous transactions which the company has performed to assess the overall impact. A company should seek guidance from its Nomad as to when this applies.
Being on AIM opens up a whole range of opportunities to ambitious companies. It is designed to attract smaller, growth companies and achieves this by having a simplified route to admission (usually without the need to produce a prospectus), a simplified set of rules governing life on AIM and access to the deepest pool of investment capital anywhere in the world. As such, an AIM company has a distinct advantage over its private company rivals when considering raising money, making acquisitions or carrying out corporate finance activities.

It is important to maximise the advantages that being a public company provides – the relative standing and profile can really set a company apart when its competitors are still privately owned.

Raising money
Most companies which join AIM do so because they want to grow. There are two ways of achieving growth, either organically or by making acquisitions. Both place demands on cash, albeit in different ways. In order to make an acquisition, there may be a cash requirement up front but there is likely also be a cost to integrating the target business. If a company chooses to grow organically, there are going to be demands on working capital and the company may find it needs to open new offices or branches, buy new equipment or hire new staff.

Simplistically, companies raise money through debt or by issuing equity, the former typically from banks, the latter by inviting people to participate in the equity share capital of the business. Being admitted to AIM significantly enlarges the universe of investors which a company can approach and therefore makes raising funds by issuing equity considerably easier.

Money raised can be used in a number of other ways: for example, to reduce the dependency on bank finance, reduce pressure on working capital, pay down significant creditors and buy out founder shareholders.

If a company does not want to raise money by issuing equity, many banks understand the rigorous process through which a company and its board has to go to join AIM and this often allows them to be more flexible when setting covenants and the terms of any loan. Also, trade creditors are often able to give more generous payment terms to a public company than they would a private company.

Making acquisitions
Being on AIM also allows a company to use its equity share capital as ‘currency’ for acquisitions. Shares in a public company, with an open market value, are far more attractive to a potential target company than shares in a private company. AIM also provides a mechanism for selling the shares which can allow target company shareholders to realise the value in any shares received as consideration. In order to maintain an orderly market, a Nomad will typically insist on a moratorium over selling shares for a period immediately post-acquisition for the significant shareholders and, thereafter, will look for ‘orderly market’ provisions so that any desire to sell is properly managed.

Under the AIM Rules, only transactions which constitute reverse takeovers (transactions where 100 per cent is breached under any of the class tests set out in the AIM Rules) require shareholder approval. This streamlines the process of making acquisitions considerably and provides AIM companies with a significantly reduced level of costs and compliance during the acquisition process when compared to fully listed (Main Market) companies. Time is often of the essence in a competitive bid for a target company and the AIM Rules essentially allow AIM companies to move as quickly as private limited companies.

Bid approach
An AIM company, if approached by another company with a view to being taken over, should be mindful of the provisions of the City Code on Takeovers and Mergers. All UK-based AIM companies – and many which are not based in the UK – are subject to the provisions that are there to protect shareholders and, in essence, ensure that a fair deal is put on the table and that all shareholders are treated equally.

Some tips
- Speak regularly to your Nomad so they understand what your intentions are as they develop
- Make use of your Nomad, broker and analyst – they should understand what you want to do and they may well come across opportunities you haven’t seen
- Don’t be shy about asking for input and ideas from your Nomad and broking team
- Seek value from your Nomad – the mark of a good AIM adviser is the level of active feedback you get
- The golden rule in any corporate action is to keep your Nomad and your legal adviser informed.
In the case of all transactions, the requirement to make an announcement may be brought forward should there be a leak to the market about the transaction. The company should seek to keep confidential transactions which are in the course of negotiation. Should there be a suspected leak, the company must liaise with its Nomad immediately to ensure the appropriate steps are taken, including announcements where necessary.

**Class tests**
There are five tests, each of which results in a percentage, used to determine the size of a transaction on AIM. They are known as the ‘class tests’:

- the Gross Assets Test
- the Profits Test
- the Turnover Test
- the Consideration Test
- the Gross Capital Test.

**Substantial transaction**
Where a company undertakes a transaction which exceeds 10 per cent in any of the class tests, it is known as a ‘substantial transaction’. The AIM company must notify the transaction via an RIS as soon as the terms have been agreed. The notification must include certain information prescribed in Schedule 4 of the AIM Rules, including particulars of the transaction, a description of the business, the profits attributable to the assets, the value of the assets involved, the full consideration and how it is to be satisfied, the effects of the transaction and any other information necessary to enable the investors to evaluate the effect of the transaction on the AIM company.

**Reverse takeover**
Where a company undertakes a transaction, or a number of transactions over a period of 12 months, which exceeds 100 per cent in any of the class tests or which will result in a fundamental change in its business, board or voting control, it is known as a ‘reverse takeover’. For investing companies, a reverse takeover can also be triggered by the company departing materially from its investing strategy. A reverse takeover is conditional on the consent of shareholders and notification of the transaction must be accompanied by the publication of a full admission document in respect of the proposed enlarged entity and documents to convene the general meeting to approve the transaction. The AIM company must notify the market via an RIS as soon as the terms of the transaction are agreed.

**Related party transaction**
Where an AIM company undertakes a transaction with a related party which exceeds 5 per cent of any of the class tests, notification is required without delay as soon as the terms of the transaction are agreed. The definition of a related party under the AIM Rules is quite wide and includes parties such as directors, substantial shareholders or associates (being family or companies controlled by such parties). The notification must include the information required under Schedule 4, name of the related party concerned and nature and extent of involvement in the business. Finally, the notification must include a statement that the directors who are independent of the related party to the transaction, having consulted with its Nomad, consider that the terms of the transaction are fair and reasonable insofar as shareholders are concerned.

**Fundamental disposal**
A disposal which, when aggregated with any other disposal(s) over the previous 12 months, exceeds 75 per cent in any of the class tests, is treated as a fundamental change of business and is conditional on the consent of its shareholders in a general meeting. It must also be notified without delay disclosing the information specified by Schedule 4 and insofar as it is with a related party, the additional information required by Rule 13. It must also be accompanied by the publication of a circular containing details of the disposal and any proposed change of business together with the information specified above and a notice convening the general meeting.

**Investing company**
Where the effect of the disposal is to divest the AIM company of its trading business or assets, it will be treated as an ‘investing company’ and must adopt an investing policy at the general meeting. The investing company will then have 12 months to make one or more acquisitions which constitute a reverse takeover or otherwise implement the investing policy.
Financial reporting

An AIM company will be required to produce both half-yearly reports and annual accounts, respectively.

Half-yearly reports
Half-yearly reports (or interims) are required to be notified without delay and not later than three months after the end of the relevant six-month period. While the form of the interims must be consistent with the annual report, the required information includes just a balance sheet, an income statement, a cash flow statement and must contain the prior year comparative figures. These figures need not be audited.

Annual accounts
The annual accounts must be published by an AIM company and sent to shareholders not later than six months after the end of the period to which they relate. The accounts must be prepared in accordance with International Accounting Standards if the company is incorporated in an EEA country, unless the company is not a parent company, in which case it can prepare its accounts in accordance with the accounting and company legislation and regulations that are applicable in its country of incorporation. A company incorporated in a non-EEA country must prepare its accounts in accordance with IAS or certain prescribed GAAP standards.

The accounts produced must also contain details of any transaction with a related party, even if it has been previously disclosed, where any of the class tests exceed just 0.25 per cent. The identity of the related party and the consideration for the transaction must be disclosed.

In addition, details of directors’ remuneration must also be disclosed for the past financial year, including payments such as salaries, share options, non-cash benefits and contributions to pensions schemes.

Website disclosures

Under Rule 26, an AIM company must maintain an up-to-date website, free of charge, including detailed information on the company such as:

- a description of its business
- names and biographical details of the directors
- copies of certain company documents (eg constitutional documents)
- the company’s latest admission document
- its most recent half yearly and annual accounts
- all notifications released in the last 12 months
- identity and percentage holding of significant shareholders.

Creating and maintaining a secondary market

Why maintain a secondary market?
In order for a company’s share price to reflect company performance, there needs to be sufficient liquidity in the company’s shares. Liquidity is a term used to describe the ability of investors to buy and sell shares in a company. The higher the liquidity of a company, the higher the daily volume of shares traded.

Market and trading considerations

Following a successful IPO, there are a number of matters which a company should consider in order to maximise its success on the market:

Research coverage
Many companies on AIM attract less research coverage than their larger peers. Often the economics and low commissions from smaller or less liquid companies mean that multiple brokers will not initiate coverage on a stock.

In a common scenario, where a company is covered only by the house broker, it may seek to expand its research coverage. If other brokers will not initiate coverage, the company may consider paid-for research coverage or the appointment of a joint broker.

Wide market maker bid and ask price
It is not uncommon for the spread – the difference between the bid and ask price – to be quite wide in smaller or less liquid AIM companies. Adding one or more new market makers can assist in reducing the difference between the buy and sell prices. Improving liquidity and daily volumes may also reduce the spread.
Improving liquidity
Many companies actively seek to increase daily volumes in an effort to improve liquidity. One way of achieving this is by increasing the number of private investors on the shareholder register as private investors tend to trade more regularly than institutional investors and hold much smaller shareholdings. Typically, they also have varied investment strategies, investment criteria and risk requirements and much of the daily volume in AIM companies is brought about by these small private investors.

Attracting private investors can take a significant investment in management time. There are a number of ways a company can attract private client investors including:

1) Incorporate private client brokers (PCBs) in investor roadshows, particularly around the results reporting cycle. Usually, the company’s advisers can arrange for the company to have meetings with several of the larger PCBs.

2) Attend private investor events. There are a number of private investor events that allow companies to present to a large private investor audience.

3) Increasing independent research and paid-for research to provide investors with further information on the company and broaden the potential investor audience.

4) Press coverage, including magazines and journals. Although the broadsheet newspapers may not provide regular coverage of smaller AIM companies, some investor magazines and journals focus specifically on them.

Directors’ ability to buy shares
Directors in an AIM company will often hold or seek to hold shares in the company on whose board they sit. This can be problematic as directors of fast-growing businesses may often be in possession of unpublished, price-sensitive information regarding company results.

Factors affecting liquidity
strategy and potential acquisitions, therefore preventing them from dealing.

It can be frustrating if the company is making good progress but the directors cannot invest in the company ‘like ordinary shareholders’. It is typical therefore to see directors of an AIM company take the opportunity to buy shares after the announcement of the full- or half-year results when up-to-date financial information has been made public. It is important for the board of an AIM company to have a clear and transparent policy for directors’ dealings. An AIM company may seek to implement the policy at IPO following consultation with its Nomad.

**Corporate governance**

Corporate governance is the set of principles by which a board of directors manages a company’s affairs to protect shareholders’ interests. Effective corporate governance helps to ensure that a company is administered for the benefit of shareholders and not merely for the benefit of those who run the company. Where matters of doubt arise on issues regarding corporate governance, AIM companies should consult their Nomad.

The main source of these principles is the UK Corporate Governance Code (the ‘Code’) which is kept under review by the Financial Reporting Council. Compliance with the Code is mandatory for companies listed on the Main Market of the London Stock Exchange (those admitted to trading on the Official List) but is voluntary for AIM companies. Compliance with the Code by AIM companies is, however, widely regarded as good practice and has become expected of larger AIM companies. Many investing institutions expect their investee AIM companies to comply with the Code or set out the reasons for non-compliance in much the same way as Main Market companies have to adopt the ‘comply or explain’ principle.

**Guidelines for compliance**

For many AIM companies, the costs of full compliance with the Code would outweigh the benefits to the average shareholder. Other AIM companies simply cannot comply with all of the terms of the Code. For these reasons, some organisations, notably the Quoted Companies Alliance (QCA) and the National Association of Pension Funds, have produced guidelines which are designed to help AIM companies understand how best to achieve Code compliance within the scope of resources available to them. Both are based on the provisions of the Code and it is here where the underlying guidance is to be found. An AIM company should discuss with its Nomad which corporate governance guidelines it will seek to follow and implement.

The principles of the Code deal with governance under the following broad headings:

- directors
- directors’ remuneration
- accountability and audit
- relations with shareholders; and
- institutional shareholders.

The overarching goal is to ensure that a company’s board is sufficiently independent, experienced and efficient to enable it to deal effectively with company affairs in a timely way. As such, the QCA guidelines set out the key features of governance which will help a board operate efficiently, effectively, in an entrepreneurial way and in a way which benefits all shareholders over the longer term. These are summarised in the box opposite.

**Maintaining committees**

The board of an AIM company should also set up, maintain and review the terms of reference of an audit committee, a remuneration committee and, more rarely, a nominations committee.

**Audit committee**

The audit committee should comprise at least two members and all should be independent non-executive directors. Most AIM companies have an audit committee. Its formal terms of reference will include:

- monitoring, alongside the auditors, the integrity of the financial statements, company announcements regarding performance and financial reporting judgments
- reviewing internal controls
- reviewing the internal audit function, if any, or considering whether one should be created
- making recommendations regarding the appointment, reappointment and remuneration of the external auditor
- monitoring the performance and independence of the external auditor
- developing and implementing the policy for using the external auditor for services other than audit services, bearing in mind relevant ethical guidance; and
- reviewing the whistleblowing policy.

**Remuneration committee**

The remuneration committee should also comprise at least two members who should all be independent
### Corporate governance guidelines

#### Efficient

- A company board should not be overweight but should be lean enough to make decisions in a timely way.
- The decision-making process should be transparent.
- Responsibilities for different areas of company business should be clearly laid out.
- The mechanism for the protection of the company's assets should be clearly spelt out.
- The board should possess the right skills to do the job expected of them.
- Relevant information must be provided in a timely way to permit informed decisions.
- All board members should play an active role in the decision-making process.
- The board should understand the longer-term objectives of the business.
- Board members should play an active part in setting and testing strategic objectives.

#### Effective

- The board should have a formal schedule of matters for which it is responsible. The board should establish an audit committee and a remuneration committee with clear terms of reference.
- The roles of chairman and chief executive should be performed by different people. It should be clear who is responsible for running the board of directors and who has executive responsibility for the running of the business. No one director or group of directors should have undue influence.
- There should be a regular formal review of internal controls, the results of which should be reported to shareholders.
- An appraisal process helps ensure that directors have the relevant skills and identifies those who lack them. A nominations committee is helpful in formalising this process and keeping it objective.
- Those responsible for providing information should be aware of what is required of them and when.
- There should be a formal agenda of matters reserved for the board's attention and individuals board members views should be minuted.
- An open dialogue with shareholders is essential.
- Regular attendance at board meetings by non-executives should be encouraged.

#### Entrepreneurial

- There should be a good balance of executive and non-executive directors sufficient to ensure objectivity but to avoid inefficiencies.
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#### Long-term benefit of all shareholders

- All board members should play an active role in the decision-making process.
- The roles of chairman and chief executive should be kept separate and at least two non-executive directors should be appointed to the board. It should be clear how the board protects shareholders from the risks of concentration of power.
- All directors need to be aware of their duties and reporting responsibilities.
- The channel for communicating transactions and dealings in shares must be clear.
- The board is responsible for maintaining an open dialogue with shareholders and ensuring the company business is run to seek to achieve those goals.

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**Corporate governance guidelines...and notes**

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**Entrepreneurial**

- There should be a good balance of executive and non-executive directors sufficient to ensure objectivity but to avoid inefficiencies.
- The board should have a formal schedule of matters for which it is responsible. The board should establish an audit committee and a remuneration committee with clear terms of reference.
- The roles of chairman and chief executive should be performed by different people. It should be clear who is responsible for running the board of directors and who has executive responsibility for the running of the business. No one director or group of directors should have undue influence.
- There should be a regular formal review of internal controls, the results of which should be reported to shareholders.
- An appraisal process helps ensure that directors have the relevant skills and identifies those who lack them. A nominations committee is helpful in formalising this process and keeping it objective.
- Those responsible for providing information should be aware of what is required of them and when.
- There should be a formal agenda of matters reserved for the board's attention and individuals board members views should be minuted.
- An open dialogue with shareholders is essential.
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**Long-term benefit of all shareholders**

- All board members should play an active role in the decision-making process.
- The roles of chairman and chief executive should be kept separate and at least two non-executive directors should be appointed to the board. It should be clear how the board protects shareholders from the risks of concentration of power.
- All directors need to be aware of their duties and reporting responsibilities.
- The channel for communicating transactions and dealings in shares must be clear.
- The board is responsible for maintaining an open dialogue with shareholders and ensuring the company business is run to seek to achieve those goals.

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**Efficient**

- A company board should not be overweight but should be lean enough to make decisions in a timely way.
- The decision-making process should be transparent.
- Responsibilities for different areas of company business should be clearly laid out.
- The mechanism for the protection of the company's assets should be clearly spelt out.
- The board should possess the right skills to do the job expected of them.
- Relevant information must be provided in a timely way to permit informed decisions.
- All board members should play an active role in the decision-making process.
- The board should understand the longer-term objectives of the business.
- Board members should play an active part in setting and testing strategic objectives.

**Effective**

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**Non-executive directors. Most AIM companies have a remuneration committee whose formal terms of reference will include:**

- determining policy for setting remuneration of the chairman, chief executive and other senior management to whom delegation of this role is deemed appropriate by the board. No director or manager should be involved in any decisions as to their own remuneration
- determining targets for performance-related pay schemes
- determining policy and scope of pension provisions for executive directors ensuring that contractual
term on termination and payments made are fair and do not reward failure within the agreed policy
• determining the total reward package for all executive directors including bonuses, incentive payments and share options
• coordinating with the nominations committee, where there is one, as to remuneration to be offered to incoming directors
• keeping abreast of changes in employee benefit structures throughout the company
• setting the policy for agreeing expenses claims from the chairman and chief executive
• ensuring remuneration is properly disclosed in accordance with relevant legislation; and
• setting the terms of reference of remuneration consultants, if any are used.

Nominations committee
Recommendations to the board regarding new board appointments should be made by a nominations committee, where an AIM company has one. The nominations committee can comprise the whole board, though a majority of its members should be independent non-executives. Nominations committees are rare among AIM companies and the Nomad can provide assistance in reviewing and setting its terms of reference.

Disclosure
The annual report should include a detailed statement of how the company achieves good corporate governance. An AIM company should formally review and minute the mechanisms by which it has complied with the principles of corporate governance. In line with Rule 26 of the AIM Rules, AIM companies should publish or make available on their website the terms and conditions of appointment of non-executive directors and the terms of reference of the audit committee, remuneration committee and, if appropriate, the nominations committee.

In summary
For an AIM company embarking on life as a public company, the value of good corporate governance should not be underestimated: a demonstrably robust internal control structure, a willingness to deal in an open and straightforward manner with shareholders and the market at large, an independent and responsible board – it should come as no surprise that bodies representing the investor community, like the Association of British Insurers and the National Association of Pension Funds, put great store by companies with a good corporate governance culture.

The process of putting in place the key attributes of strong corporate governance should improve the way a company is run and thereby make it more attractive to the wider investor community, allowing it better access to the deep pool of sophisticated capital available to companies on the London markets.
If you really want to grow, start big.

Seymour Pierce is one of the UK’s leading independent investment banks for companies wanting to list on AIM. We’ve advised clients operating in virtually every industry and ranging in size from start-ups to the largest in the AIM sector. In fact, during the past five years, we’ve raised over £1.5 billion to help our clients achieve their objectives.

Ambitious?
If growth is your goal, our experience offers a big advantage.
Call Jonathan Wright or Mark Percy today on +44 (0)20 7107 8000.
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