



21 December 2011



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Stock Exchange

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**STOCK EXCHANGE
AIM DISCIPLINARY NOTICE**

AD11

PUBLIC CENSURE AND FINE – SEYMOUR PIERCE LIMITED

AIM DISCIPLINARY COMMITTEE

PUBLIC CENSURE AND FINE

**In relation to the conduct of
SEYMOUR PIERCE LIMITED
for
Breaches of Rules 14, 16, 17 and 18
(including AR2, OR1 and OR2 of Schedule Three) of the
AIM Rules for Nominated Advisers, February 2007 (the “Nomad Rules”)**

SUMMARY

1. The London Stock Exchange plc (the “**Exchange**”) of 10 Paternoster Square, London EC4M 7LS, announces that, for the reasons listed below and based on the facts and matters set out, on 20 December 2011 an AIM Disciplinary Committee (“**ADC**”) appointed pursuant to the AIM Disciplinary Procedures and Appeals Handbook (“**Handbook**”) approved a Consent Order agreed between the Exchange and Seymour Pierce Limited (“**Seymour Pierce**”) which imposes the following sanctions on Seymour Pierce:
 - a. Seymour Pierce is hereby censured by the ADC in the terms set out in this Public Censure;
 - b. Seymour Pierce is liable to pay a fine in the aggregate amount of £400,000 (inclusive of costs) to be due and payable as follows:

- i. £200,000 to be invoiced by the Exchange and paid in accordance with paragraph C23.5 of the Handbook;
- ii. The remaining £200,000 (“**suspended fine**”) will become payable if in the future an ADC (or AIM Appeals Committee, if applicable) imposes a sanction on Seymour Pierce (or any successor firm) in accordance with the Handbook, that both:
 - constitutes a censure and/or removal from the register together with publication of such action; and
 - relates to any acts and/or omissions of Seymour Pierce (or any successor firm) which commence within two years of the publication of this Public Censure.

If the suspended fine becomes payable, it shall be due upon publication of such disciplinary action. For the avoidance of doubt, the disciplinary action in relation to such future acts and/or omissions may take place outside of the two year period referred to above. Further, this arrangement does not prejudice the Exchange’s right to seek a fine in respect of the matter(s) that give rise to any such further sanction, nor does it restrict the Exchange from undertaking any disciplinary action against Seymour Pierce should it think fit.

2. These sanctions are imposed on Seymour Pierce in respect of breaches of Rules 14, 16, 17 and 18 (including AR2, OR1 and OR2 of Schedule Three) of the Nomad Rules which occurred in relation to the period from early 2010 to early 2011 in respect of:
 - a. Seymour Pierce’s conduct as nominated adviser to an AIM company, in particular in relation to its failure to advise properly the AIM company in relation to: (i) the accuracy of notifications made by such company and its compliance with Rule 10 of the AIM Rules for Companies (“**AIM Rules**”); and (ii) the need for announcements to be made by such company pursuant to AIM Rule 11 in the face of a changing financial situation; and
 - b. Seymour Pierce’s conduct as proposed nominated adviser to a company seeking admission to AIM in particular, in relation to the due skill and care exercised in undertaking pre-admission due diligence in relation to the applicant company and its directors.ⁱ
3. In reaching its decision to settle the disciplinary action by way of Consent Order, the Exchange has taken into account the matters set out in paragraph 50, in particular the assurances given to it by new senior management of Seymour Pierce that measures are being taken to ensure that such breaches do no reoccur.

ⁱ The Exchange makes no finding in relation to the conduct of the relevant client companies or individuals involved with them and to avoid the inference of liability or blame on the part of the companies or individuals the Exchange does not identify them in this public censure.

THE ROLE OF A NOMINATED ADVISER

4. AIM is designed to facilitate the admission to trading to a public market of small and growing companies to enable them to raise capital, by balancing the public interest to protect and inform investors with the need for companies to control the costs associated with being admitted to a public market.
5. Pursuant to this broad objective, the AIM regulatory framework is designed so that the Exchange delegates certain important regulatory responsibilities to nominated advisers, being firms that the Exchange approves for this role where they meet the criteria set out in the Nomad Rules.
6. Accordingly, AIM Rule 1 provides that in order for a company to be eligible for AIM, it must appoint a nominated adviser and that all companies admitted to AIM must have a nominated adviser at all times. Further, the nominated adviser *"is responsible to the **Exchange** for assessing the appropriateness of an **applicant** for **AIM**, or an existing **AIM company** when appointed as its **nominated adviser**, and for advising and guiding an **AIM company** on its responsibilities under [the AIM Rules]"*. This role is also set out in Nomad Rules 14 and 17.
7. The proper conduct of the nominated adviser in accordance with the Nomad Rules is therefore fundamental to the proper operation of AIM. The Exchange therefore requires nominated advisers to act with due skill and care at all times in accordance with Nomad Rule 16.

RELEVANT REGULATORY PROVISIONS

8. Under Nomad Rule 29 and in accordance with the Handbook, if the Exchange considers that a nominated adviser has breached its responsibilities under the Nomad Rules or the AIM Rules, it can refer the matter to the ADC.
9. If the ADC approves a consent order agreed between the Exchange and the nominated adviser, it may impose one or more of the following sanctions:
 - a fine;
 - a censure;
 - remove the nominated adviser from the register;
 - publish the fact that the nominated adviser has been fined and/or censured and the reasons for such fine or censure.
10. Extracts from the AIM Rules and Nomad Rules that are relevant to this Public Censure are set out in the Appendix to this document, but in particular:
 - a. Nomad Rule 14 states that: *"The **nominated adviser** to an **AIM company** is responsible to the **Exchange** for assessing the appropriateness of an **applicant** for **AIM**";*
 - b. Nomad Rule 16 states that: *"A **nominated adviser** must act with due skill and care at all times";*
 - c. Nomad Rule 17 states that: *"The **nominated adviser** is responsible to the **Exchange** for advising and guiding an **AIM company** on its responsibilities under the **AIM Rules for Companies** both in respect of*

*its **admission** and its continuing obligations on an on-going basis. A **nominated adviser** must be available to advise and guide **AIM companies** for which it acts at all times”;*

- d. Nomad Rule 18 states that: *“In deciding whether a **nominated adviser** has complied with these rules and the undertakings it has provided to the **Exchange** in its **nominated adviser’s declaration**, the **Exchange** will have regard to the matters set out in Schedule Three, which should be exercised with due skill and care and after due and careful enquiry”.*

BACKGROUND

11. Seymour Pierce has been approved by the Exchange to act as a nominated adviser since 1995.
12. The Exchange (acting through its AIM Regulation function) undertook a routine visit to review Seymour Pierce’s conduct as a nominated adviser in May 2010 (“**2010 Nomad Visit**”).
13. As a result of the 2010 Nomad Visit, the Exchange raised various concerns and recommendations with Seymour Pierce in relation to the standard of work required of it pursuant to the Nomad Rules. Further to this, the Exchange did not initially receive from Seymour Pierce the level of co-operation it had expected or required in relation to the matters it had raised.
14. Prior to the 2010 Nomad Visit, the Exchange was also undertaking investigations of various potential breaches of the Nomad Rules and following the 2010 Nomad Visit, the Exchange commenced new investigations.
15. As a result of these investigations, the Exchange has referred to the ADC material breaches by Seymour Pierce of the Nomad Rules in relation to two matters in particular. The Exchange considers that these matters illustrate similar concerns to those raised as part of the 2010 Nomad Visit and constitute material failings in relation to the standard of due skill and care expected of a nominated adviser.

PARTICULARS OF BREACHES

16. The Exchange has found that Seymour Pierce breached the Nomad Rules as set out below.

CASE 1

Background

17. Seymour Pierce acted as nominated adviser to an AIM company (the “**AIM Company**”) during which time the AIM Company made a transformational acquisition which, amongst other consequences, resulted in it inheriting some historical indebtedness (“**Historical Debt**”) which was notified in the AIM Company’s group accounts.
18. The matters to which this censure relates took place during a period of a few months when the AIM Company was suffering a deteriorating working capital position because:

- a. Its existing banking facilities had been reduced and were later withdrawn, and the negotiation of alternative facilities with new lenders was on going and uncertain; and
- b. There had been an increase in the amount of the Historical Debt of some 40% although the final quantum was in dispute.

19. In particular, during the period:

- a. The AIM Company notified via a regulatory information service the provision of a material directors' loan to provide short term working capital for the AIM Company ("**Announcement 1**"). The notification did not mention the underlying reasons for the loan, namely that it had transpired that the AIM Company had significant working capital constraints at that time because of unexpected changes in its banking facilities, which also left it unable to meet some of its payroll obligations.
- b. The AIM Company notified via a regulatory information service that, inter alia, the overall AIM Company's group trading was in line with the board's expectations, that the group had an overall strong order book and that the AIM Company was in negotiations in relation to its Historical Debt ("**Announcement 2**"). The notification did not mention the deterioration in the AIM Company's working capital position or the increased but disputed Historical Debt. Immediately following this notification the share price of the Company rose by over 80%.

20. A few weeks after this second announcement, the AIM Company's shares were suspended from trading on AIM pursuant to AIM Rule 40 pending clarification of its financial position, and the directors appointed administrators just over a week later.

Involvement of Seymour Pierce

21. During the relevant period, Seymour Pierce was aware through discussions with the AIM Company that it was experiencing working capital difficulties as described above and that the AIM Company may be unable to repay the Historical Debt unless it was able to negotiate new facilities and/or undertake an equity placing to raise funds. Both the AIM Company's bank financing and its proposed placing remained under negotiation during the relevant period.

22. It was not until over two weeks after Seymour Pierce had been first notified of the AIM Company's working capital constraints and increased Historical Debt, that Seymour Pierce identified and discussed with the AIM Company that there was an information gap in the market and that the AIM Company should consider releasing a trading statement. However, it appears that in light of the uncertainty of the AIM Company's proposed placing, the advice focused on the need to release proposed placees from being insiders rather than on a consideration of the requirements to make an announcement in relation to the AIM Company's financial circumstances for the purpose of compliance with AIM Rule 11.

23. Further to this, Seymour Pierce discussed with the AIM Company the requirement to make such a notification on at least another four occasions but

no notification was made for a further seven weeks (being Announcement 2). It is noted that on some of the occasions when Seymour Pierce did advise the AIM Company that a notification was required to update the market, Seymour Pierce either failed to follow this up adequately with the AIM Company to ensure that the matter was considered or resolved, or that the AIM Company raised concerns that a notification would adversely affect its business and appears to have either persuaded Seymour Pierce that a notification was not necessary or to delay discussion of the matter to another day.

24. During the discussions between Seymour Pierce and the AIM Company, Seymour Pierce failed substantively to question and/or challenge the AIM Company on its views or consider the impact of the Historical Debt and banking discussions on the AIM Company's working capital and general financial position, in particular in relation to the AIM Company's obligations under AIM Rules 10 and 11.
25. During the period Seymour Pierce had limited visibility of the working capital of the AIM Company and relied almost solely on the AIM Company's confirmations that the working capital constraints were a temporary issue. Seymour Pierce was, however, aware that there was more substantive financial information available in the form of reports prepared by two leading accountancy firms. However, whilst Seymour Pierce requested those reports it failed to substantively follow-up such requests or take substantive steps to obtain copies.
26. Seymour Pierce was fully involved in the drafting and finalisation of Announcement 1 and Announcement 2 both of which did not describe the AIM Company's true financial position and in respect of the latter provided a misleading impression that the outlook of the AIM Company was positive, following which there was a very substantial share price increase.

Particulars of breaches

27. Seymour Pierce has breached Nomad Rules 16, 17 and 18 (with regard to OR1 and OR2 of Schedule Three) as follows:
 - a. Seymour Pierce did not fulfil its obligation to advise and guide the AIM Company with due skill and care in relation to the AIM Company's responsibilities under the AIM Rules (in particular AIM Rules 10 and 11) to make without delay notifications in relation to the deterioration of its working capital position and the extent of its liabilities. In particular, Seymour Pierce:
 - i. Did not consider the impact of the information it was made aware of in relation to the AIM Company's working capital and general financial condition and increased liabilities and did not give adequate consideration to AIM Rules 10 and 11;
 - ii. Did not substantively question or challenge the AIM Company, including failing to obtain visibility of the financial condition by following up requests for more substantive information;

- iii. When it did advise that a notification was required, it did not substantively follow up on its advice in an appropriate or timely manner.
- b. Seymour Pierce failed, when undertaking a prior review of certain notifications made by the AIM Company to properly consider the AIM Company's compliance with the AIM Rules (in particular AIM Rule 10) in relation to the adequate disclosure of the deterioration of the AIM Company's working capital position and the extent of its liabilities.

CASE 2

Background

28. Seymour Pierce was engaged to act as the nominated adviser for a proposed new applicant on AIM, in late 2010 (the "**New Applicant**"). Amongst relevant persons involved in the New Applicant was one of the proposed directors (the "**Key Person**"), who was also a founding and continuing material shareholder.
29. Through its own basic desktop searches and the information in the public domain and the director's declaration, Seymour Pierce became aware that the Key Person's previous corporate history raised some potential concerns.
30. As part of its due diligence, Seymour Pierce discussed with the Key Person the adverse information it had identified, but accepted (without further questioning) the Key Person's explanation.
31. Further to instructions from its new issues committee ("**New Issues Committee**") Seymour Pierce commissioned a public source report ("**the Public Source Report**"). Notwithstanding that Seymour Pierce had been put on notice of the potential concerns relating to the Key Person, Seymour Pierce's instructions to the due diligence agent were to undertake a standard 48 hour turnaround report on the Key Person and other directors of the New Applicant. Seymour Pierce did not consider that a more comprehensive report was required. The standard report was restricted to public record research only rather than any substantive, investigative enquiries. The instructions Seymour Pierce gave to the agent were to verify the information set out in the director's declaration rather than to look for any relevant or new information relating to the Key Person. In reality, given its limited scope, the report was effectively a further database check rather than an independent third party due diligence report.
32. The Public Source Report again highlighted the already known potential concerns regarding the Key Person, as well as significant new matters, which might impact on reputation and integrity. The Public Source Report concluded that a number of aspects of the information uncovered raised concerns about the Key Person and recommended that further enquiries be undertaken to verify the findings.
33. Following receipt of the Public Source Report, Seymour Pierce failed to follow up the potential concerns. Notwithstanding the material issues raised in the Public Source Report relating to the Key Person, Seymour Pierce maintained that it was satisfied as to his suitability to be a director. Seymour Pierce has

stated that it did not believe that the Public Source Report was reliable because it was too subjective; notwithstanding the fact it was commissioned from a specialist independent due diligence firm. Rather than seeking further information or corroboration from independent sources, Seymour Pierce decided instead to rely almost exclusively on representations from the Key Person or his associates to satisfy itself regarding the potential concerns that had been highlighted. In the Exchange's view those explanations were in any event inadequate and in some instances even raised further questions which should have been further explored, but were not.

34. The New Issues Committee of Seymour Pierce considered the New Applicant and the transaction on three separate occasions. On each of these occasions no substantive discussion was undertaken regarding the suitability of the Key Person to be a director. Even where the New Issues Committee was informed that the due diligence flagged certain disclosures of concern in relation to the Key Person, the committee failed to question adequately the Seymour Pierce executives about what these concerns were or how they had become satisfied that these concerns did not affect suitability of the Key Person to be a director of the New Applicant.
35. Following approval from the New Issues Committee to proceed with the transaction, Seymour Pierce submitted to the Exchange a Schedule One application relating to the proposed admission of the New Applicant.
36. The Exchange raised concerns with Seymour Pierce about its performance of its obligations in particular pursuant to Nomad Rules 14, 16 and 18 and advised Seymour Pierce that prior to any release to the market of the Schedule One, it expected Seymour Pierce to undertake further due diligence as recommended in the Public Source Report (in particular in relation to the investigation of potentially adverse information) so that Seymour Pierce could properly assess the Key Person's suitability to be a director of a public company and thereby properly fulfil its nominated adviser obligations.
37. Notwithstanding the above, Seymour Pierce decided to commission another public source report from a different agent. This public source report (the "**Second Public Source Report**") again was limited in scope, rather than seeking to eliminate or substantiate the potential concerns and thereby properly assessing the Key Person's suitability. Nevertheless, this second report continued to raise questions concerning the Key Person which in the Exchange's view required further investigation. Seymour Pierce again discounted the issues raised in this second report.
38. Following receipt of the Second Public Source Report, the Exchange expressed to Seymour Pierce its concerns that Seymour Pierce continued to fail to understand its responsibilities as nominated adviser. The Exchange confirmed to Seymour Pierce that should it wish to proceed with the admission of the New Applicant, Seymour Pierce should undertake a properly scoped investigative report (as opposed to a limited, public source report) so that it might properly assess suitability.
39. Seymour Pierce then commissioned a comprehensive investigation report based on interviews of intelligence sources as well as consideration of public information sources (the "**Third Party Due Diligence Report**"). The report

provided intelligence that supported rather than contradicted the issues of concern flagged in the previous reports and also raised a number of further, detailed and significant questions. In particular, this report did not allay the key concerns raised by the previous due diligence.

40. Notwithstanding the above, Seymour Pierce continued to maintain that the Third Party Due Diligence Report (as with the other two public source reports) was highly subjective and that in the absence of evidence to prove the allegations raised, in Seymour Pierce's judgement the representations received by it from the Key Person were sufficient to negate the concerns raised in respect of any questions of integrity and reputation.
41. At this stage the Exchange gave serious consideration to exercising its powers under AIM Rule 9 to refuse the New Applicant's admission to AIM. The exercise of this power is extremely rare and consideration of its use only arises in circumstances where an applicant's admission, in the view of the Exchange, is likely to affect the orderly operation or integrity and reputation of AIM. In the event, Seymour Pierce did not proceed with the New Applicant's Schedule One submission.

Particulars of breaches

42. Seymour Pierce has breached Nomad Rules 14, 16 and 18 (AR2 of Schedule Three in particular) as it did not adequately assess the appropriateness of the New Applicant and its securities for AIM, including an investigation and consideration of the suitability of each director, with due skill and care.
43. In performing its responsibilities for assessing the appropriateness of an AIM applicant, and as part of investigating and considering the suitability of an AIM applicant's directors, the nominated adviser must satisfy its duties in such a way that protects the reputation and integrity of AIM. In particular, the Exchange considers that:
 - a. The nominated adviser must act with due skill and care in satisfying itself as to the suitability of the AIM applicant's directors;
 - b. In circumstances where there are concerns relating to a director, the nominated adviser should not conclude that the director is suitable unless and until those concerns have been resolved on a reasonable and verifiable basis as a result of further reasonable enquiry by the nominated adviser; and
 - c. If the concerns cannot be resolved then the nominated adviser may be unable to conclude that the director is suitable, even in circumstances where the concerns remain unproven.
44. Accordingly, whilst the Exchange does not consider that concerns about the past activities of an individual should necessarily preclude that person from being considered suitable to act as a director of an AIM applicant, it is incumbent on a nominated adviser to undertake sufficient investigations and enquiries to alleviate any such concerns before assessing the AIM applicant as appropriate for admission to AIM.

45. Having been alerted by its desktop searches to material issues of concern relevant to its consideration of the Key Person's suitability, Seymour Pierce should have ensured that it undertook a meaningful analysis of the due diligence required and how that it could best be satisfied as to those concerns. In such circumstances, the Exchange does not regard a basic public source report with a limited scope to be necessarily adequate for the purposes of the Nomad Rules. Due diligence should be meaningful in giving the nominated adviser a better understanding of the issues and any emerging concerns rather than just verifying the director's declaration, as had been the approach taken by Seymour Pierce. The Exchange therefore expected Seymour Pierce, in these circumstances, to commission a detailed investigative report (rather than the public source report with limited scope which was actually commissioned by it).
46. Notwithstanding the limits of the Public Source Report (in light of Seymour Pierce's instructions as to scope), the Exchange considers that the issues it raised clearly warranted further investigation and enquiry. However, Seymour Pierce's follow up of this due diligence was inadequate. In particular, when an independent report raises potentially relevant issues which lead to questions about an individual, the nominated adviser is required to consider appropriate follow-up investigations and independent corroboration in order that it can be in a position to make an informed judgement of the impact of such information on the person's suitability.
47. The Exchange further notes that Seymour Pierce placed undue reliance upon responses given by the Key Person and accepted the Key Person's explanations without appropriate challenge or independent corroboration. In particular, Seymour Pierce failed to consider substantively explanations provided by the Key Person which, on the face of it, gave rise to further questions and/or concerns. The Exchange notes that in certain circumstances explanations given by an individual may be helpful to provide some context to the issue. However, it is the Exchange's view that in circumstances such as those outlined here, the significant weight which Seymour Pierce gave to the Key Person's responses was not appropriate.
48. Further, the Exchange considers that the New Issues Committee's performance in assessing the regulatory risks associated with the transaction was inadequate. The Exchange expects that in order to satisfy its nominated adviser obligations in assessing appropriateness of companies, nominated advisers are required to have substantive procedures to consider the regulatory risks of an AIM admission. These procedures should, inter alia, be able to adequately identify all the key risks associated with the proposed AIM admission, provide a forum where substantive consideration of the risks is encouraged and provide regulatory challenge (independent of the transaction team) in light of such risks.

SANCTION - MATTERS TAKEN INTO ACCOUNT

49. In determining the appropriate sanction to impose on Seymour Pierce in respect of the above breaches of the Nomad Rules, the following was taken into account, in addition to those matters set out in paragraphs 17- 48:
- a. That the role of the nominated adviser to advise and guide AIM companies on their obligations under the AIM Rules and to assess the

appropriateness of companies for AIM is fundamental to the proper operation of AIM.

- b. The breaches of the Nomad Rules are serious in nature and relate to:
 - i. A lack of adherence to proper procedures;
 - ii. A lack of regard for the regulation of AIM;
 - iii. A failure to advise and guide an AIM company on its responsibilities under the AIM Rules; and
 - iv. A failure to consider effectively the appropriateness of an applicant company for AIM, and in particular its directors.
- c. Seymour Pierce's breaches, demonstrated by the cases referred to above, are illustrative of the concerns raised by the Exchange as part of the 2010 Nomad Visit.
- d. The breaches had, in respect of Case 1 a significant market impact and, in respect of Case 2 the potential to damage the reputation and integrity of AIM if the admission had gone ahead.
- e. Prior to the intervention of Seymour Pierce's new management, Seymour Pierce did not give the appropriate level of co-operation to the Exchange.

50. In agreeing to settle this disciplinary action by way of Consent Order, the Exchange took the following matters into account:

- a. The new senior management of Seymour Pierce has engaged co-operatively with the Exchange and has given assurances that the Exchange's concerns have been taken extremely seriously and that measures are being taken to ensure that such breaches do not reoccur.
- b. The Exchange has no reason to believe that Seymour Pierce did not act in good faith in relation to the matters that are the subject of this disciplinary action.
- c. Seymour Pierce has not been the subject of material disciplinary action prior to this.

AIM Regulation

APPENDIX – APPLICABLE RULES

AIM Rules

- AIM Rule 2 states that: “An **applicant** must provide the **Exchange**, at least ten **business days** before the expected date of **admission** to **AIM**, with the information specified by Schedule One”.
- AIM Rule 9 states that: “**The Exchange** may refuse an **admission** to **AIM** if it considers that:
 - ◇ *the applicant’s situation is such that admission may be detrimental to the orderly operation or reputation of AIM.*”
- AIM Rule 10 states that: “The information which required by these rules must be **notified** by the **AIM company** no later than it is published elsewhere. An **AIM company** must retain a **Regulatory Information Service** provider to ensure that information can be **notified** as and when required.

*An **AIM company** must take reasonable care to ensure that any information it **notifies** is not misleading, false or deceptive and does not omit anything likely to affect the import of such information”.*

- AIM Rule 11 states that: “An **AIM company** must issue **notification** without delay of any new developments which are not public knowledge concerning a change in:
 - ◇ *its financial condition;*
 - ◇ *its sphere of activity;*
 - ◇ *the performance of its business; or*
 - ◇ *its expectation of its performance,*

which, if made public, would be likely to lead to a substantial movement in the price of its AIM securities.”

- AIM Rule 40 states that: “**The Exchange** may suspend the trading of **AIM securities** where:
 - ◇ *Trading in those securities is not being conducted in an orderly manner;*
 - ◇ *It considers that an AIM company has failed to comply with these rules;*
 - ◇ *The protection of investors so requires; or*
 - ◇ *The integrity and reputation of the market has been or may be impaired by dealings in those securities.*

*Suspensions are effected by a **dealing notice**”.*

Nomad Rules

- The Introduction to the Nomad Rules states that *“Pursuant to the **AIM Rules for Companies**, a **nominated adviser** is responsible to **the Exchange** for assessing the appropriateness of an **applicant** for **AIM**...and for advising and guiding an **AIM company** on its responsibilities under the **AIM Rules for Companies**”*.
- Nomad Rule 14 states that: *“The **nominated adviser** to an **AIM company** is responsible to the **Exchange** for assessing the appropriateness of an applicant to **AIM**”*.
- Nomad Rule 16 states that: *“A **nominated adviser** must act with due skill and care at all times”*.
- Nomad Rule 17 states that: *“The **nominated adviser** is responsible to **the Exchange** for advising and guiding an **AIM company** on its responsibilities under the **AIM Rules for Companies** both in respect of its **admission** and its continuing obligations on an ongoing basis. A **nominated adviser** must be available to advise and guide **AIM companies** for which it acts at all times.”*
- Nomad Rule 18 states that: *“In deciding whether a **nominated adviser** has complied with these rules and the undertakings it has provided to **the Exchange** in its **nominated adviser’s declaration**, the **Exchange** will have regard to the matters set out in Schedule Three, which should be exercised with due skill and care and after due and careful enquiry.”*
- Schedule Three includes a set of 'numbered principles' which must be satisfied in all cases, followed by a non-exhaustive list of actions which the Exchange would usually expect the nominated adviser to fulfil in order to satisfy that principle.

AR2 of Schedule Three states that: *“In assessing the appropriateness of an **applicant** and its securities for **AIM**, a **nominated adviser** should (i) investigate and consider the suitability of each **director** and proposed **director** of the **applicant**; and (ii) consider the efficacy of the board as a whole for the company’s needs, in each case having in mind that the company will be **admitted** to trading on a **UK** public market.”*

*“In meeting this, the **nominated adviser** should usually:*

- ◇ *issue and review **directors’** questionnaires and review **directors’** CVs*
- ◇ *test the information revealed by the above questionnaires and CVs, for example by conducting press searches, Companies House checks, taking-up references and, where appropriate, obtaining third party checks. For **directors** who are not **UK**-based, appropriate investigations should be undertaken*
- ◇ *extend these investigations and considerations as appropriate to key managers and consultants who are discussed in the **admission document***

- ◇ consider undertaking such investigations in relation to **substantial shareholders** at **admission** as appropriate, especially where there is uncertainty as to their identity or where they are not established institutions, in particular to enquire about the existence of persons exerting control over the **applicant**
- ◇ analyse any issues arising from these investigations, in particular as to how they could affect the **applicant's** appropriateness to be admitted to **AIM** and be publicly traded
- ◇ consider each **director's** suitability and experience in relation to their (proposed) company role and consider whether each (proposed) **director** is suitable to be a **director** of a **UK** public company
- ◇ consider the board of **directors** as a whole in relation to the **applicant's** needs, for example given its type, size, expected profile and the fact that the **applicant** will be admitted to a **UK**-based, English-language public market
- ◇ consider, with the **directors** of an **applicant**, the adoption of appropriate corporate governance measures”.

In accordance with the definition set out in the AIM Rules “Director” means “a person who acts as a director whether or not officially appointed to such position”.

OR1 of Schedule Three states that: “The **nominated adviser** should maintain regular contact with an **AIM company** for which it acts...”

“In meeting this, the **nominated adviser**, should usually:

- ◇ maintain regular contact with the **AIM company**, in particular to be satisfied that the **nominated adviser** is kept up-to-date in order that it can advise the company on its obligations under the **AIM Rules for Companies** (especially the requirements of Rule 11 and to identify breaches of the **AIM Rules for Companies**)...”

OR2 of Schedule Three states that: “The **nominated adviser** should undertake a prior review of relevant notifications made by an **AIM company** with a view to ensuring compliance with the **AIM Rules for Companies**”.

In meeting this, the **nominated adviser** should usually:

- ◇ review in advance (although without prejudice to the requirement of Rule 10 to release information without delay) all **notifications** to be made by an **AIM company** for which it acts to ensure as far as reasonably possible that they comply with the **AIM Rules for Companies**.”