
AIM NOTICE

13 April 2016

AIM NOTICE 44

**For the attention of Nominated Advisers/Finance Directors/
Company Secretaries, all AIM Companies**

AIM RULES FOR COMPANIES

1. INTRODUCTION

London Stock Exchange is consulting on proposed changes to the AIM Rules for Companies (“AIM Rules”) in advance of Market Abuse Regulation (“MAR”) coming into effect on 3 July 2016. MAR is an EU Regulation which has direct effect in the UK and across all member states.

The proposed changes to the AIM Rules are attached to this notice and are available at www.londonstockexchange.com/companies-and-advisors/aim/advisers/aim-notice/aim-notice.htm

The key disclosure obligations in MAR relate to the disclosure of inside information and disclosure of transactions by persons discharging managerial responsibilities (“PDMR”) and closely associated persons with them. MAR will also introduce mandatory close period rules.

We have set out proposals for changes to the AIM Rules below as a consequence of MAR. We do not expect there to be any significant change to the approach of an AIM company and its nominated adviser to considering an AIM company’s disclosure obligations under the AIM Rules.

Further guidance will be issued in Inside AIM and we intend to maintain a frequently asked questions section on our website.

2. AMENDMENTS TO THE AIM RULES FOR COMPANIES

AIM Rule 11 – Disclosure of price sensitive information

We propose to retain rule 11 covering the disclosure of price sensitive information. The purpose of the rule is to maintain a fair and orderly market and to ensure that all users of the market have simultaneous access to the same information to make investment decisions. We propose to amend the guidance notes to rule 11 to make clear reference to this purpose and will signpost an AIM company’s separate obligation to also comply with Article 17 of MAR.

The proposed guidance also makes clear that rule 11 is not intended to replicate MAR disclosure obligations and that compliance with MAR does not mean that an AIM company will have satisfied its obligations under the AIM Rules and vice versa.

Failure by an AIM company to comply with rule 11 may result in the Exchange taking disciplinary action in addition to its powers to suspend or cancel an admission of its AIM securities, regardless of whether or not the AIM company is in compliance with MAR.

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As operator of AIM, we consider it important to retain this key disclosure obligation. However, we recognise that as a result of doing so, AIM companies will be subject to the remit of both AIM Regulation (in respect of its AIM Rules disclosure obligations) and the FCA, as competent authority, in the UK (in respect of MAR disclosure obligations). We intend to work closely with the FCA to coordinate our approach and to minimise any duplication of activities.

AIM Rule 17 – Directors’ dealings

Rule 17 contains notification requirements of AIM companies in respect of directors’ dealings. Article 19 of MAR (PDMR transactions) includes notification requirements which apply to issuers, PDMRs (including directors) and their closely associated persons. In this regard the European Commission will have the power to adopt delegated acts under MAR to state which types of transactions will trigger the notification requirements. It will also have the power to adopt implementing standards that specify the level of information that must be reported, as well as forms which must be used for notifications.

Noting the remit of Article 19 of MAR, we propose that the AIM Rules will no longer retain the current rule 17 requirement to disclose directors’ dealings. We consider that Article 19 provides an appropriate level of transparency and it is expected that AIM companies through their existing compliance with rule 17 should be able to transition to the new obligation under MAR. We propose to insert new guidance to rule 17 in respect of directors’ dealings which will signpost an AIM company’s obligations under Article 19.

AIM Rule 21 – Restrictions on dealings

The purpose of rule 21 is to restrict directors and those close to the company taking advantage of information received as a result of their position and thereby reduce any perception that they are able to do so. Given that MAR will provide a legal prohibition on trading during close periods and exemptions to those prohibitions, we propose to remove the existing provisions of rule 21 along with the associated definitions of “deal” and “unpublished price sensitive information” contained in the glossary.

In its place, we propose to introduce a new rule that will require an AIM company to have a dealing policy. We do not intend to prescribe the detailed content of the dealing policy but propose to set out the minimum provisions that we would expect to be included in the policy. We consider this to be a meaningful way to support the new MAR requirements. Existing AIM companies will be expected to update their policies to ensure compliance with the proposed new rule by 3 July 2016.

Preliminary statement of annual accounts

We note that in the absence of further guidance from ESMA, it is not clear whether an issuer is able to end its close period through the publication of preliminary statement of annual accounts under MAR. We will consider making changes to the AIM Rules or will issue further guidance if necessary once the application of MAR in this regard is clarified. In the meantime, any questions regarding preliminary statements and MAR should be directed to the FCA as the competent authority in the UK for MAR.

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3. CONSEQUENTIAL CHANGES TO THE AIM RULES FOR NOMINATED ADVISERS AND THE AIM NOTE FOR INVESTING COMPANIES

In line with the changes to rules 17 and 21, we propose to amend AR5 of Schedule Three of the AIM Rules for Nominated Advisers (“the Nomad Rules”) as follows:

Be satisfied that procedures within the company have been established to facilitate compliance with the AIM Rules for Companies, e.g. release of unpublished price sensitive information, rule 17 notifications, ~~regulation of close periods~~ and review the AIM company’s rule 21 dealing policy.

Other consequential changes will be made to the AIM Rules, the Nomad Rules and the AIM Note for Investing Companies where reference is made to rule 17 ‘directors dealings’ or rule 21 (or the terminology used for those rules).

4. OTHER CHANGES TO THE AIM RULES FOR COMPANIES

Guidance to rule 41

The guidance to rule 41 includes circumstances where we might otherwise agree that shareholder consent in a general meeting to cancel the trading of AIM securities is not required. We propose to clarify this guidance to make it clear that the circumstances in which we may agree that shareholder consent is not required include, where an AIM company maintains or will be admitted to trading on an EU regulated market or an AIM Designated Market. For the purpose of considering this waiver, we will seek assurance that the company’s admission to trading (on the other market) is not at the time subject to a suspension (or equivalent).

5. RESPONDING TO THE CONSULTATION

We welcome comments and feedback from all AIM companies, nominated advisers and other market participants on the proposals contained in this AIM Notice.

If you are an AIM company wishing to understand further the implications of this notice, please contact your nominated adviser.

Responses on this consultation should be sent on or before **Thursday 12 May 2016** by email to: aimnotices@lseg.com

The Exchange will confirm the results of this consultation as soon as reasonably practical following the end of the consultation period.

Nilam Statham
Head of AIM Regulation