



31 January 2005

10 Paternoster Square
London EC4M 7LS
Telephone 020 7797 1000
www.londonstockexchange.com

**For the attention of the nominated advisers / advisers /
finance directors / company secretaries, all AIM companies** **AIM12**

STOCK EXCHANGE AIM NOTICE

AIM RULES – CONSULTATION

AIM ADMISSION DOCUMENTS

Introduction

1. The Exchange is consulting on a number of proposed changes to the *AIM Rules for Companies* (“the AIM Rules”). The proposed substantive changes are in respect of changes to the requirements for an AIM admission document (“admission document”) as a result of the implementation in the UK of EU Directive 2003/71/EC - the Prospectus Directive (“PD”) and the repeal of the POS Regulations (Public Offers of Securities Regulations 1995, (SI 1995/1537).

Background

2. PD requires a prospectus to be issued whenever securities over a certain amount are being offered to the public or where any securities are admitted to trading on an EU regulated market. With the implementation of PD in the UK (1 July 2005) the POS Regulations will be repealed.
3. The standard of information currently required for the purposes of an admission document is set out in Schedule 2 of the AIM Rules.

Paragraph (a) of Schedule 2 of the AIM Rules states that the information to be included in an admission document should be equivalent to that which would be required by the POS Regulations whether or not it is required to produce a document under those regulations.

In addition to that information, Schedule 2 also requires further information in relation to:

- Working capital;
- Profits forecasts (where contained in the admission document);
- Lock-ins;
- Directors disclosures;
- Promoters and;
- Substantial shareholders.

Prospectus Directive (“PD”)

4. From 1 July 2005, PD will be the primary source of legislation for determining whether a prospectus is required in relation to an offer of securities to the public. It will have a significant impact on the operation of the equity capital markets in the United Kingdom as well as across the EU.

In general, the PD will require the publication of a prospectus in the following circumstances:

- Where a company’s securities are admitted to an EU regulated market (such as the Exchange’s main market)
- Where an offer is made (on any market by any company – including private companies) to more than 100 persons **and** the aggregate value of the securities being offered is greater than €2.5m.

Under PD, an issuer will be required to produce a Share Registration Document. This Share Registration Document shall contain information about the issuer and shall be valid for a period of 12 months.

When the issuer decides to make an offer that will necessitate a prospectus, a Securities Note, which shall contain the information concerning the securities offered to the public, will also have to be produced. The information required in the Securities Note is dependent on the type of securities being offered. The prospectus can take the form of these two separate documents or combined in a single document.

Compliance with full PD will generally require a higher standard of information than the POS Regulations and is more prescriptive in terms of form and content of a prospectus.

5. On 12 October 2004, AIM ceased to be an EU regulated market and became an Exchange regulated market. AIM’s new regulatory status means that companies will **not** have to produce a full PD compliant prospectus on admission to AIM, unless an offer of securities is being made to the public as part of the company’s admission.

AIM companies will also be required to produce a full PD compliant prospectus in the following (non-exhaustive) circumstances where the transactions exceed the 100 persons and €2.5m limits:

- Rights issues;
- Open offers;
- Takeovers where the company’s securities are being offered as consideration; and
- Employee Share Options Schemes to more than 100 employees.

Proposed Rules

6. *Objective*

In assessing each of the options presented below, the Exchange's objective has been to ensure that a high standard of information for admission documents is maintained, while limiting, as much as possible, any increase in the time, effort and resources required by the company and its advisers during the admission process.

7. *Appropriate standard of information for admission documents*

Following implementation of PD, the POS Regulations will no longer have any legal effect in the United Kingdom. Consequently, the Exchange has considered several options as the standard of information required for an admission document from 1 July 2005. These options are as follows:

- Adopt the PD requirements with certain carve-outs to reflect the nature of AIM and the companies seeking admission to AIM (referred to as "AIM-PD").
- Maintain the current POS standard by copying the POS Regulations into the AIM Rules; or
- Await a possible POS2 regime to replace the current POS Regulations (provided HM Treasury decides to adopt such a regime).

8. The Exchange has considered each of these options carefully and undertook initial consultations with our AIM advisory groups and the AIM community.

Exchange's preferred option

9. *AIM-PD*

PD sets a new standard of information for prospectuses, which have to be produced when securities are admitted to trading on an EU regulated market and where securities are offered to the public.

However, the Exchange considers that certain types of information required by PD are **not appropriate** for AIM. Therefore the Exchange proposes to adopt PD with carve-outs, referred to as AIM-PD, as the standard for admission documents from 1 July 2005.

The minimum standard of information required under AIM-PD is intended to be broadly equivalent with the standard of information currently required by the POS Regulations.

Whilst AIM-PD carves-out the types of information required by PD, it allows the nominated adviser to require this additional information if it believes that it is appropriate. As such, the decision to carve-out the certain types of information required by PD will be at the nominated adviser's discretion.

This approach is consistent with the Exchange's overall objective of maintaining a high standard of information for admission documents while taking into account the nature of AIM and the companies admitted to it.

This approach has the following advantages:

- Ensures AIM continues to adopt an up to date and recognised standard (albeit with carve-outs);
- Allows advisers to focus on one standard for both AIM and main market transactions;
- Ensures consistency in the type of information seen by investors;
- Simplifies the process for companies wishing to move across to a regulated market; and
- Keeps the AIM rules simple by continuing to adopt a standard by reference

10. Attached with this notice is a marked-up version of the AIM Rules showing the proposed changes which would be necessary for the implementation of AIM-PD, reflecting:

- The repeal of the POS Regulations;
- The entry into force of the Prospectus Rules (drafted by the FSA) which implement PD;
- The carve-outs proposed by the Exchange from the requirements of PD for the purposes of the admission document; and
- The transition arrangements between POS Regulations and AIM-PD.

Question 1 – Do you support in principle the adoption of AIM-PD as the standard of information required for admission documents?

11. *Proposed amendments*

The specific amendments are set out in the attached mark-up of the AIM Rules. Set out below is a description of the more substantial amendments proposed by the Exchange.

Rule 4

In the event that a PD prospectus is required in accordance with the Prospectus Rules published by the UKLA, the Exchange cannot grant any exemptions or allow any omissions from the Prospectus since this authority is reserved by law to the UKLA. Hence the Exchange is explicitly excluding its power under Rule 4 with respect to Prospectuses.

Rule 25

This rule reflects the current position under POS Regulations. With the repeal of POS Regulations the exemption under Rule 25 is no longer available and consequently this rule must be deleted.

Rule 26

The proposed amendment maintains the position that an AIM company need not include financial information in its further admission document provided the company has been complying with AIM Rules. The amendment replaces the reference to POS Regulations with the relevant section of the Prospectus Rules.

Schedule Two

This schedule specifies the information required for an admission document and it is here that the main amendments have been made, as follows:

Paragraph (a)

With the repeal of POS Regulation, the Exchange proposes to adopt a new standard of information based on PD but with certain carve-outs (AIM-PD). The information required under PD is specified in Annexes I – III to the PD Regulation and is reprinted in the UKLA Prospectus Rules. For convenience, we have published with this consultation notice a copy of Annexes I – III. The proposed amendment refers to the PD requirements but makes them subject to the carve-outs which are listed in paragraph (b). In the event that a Prospectus is required, the Exchange has no power to amend or grant any exemption with respect to such Prospectus and therefore the carve-outs specified in paragraph (b) do not apply.

In order to allow the market to get used to the new standard of information, the Exchange proposes that, for a limited period, AIM companies may be able, on a case by case basis and after consultation with the AIM Regulation team, to submit an admission document based on the POS Regulations. This option is available provided the company is not obliged under the Prospectus Rules to submit a full PD Prospectus.

Paragraph (b)

This paragraph specifies the carve-outs from PD. The sections listed in this paragraph need only be included in the admission document at the nominated adviser's discretion. The copy of Annex I – III published with this notice shows in colour the information which is **not** required (subject to the nominated adviser's discretion) for an admission document under the proposed AIM-PD standard. The guidance notes for this paragraph give some clarification as to the meaning of and the way in which the nominated adviser should exercise its discretion.

The carve-outs are based on the Exchange's assessment and informal consultations with market participants and the AIM advisers' community. The carve outs were chosen with the overall objective of preserving the current admission process in terms of the level of detail required within admission documents whilst ensuring that AIM maintains high standards of regulation and transparency and keeps up to date with best market practice.

Paragraph (d)

The proposed amendment represents good practice and is now part of the requirements under PD.

Schedule Six, paragraph (b)

The proposed amendment reflects the repeal of the POS Regulations but does not make any substantial change to the rule itself.

Glossary

New definitions for the terms introduced in connection with PD are added ('Annex I, Annex II and Annex III', 'Prospectus' and 'Prospectus Rules'). These are purely technical and do not introduce any new concept or substantive matters. In addition the definition of 'POS Regulations' is amended and the definition of 'specified information' is deleted to reflect the repeal of POS Regulations.

Part Two – Guidance Notes

The guidance notes will be changed to accord with the amendments set out above, in order to provide clarification on any substantive changes introduced by the proposed amendments.

Question 2 – Do you agree that the carve-outs set out in Schedule Two, paragraph (b) of the AIM Rules (as attached with this notice) are set at a level which is broadly equivalent to the current POS Regulations or current market practice. If not, please state why you feel they are not broadly equivalent?

Question 3 – Are there any requirements of the current POS Regulations that are not required under PD that should be maintained?

Other options considered

12. *POS Regulations*

The POS Regulations were drafted by HM Treasury and are a legal standard. They are incorporated into the AIM Rules by reference. With the adoption of PD this will not be possible as the POS Regulations will be repealed and therefore cease to have effect in the United Kingdom.

As such, the only way to maintain them as the AIM admission standard would be to copy them in their entirety directly into the AIM Rules. In the short term, this would appear to be the most straightforward option. However, over the medium to long term there are a number of significant disadvantages with this approach.

Firstly, POS will no longer be a recognisable standard and this could damage the reputation of AIM from an investor perspective. This would directly impact the existing companies on AIM as well as affecting companies wishing to seek admission to AIM.

Secondly, maintaining POS would mean that AIM companies, nominated advisers and investors would need to be familiar with two standards of information (both PD and POS) for an admission document depending on the nature of the transaction they are doing. The Exchange feels that this could cause confusion and potentially impact on the process and cost of being admitted to AIM.

Finally, as time passes, it will become increasingly difficult to update this standard as any amendments will have to be done by the Exchange to a standard originally written and maintained by HM Treasury.

13. *POS2*

It is not clear whether any replacement for POS Regulations will be implemented by HM Treasury. A consultation by HM Treasury on this subject ended on 28 January 2005. The lack of certainty about the content of any replacement (should it materialise) means that we would not have as much control over the content of admission documents as we have with AIM-PD.

Question 4 – Do you think the Exchange should maintain POS Regulations (despite their repeal) as the standard of information for admission documents?

Responding to the consultation

14. Responses to this consultation should be sent by 4 March 2005 to:

Ray Knowles
AIM Regulation
London Stock Exchange
10 Paternoster Square
London
EC4M 7LS

e-mail: rknowles@londonstockexchange.com

Tel: 020 7797 1564

Alternatively please contact Oded Shomroni:

e-mail: oshomroni@londonstockexchange.com

Tel: 020 7797 2151

The Exchange will confirm the results of this consultation as soon as reasonably practical following the end of the consultation period. Final rules detailing the changes will be available from this time and will come into effect on 1 July 2005.

The AIM Rules detailing these proposed changes and a copy of Annexes I – III are available to download in a clean and marked up version from our website:

www.londonstockexchange.com/aimnotices

Hard copies of the AIM Rules (as amended) will be available by 1 July 2005.

Ray Knowles
Manager, AIM Regulation