
AIM NOTICE

1 October 2018

AIM NOTICE 54

For the attention of all AIM companies, applicant AIM companies and nominated advisers

FEEDBACK ON AIM NOTICE 53 AND CONFIRMATION OF CHANGES TO THE AIM DISCIPLINARY PROCEDURES AND APPEALS HANDBOOK

1. INTRODUCTION

On 24 July 2018, London Stock Exchange plc (“**Exchange**”) issued AIM Notice 53 which proposed changes to the AIM Disciplinary Procedures and Appeals Handbook (“**Handbook**”). The consultation closed on 10 September 2018.

This Notice provides feedback on the consultation and confirms the resulting changes to the Handbook and consequential amendments to the AIM Rules for Companies and AIM Rules for Nominated Advisers (together the “**AIM Rules**”).

2. FEEDBACK ON RESPONSES RECEIVED ON AIM NOTICE 53

The Exchange received four responses to the consultation and we would like to thank respondents for their feedback. Overall, respondents were supportive and welcomed the proposed changes designed to enhance the efficiency and transparency of the Exchange’s disciplinary and non disciplinary procedures.

Attached to this Notice is a statement providing the Exchange’s feedback on areas of the consultation that attracted the most comment and details of consequential drafting changes.

3. IMPLEMENTATION OF NEW RULES

Updated versions of the Handbook are available to download, in clean and marked-up versions, from the Exchange’s [website](#) from today.

The revised Handbook will have immediate effect.

As referred to in the proposed changes to the Handbook published on 24 July 2018, there are some consequential changes to the AIM Rules which, for ease of reference, are set out in the extract to this Notice. The amended rules will also have immediate effect and a clean version is available to download from the Exchange’s [website](#) from today.

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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@lseg.com.

Nilam Statham
Head of Primary Market and AIM Regulation

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FEEDBACK STATEMENT IN RELATION TO AIM NOTICE 53

1. There was a query about whether the non disciplinary measures, described in Section A of the revised Handbook, are undertaken without any enquiry by the Exchange. As explained in the [Discussion Paper](#), the Exchange undertakes appropriate enquiries before determining the appropriate course of action. The Exchange has incorporated additional clarification into the amendments to Sections A5 and A6 of the Handbook.
2. There were differing views on changes to increase the transparency of the cases being brought before an AIM Disciplinary Committee (“ADC”). Some respondents did not welcome the transparency, whilst others suggested the Exchange should go further. For example:
 - One respondent suggested that all cases and outcomes should be made public and that private sanctions should be dispensed with. As previously set out in the [Discussion Paper](#), we consider our existing approach of adopting a range of private and public sanctions remains appropriate. A private outcome can be a proportionate response to non compliance. In particular, given that private censures can be accompanied by fines and details are published (albeit anonymously), it is not the case that only public outcomes can achieve the regulatory objectives of bringing to account non compliance; providing education; and serving as a deterrent to future non compliance.
 - The same respondent queried the provisions for hearings before an ADC being held in private. The Exchange notes that the Court of Appeal has supported the rationale for conducting ADC hearings in private, noting that the substance of such cases may require consideration of confidential information, such as market sensitive information.
 - Other respondents suggested that a public notice of proceedings should not apply to cases against nominated advisers. We would like to reiterate that these provisions only apply to cases brought as a public censure before the ADC. There will be transparency at the time of the launch and at the outcome of these cases, which is appropriate to deter and address cases of serious non compliance with the rules.

Accordingly, the Exchange does not propose to make any consequential changes to its proposals and considers the enhancement of transparency (as set out in the proposed amendments) will be beneficial to the ongoing reputation of the market.

3. One respondent did not support the early settlement provisions, suggesting that it would lead to fewer cases going before the ADC, thereby reducing public accountability. Early settlement provisions are not unusual in financial market disciplinary frameworks and the Exchange considers it is beneficial to resolve disciplinary cases expeditiously by allowing a party the opportunity to settle early in the process. Settlement does not reduce accountability as it does not impact on the Exchange’s policy of publication of public and private censures referred to above.

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4. It was suggested that fines should be reserved solely for more serious outcomes. In this regard we did not propose a change to the existing provisions of Rule 42 of the AIM Rules for Companies and Rule 29 of the AIM Rules for Nominated Advisers which already allow for warning notices and censures to be accompanied with fines, as appropriate.
5. Questions were raised over whether orders for the recovery of the Exchange's costs should be available in all circumstances. The detailed provisions on costs in the Handbook are included to ensure that there is full transparency that the Exchange will seek to recover its costs to the extent described in Rule G2. The decision with regard to awarding costs, and the amount of such costs, is left to the relevant Panels and Committees, taking into account all the circumstances. A question was raised as to why the rules do not have express costs consequences for a nominated adviser or AIM company that does not act responsibly and reasonably in its conduct, as required by Rule A10. It should be noted that Panels and Committees have full discretion to determine costs taking into account all conduct and circumstances. Changes to Rule G6 and G11 have been made to clarify these points.
6. A number of discrete procedural points were raised regarding matters such as the timescales for compliance by each party. The Exchange considers that further changes are not required, noting that all Panels and Committees are required to have regard to the overriding objective at Rule B6. For example, Panels and Committees will have to ensure matters are progressed expeditiously.
7. In response to a question about whether we should provide reasons for any discontinuance of a disciplinary case, we have amended Rule D26.
8. Additional clarification was suggested regarding aspects of the timetable for preparative steps for both non disciplinary and disciplinary hearings and the consequences of an appeal. These have been addressed in the amendments to Rules C23, C58 and D55.
9. It was suggested that there should be a maximum number of members for an ADC. We have amended Rule B12 to refer to a maximum of 7 members (in line with the original Handbook provisions prior to the proposed amendments).
10. Amendments have been made to Rule C31 to make it clear that a dismissal of an appeal of a warning notice naturally results in an upholding of that warning notice.