
AIM NOTICE

13 May 2014



London
Stock Exchange

AIM NOTICE 39

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

FEEDBACK ON AIM NOTICE 38 AND CONFIRMATION OF CHANGES TO AIM RULES, NOMAD RULES AND AIM DISCIPLINARY HANDBOOK

1. INTRODUCTION

On 27 January 2014, London Stock Exchange plc (the “**Exchange**”) issued AIM Notice 38 which consulted on proposed changes to the AIM Rules for Companies (the “**AIM Rules**”) and the AIM Rules for Nominated Advisers (the “**Nomad Rules**”).

2. IMPLEMENTATION OF NEW RULES

This Notice provides feedback on AIM Notice 38 and confirms the resulting rule changes.

The new versions of the AIM Rules and the Nomad Rules, which include other minor changes updating the rules, are available to download, in clean and marked-up versions, from the Exchange’s website.

This Notice makes ancillary amendments to the AIM Disciplinary Procedures and Appeals Handbook (the “**AIM Disciplinary Handbook**”), which were not included in AIM Notice 38, to reflect the changes to new rule 43 of the AIM Rules.

The revised AIM Rules, Nomad Rules and AIM Disciplinary Handbook are implemented by this Notice with immediate effect, save for the new requirements of rule 26 of the AIM Rules, which must be implemented by 11 August 2014.

3. FEEDBACK ON RESPONSES RECEIVED TO AIM NOTICE 38

The Exchange received 28 responses to AIM Notice 38 from a range of market participants. We would like to thank everyone who responded.

The objectives of the proposals put forward by the Exchange were positively welcomed.

Attached to this Notice is a detailed statement which provides the Exchange’s feedback on certain of the proposed rule changes that attracted the most comment, together with details of any changes made as a result.



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4. QUERIES ON THIS NOTICE

Queries from AIM companies on this Notice should be addressed to their nominated adviser.

Queries from nominated advisers should be sent to AIM Regulation at: aimregulation@lseq.com.

Nilam Statham
Head of AIM Regulation

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FEEDBACK STATEMENT IN RELATION TO AIM NOTICE 38

AIM RULES FOR COMPANIES

Rule 11 and Guidance Note	<p>Respondents showed strong support for the proposed change. Many respondents commented that given the Exchange's stated intention was to bring the rule in line with the terminology used in the Financial Services and Markets Act 2000, the Exchange should clarify that the "reasonable investor" test will apply to AIM Rule 11 considerations. It was submitted that this would eliminate any potential ambiguity and reflect general market practice.</p> <p>In light of these responses, the following insertion will be made to the Guidance to rule 11:</p> <p><i>(b) Information that would be likely to lead to a significant movement in the price of its AIM securities includes but is not limited to information which is of a kind which a reasonable investor would be likely to use as part of the basis of his or her investment decisions'</i></p> <p>Guidance Note to rule 11: the proposed change will be adopted with some minor drafting amends.</p>
Rule 26 Corporate Governance	<p>Respondents showed support regarding the purpose of this proposed change to provide more visibility to investors on a Company's corporate governance arrangements. We have also made changes to reflect commentary that where a code is not adopted, an explanation of the Company's corporate governance arrangements should be provided.</p> <p>The Guidance Note to rule 26 includes a general requirement for updating rule 26 information and this continues to apply.</p>
Rule 22 and Rule 43	<p>A small number of respondents were concerned about the practical difficulties that nomads may incur if they are required to act as a liaison contact between a cancelled company and the Exchange, in respect of an Exchange investigation. We can confirm that ordinarily we will not expect nomads to be a point of liaison with a cancelled company during any such investigation.</p>
Guidance Note, Rule 8	<p>A small number of respondents questioned the meaning of "<i>a spread of investment risk</i>" in relation to implementation of investing policies. The intention of this new criterion was to provide guidance that the Exchange would usually consider implementation of an investing policy to include the AIM company having made a range of investments to ensure that investment is not concentrated into only one or a very small selection of securities, businesses or assets. Accordingly, we have amended the guidance to clarify this and to avoid any ambiguity.</p>

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Guidance Note, Rule 21	<p>Respondents showed strong support for the proposed change. Some observed that the carve-out to rule 21 could be extended to cover certain other elements referred to in the guidance in Inside AIM (Issue 5), and the Model Code.</p> <p>After careful consideration, the Exchange has determined to limit the guidance to the particular circumstances consulted with in AIM Notice 38 and Nomads should continue to approach AIM Regulation for derogations in respect of any situations not within the new guidance. The Exchange will continue to keep this area under consideration when it undertakes future reviews of the rules.</p>
Miscellaneous	<p>Schedule Three: Amendments to the Profits Test and the “annual consolidated results”: Respondents queried the helpfulness of the changes to the Profits Test (relating to the treatment of losses) on the grounds that this alternative test is already considered on a case by case basis by AIM Regulation when considering derogation requests from nomads. Accordingly, we have determined not to adopt this change. We have also reverted to “annual consolidated results” in Schedule Three.</p> <p>Rule 9: Respondents did not support the additional proposed wording on the basis that AIM already has jurisdiction to refuse admission of an AIM company under the rule as currently drafted. As such, we have determined not to implement the change but the Exchange will continue to keep this area under consideration when it undertakes future reviews of the rules.</p> <p>Guidance Note to rule 26: Further to Market Notices N03/14 and N04/14, new guidance has been provided to the seventh bullet of rule 26 which was not included in AIM Notice 38. This guidance has been provided, following the Exchange being granted Recognised Growth Market status by HMRC for the purposes of the Finance Bill 2014 and the impact of that on stamp duty and stamp duty reserve tax status for certain AIM securities. The new guidance reminds AIM companies that Euroclear UK & Ireland Limited requires AIM companies to inform it of changes in stamp duty status, when the AIM company admits or ceases to be listed on a Recognised Stock Exchange.</p>

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AIM RULES FOR NOMINATED ADVISERS

Rule 2	<p>The consultation proposed an amendment to the example where the Exchange may use its discretion to waive the two year track record and/or three relevant transactions requirement. A number of respondents did not consider the change to the example helpful. The intention of the Exchange was to provide context for when the Exchange may exercise this discretion to waive certain of the eligibility criteria. However, in light of responses we have determined not to make the proposed changes to the existing rule. The Exchange will continue to keep this area under consideration when it undertakes future reviews of the rules.</p>
Rule 4	<p>Respondents showed strong support for the proposed changes to the QE eligibility criteria, although a number of responses requested clarity on the requirement for an individual to have been approved as a QE on a “continuous basis”. In particular, questions were raised regarding the effect of periods of leave. The Exchange can confirm that periods of maternity/paternity leave and/or garden leave will not ordinarily prejudice a candidate’s continuous QE status. Other periods of extended leave will be considered on a case by case basis.</p> <p>It is proposed to delete reference to the position regarding QE’s ceasing to be an employee of a nominated adviser and to combine this in the existing provisions of rule 12.</p>
Rule 5	<p>A number of respondents requested extending the definition of Relevant Transaction.</p> <p>Given the meaningful changes made to rule 4, the Exchange does not consider changes to this definition are necessary.</p>
Rule 11	<p>Certain respondents raised a concern that the requirement to inform the Exchange of a “potential” change of control was too wide and creates uncertainty. Taking this into account, minor changes have been made to rule 11, which will also be reflected in rule 30.</p> <p>Some respondents suggested inclusion of a definition of “change of control”. AIM is a principles-based market and in line with this model, the Exchange has determined that a definition is not meaningful given that the matter is required to be considered on a case by case basis. Where a nomad is unclear as to whether a change would be considered a change to the control of the nomad business, guidance from the Exchange should be sought.</p>