



London
Stock Exchange

17 February 2010

10 Paternoster Square
London EC4M 7LS
Telephone +44 (0)20 7797 1000
www.londonstockexchange.com

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

AIM36

STOCK EXCHANGE AIM NOTICE

FEEDBACK ON AIM NOTICE 35 AND CONFIRMATION OF AIM RULE CHANGES FOR DISCLOSURE OF DIRECTORS' REMUNERATION AND ELECTRONIC COMMUNICATION WITH SHAREHOLDERS

1. INTRODUCTION

On 15 December 2009, the London Stock Exchange ("the Exchange") issued AIM Notice 35 which consulted on proposed changes to the AIM rules relating to:

- disclosure of the remuneration received by directors; and
- electronic communication to shareholders of annual reports and accounts ("accounts") and admission documents on a reverse takeover ("admission documents").

2. IMPLEMENTATION OF NEW RULES

This Notice provides feedback on AIM Notice 35 and confirms the resulting rule changes.

The new version of the AIM Rules for Companies (the "AIM Rules"), which includes other minor changes updating the rules, is available to download, in clean and marked-up versions, from: www.londonstockexchange.com/aimnotices.

Directors' remuneration

The new disclosure requirements for directors' remuneration have to be implemented by AIM companies with a financial year end of 31 March 2010 or thereafter.

Electronic communication

The amendments to the guidance notes to AIM Rules 14 and 19 to provide all AIM companies with the option to use electronic communication with shareholders have immediate effect.

3. FEEDBACK

The Exchange received 8 responses to AIM Notice 35 from a range of market

participants. We would like to thank everyone who responded.

The objectives of the proposals made by the Exchange were positively welcomed. The proposed changes relating to directors' remuneration attracted the most comments, in particular requesting clarification of the requirement to disclose the value of benefits obtained through defined benefit pension schemes.

In light of the comments received, the proposed wording has been amended to require disclosure of contributions to a pension scheme by an AIM company.

Several respondents also suggested minor drafting changes, such as clarifying the Exchange's intention that cash and non-cash benefits are captured by the new rule, and these changes have been incorporated.

The Exchange also confirms that the information disclosed as directors' remuneration is not required to be audited under the AIM Rules.

4. **QUERIES ON THIS NOTICE**

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

Queries from nominated advisers (and other advisers) should be sent to AIM Regulation at: aimregulation@londonstockexchange.com.

Bob Beauchamp
Acting Head of AIM Regulation

Appendix 1 – Amendments to the AIM Rules for Companies

Part One – AIM Rules

Annual accounts

19. An **AIM company** must publish annual audited accounts which must be sent to its **shareholders** without delay and in any event not later than six months after the end of the financial year to which they relate.

An **AIM company** incorporated in an **EEA country** must prepare and present these accounts in accordance with **International Accounting Standards**. Where, at the end of the relevant financial period, such company is not a parent company, it may prepare and present such financial information either in accordance with **International Accounting Standards** or in accordance with the accounting and company legislation and regulations that are applicable to that company due to its country of incorporation.

An **AIM company** incorporated in a **non-EEA country** must prepare and present these accounts in accordance with either:

- **International Accounting Standards;**
- US Generally Accepted Accounting Principles;
- Canadian Generally Accepted Accounting Principles;
- Australian International Financial Reporting Standards (as issued by the Australian Accounting Standards Board); or
- Japanese Generally Accepted Accounting Principles.

The accounts produced in accordance with this rule must provide disclosure of:

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- any transaction with a **related party**, whether or not previously disclosed under these rules, where any of the **class tests** exceed 0.25% and must specify the identity of the **related party** and the consideration for the transaction; and
- directors' remuneration earned in respect of the financial year by each director of the AIM company acting in such capacity during the financial year.

Glossary

directors' remuneration

The following items for each director of the AIM company:

- emoluments and compensation, including any cash or non-cash benefits received;
- share options and other long term incentive plan details, including information on all outstanding options and/or awards; and
- value of any contributions paid by the AIM company to a pension scheme.

electronic communication

Any communication sent by e-mail or made available on an AIM company's website pursuant to rule 26.

Part Two – Guidance Notes

Disclosure of corporate transactions

Rules 12 and 13: Substantial and related party transactions

Note the definition of a substantial transaction is different from that of a **related party** transaction.

A transaction under this rule includes non pre-emptive issues of securities.

Rule 14: Reverse take-overs

The **admission document** must be made available to the public under rule 26.

An **AIM company** ~~subject to the UK Companies Act 2006~~ is able to send an **admission document** (subject to any other applicable regulations, including the **Prospectus Rules** where it is a **Prospectus**) to **shareholders** in compliance with this rule if it is sent by **electronic communication** in compliance with the applicable requirements of the Companies Act 2006 guidance notes (of this Part Two) to rules 18 and 19, together with the notice of the **shareholder** meeting required by rule 14.

Following the announcement of a reverse takeover that has been agreed or is in contemplation, the relevant **AIM Securities** will be suspended by the **Exchange** until the **AIM company** has published an **admission document** in respect of the proposed enlarged entity unless the target is a **listed** company or another **AIM company**.

It should be noted that the **Exchange** expects the negotiations leading to a reverse takeover to be kept confidential, as allowed by the guidance to rule 11, until the point at which the **AIM company** can **notify** that a binding agreement that effects a reverse takeover has been entered into, which should, as far as is possible, be accompanied by the publication of the requisite **admission document**. If for any reason this is not possible, the **nominated adviser** should seek the advice of the **Exchange** at the earliest opportunity.

If the new entity wishes its securities to be **admitted**, it will need to issue a ten day announcement pursuant to rule 2. In addition, it will need to submit a further fee, an electronic version of its **admission document**, a **nominated adviser's declaration** and a company **application form** at least three **business days** prior to **admission** pursuant to rule 5 and abide by all other requirements to which an **applicant** may be subject under these rules.

However, the new entity may make application in advance of the general meeting so that its securities are **admitted** on the day after the general meeting which approves the reverse take-over.

Half-yearly reports and accounts

Rule 18 and 19: Half-yearly reports and accounts

Where the half yearly report has been audited it must contain a statement to this effect.

In relation to rule 18, the financial period to which financial information has been disclosed in its **admission document** may be the financial period of the main trading subsidiary of the **AIM company**, for example, where the **AIM company** is a holding company. The **nominated adviser** should contact **AIM Regulation** if there is any uncertainty as to reporting timetable required by these rules.

The **Exchange** will suspend **AIM companies** which are late in publishing their half-yearly statement or their annual accounts.

Where an **AIM company** wishes to change its accounting reference date its **nominated adviser** should contact **AIM Regulation** in advance to discuss the revised reporting timeframe.

The requirements set out in rule 19 in relation to an **AIM company** incorporated in an **EEA country** apply to financial periods commencing on or after 1 January 2007. For all periods prior to this, such an **AIM company** may prepare the accounts required under these rules in accordance with **UK** or **US** Generally Accepted Accounting Principles.

The **Exchange** would encourage all **AIM companies** to use **International Accounting Standards** both on **admission** and in the preparation of all post-**admission** financial information.

The choice of accounting standard should be consistently implemented and any change between those standards available to a particular **AIM company** should only be made with the prior approval of **AIM Regulation**.

In respect of each **AIM company**, the term 'parent' should be interpreted in accordance with applicable law. Any other queries over interpretation of these provisions should be addressed by an **AIM company's nominated adviser** to **AIM Regulation** at the earliest opportunity.

Subject to its constitution and any legal requirements in its jurisdiction of incorporation, an **AIM company** ~~subject to the UK Companies Act 2006~~ is able to satisfy the requirement in rule 19 to send accounts to **shareholders** by sending such accounts by **electronic communication** to **shareholders**:

- a) in compliance with the requirements of the **UK Companies Act 2006**; or
- b) providing the following requirements have been satisfied:
 - (i) a decision to use **electronic communication** to **shareholders** has been approved by **shareholders** in a general meeting of the **AIM company**;
 - (ii) appropriate identification arrangements have been put in place so that the **shareholders** are effectively informed; and
 - (iii) **shareholders** individually:
 - have been contacted in writing to request their consent to receive accounts by means of **electronic communication** and if they do not object within 28 days, their consent can be considered to have been given;
 - are able to request at any time in the future that accounts be communicated to them in writing; and
 - are contacted alerting them to the publication of the accounts on an **AIM company's** website.