London
Stock Exchange

Main Market

A guide to listing on London Stock Exchange

London
Stock Exchange Group

Published by White Page Ltd in association with London Stock Exchange, with contributions from:

CAPITA CLEARY GOTTLIEB fishburn hedges. FRESHFIELDS BRUCKHAUS DERINGER J.P.Morgan UBS

Publishing editor: Nigel Page

Publisher: Tim Dempsey

Design: London Stock Exchange plc

Printing and binding: Argent Litho Ltd

A guide to listing on the London Stock Exchange
is published by:

White Page Ltd, 17 Bolton Street
London W1J 8BH
United Kingdom
Phone: + 44 20 7408 0268
Fax: + 44 20 7408 0168
Email: mail@whitepage.co.uk
Web: www.whitepage.co.uk

whitepage

First published: November 2010
ISBN: 978-0-9565842-1-2

A guide to listing on the London Stock Exchange
© 2010 London Stock Exchange plc
and White Page Ltd

Copyright in individual chapters rests with the authors. No photocopying: copyright licences do not apply.

This guide is written as a general guide only. It should not be relied upon as a substitute for specific legal or financial advice. Professional advice should always be sought before taking any action based on the information provided. Every effort has been made to ensure that the information in this guide is correct at the time of publication. The views expressed in the articles contained in this guide are those of the authors.

London Stock Exchange, AIM and the coat of arms device are registered trademarks of London Stock Exchange plc. The publishers and authors stress that this publication does not purport to provide investment advice, nor do they bear the responsibility for any errors or omissions contained herein.

A guide to listing on the London Stock Exchange

Contents

3 **Foreword**
London Stock Exchange

5 **The Main Market – the standard for excellence**
London Stock Exchange

13 **The role of the UKLA**
The United Kingdom Listing Authority

19 **Preparing for an IPO**
UBS Investment Bank

31 **The legal framework for an IPO**
Freshfields Bruckhaus Deringer LLP

43 **Accounting requirements and advice through the IPO process**
Ernst & Young LLP

57 **Generating and capturing investor demand during an IPO**
UBS Investment Bank

69 **Managing the company's profile**
Fishburn Hedges

81 **The role of the registrar in an IPO**
Capita Registrars

87 **London: a unique investment opportunity**
FTSE Group

91 **Preparing to list depositary receipts**
Cleary Gottlieb Steen & Hamilton LLP

105 **Establishing a depositary receipt programme**
J.P. Morgan

116 **Useful contacts**

A guide to listing on the London Stock Exchange

Foreword

By London Stock Exchange

With roots stretching back to the coffee houses of 17th century London, the London Stock Exchange is built on a long history of integrity, expertise and market knowledge.

It has become one of the world's largest and most international stock exchanges, playing a pivotal role in the development of global capital markets. We offer the widest choice of routes to market, which are available to both UK and international companies, and today we have close to 3,000 companies from over 70 countries listed and trading on our markets.

In challenging market conditions, the London markets have proved their value by providing companies with access to capital when other funding channels have not been available. At the Exchange, we strive to build on this success by working with market regulators and the wider financial community to ensure that our markets are well-regulated, transparent, liquid and neutral. This success is underpinned by the dedicated community of advisers and investors that continues to support the companies on our markets.

We understand that joining a public market is one of the most significant decisions a business will ever take; the sheer range of topics that need to be considered building up to IPO can seem like a daunting task. With this in mind, this guide has been developed with input from some of the key advisers experienced in bringing companies to our Main Market and our Professional Securities Market, providing you with a practical outline of the listing process, as well as an insight into life as a public company.

I hope you find this publication useful and wish you every success, both in bringing your company to market and as a publicly-traded company.

The Main Market – the standard for excellence

London Stock Exchange

The world's capital market

The Main Market is London's flagship market helping larger and more established companies access the deepest pool of capital in Europe.

www.lseg.com

London
Stock Exchange Group

© October 2014 London Stock Exchange plc. London Stock Exchange and the coat of arms device are registered trademarks of the London Stock Exchange plc.

The Main Market – the standard for excellence

Established in 1698, the London Stock Exchange's (the 'Exchange') Main Market has long been home to some of the UK's, and indeed the world's, largest and best-known companies. There are over 1,400 companies on the Main Market with a combined market capitalisation of £3.7 trillion. Companies of all types, nationalities and sizes together represent some 40 sectors.

As well as sectoral and geographical diversity, the Main Market accommodates the admission to trading of companies with a Premium Listing or a Standard Listing. The FSA's listing categories are described in detail in the chapter 'The role of the UK Listing Authority' on page 13.

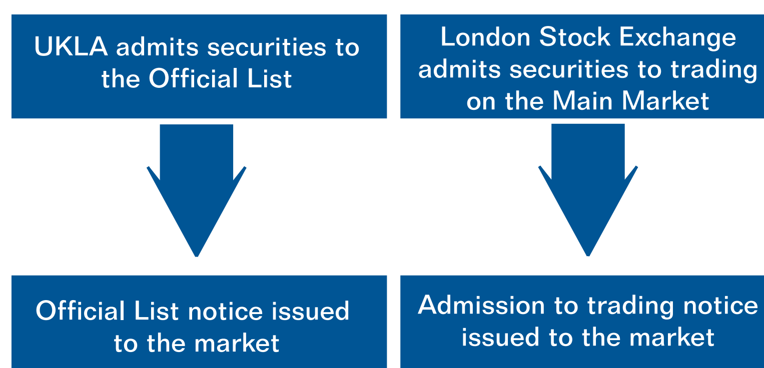
A listing on the Main Market demonstrates a commitment to high standards and provides companies with the means to access capital from the widest set of investors. Over the last 10 years, £366 billion has been raised through new and further issues by Main Market companies – capital that has seen companies through the good times and the bad.

Why join a public market...?
Joining a public market – the Main Market or AIM (our market for smaller, growing companies) – is a way to grow and enhance your business. When considering the available financing options, the following factors are frequently cited as the key benefits of admission to a public market:

- providing access to capital for growth, enabling companies to raise finance for further development, both at the time of admission and through further capital raisings
- creating a market for the company's shares, broadening the shareholder base
- placing an objective market value on the company's business
- encouraging employees' commitment and incentivising their long-term motivation and performance, by making share schemes more attractive
- increasing the company's ability to make acquisitions, using quoted shares as currency

Joining the Main Market

Responsibility for the approval of prospectuses and admission of companies to the Official List lies with the UK Listing Authority (UKLA). The Exchange is responsible for the admission to trading of companies to the Main Market. Joining the Main Market consequently involves two applications: one to the UKLA and one to the Exchange.



- creating a heightened public profile – stemming from increased press coverage and analysts' reports – helping to maintain liquidity in the company's shares
- enhancing the company's status with customers and suppliers.

Companies that choose to seek admission to a public market in London have a range of options depending on their size, stage of development and capital-raising requirements. The options open to companies should be discussed in detail with their team of advisers.

Companies which are successful on AIM and reach a certain size and stage of development, may seek to transfer their securities from AIM to the Main Market, provided that they meet the eligibility criteria. While a move to the Main Market may subject the company to increased regulatory requirements, it can bring benefits in terms of a heightened profile and attracting different investors.

...and why the Main Market?

The success of the Main Market is built on a wide range of factors:

- a respected and balanced regulatory environment
- choice
- access to capital from a broad and knowledgeable investor base
- expert advisory community
- enhanced profile and status.

The Main Market has attracted companies of all sizes and from all sectors over many years. Irrespective of their sector, origin or strategic direction, they have all sought to take advantage of the range of benefits a listing on the Main Market affords. Those benefits include:

A respected and balanced regulatory environment

The UKLA's listing framework underpins London's reputation for balanced and globally-respected standards of regulation and corporate governance. Regulatory requirements in London are principles-based and provide an appropriate balance of investor protection, practitioner certainty and flexibility. The Exchange aims to be involved in all relevant processes where amendments or additions to the regulatory framework are considered. This is to ensure that London's competitive advantage remains undiminished; that listings and subsequent capital raisings are cost-effective and efficient for our companies; and that investors have the appropriate amount of information to make informed investment decisions.

Choice

Companies with either a Premium or a Standard Listing can choose to admit to trading on the Main Market.

A Premium Listing means that a company must meet standards that are over and above (often described as 'super-equivalent') those set forth in the EU legislation, including the UK's corporate governance code. Investors trust the super-equivalent standards as they provide them with additional protections. By virtue of these higher standards, companies may have access to a broader range of investors and may enjoy a lower cost of capital owing to heightened shareholder confidence. A Premium Listing is only available to equity shares issued by commercial trading companies.

With a Standard Listing, a company has to meet the requirements laid down by EU legislation. This means that their overall compliance burden will be lighter, both in terms of preparing for listing and on an ongoing basis. Standard Listings cover the issuance of shares and Depositary Receipts

(‘DRs’) as well as a range of other securities, including fixed-income. Large companies from emerging markets may wish to list their DRs, thus attracting investment from the significant international pool of capital available in London. (A table showing the key differences between a Premium Listing and a Standard Listing can be found in the chapter ‘The role of the UK Listing Authority’ on page 18).

In this guide, the chapters ‘Preparing to list depositary receipts’ and ‘Establishing a depositary receipt programme’ are dedicated to the listing and admission to trading of DRs on both the Main Market and the Professional Securities Market (‘PSM’). The PSM provides an alternative route to a listing on the Exchange for issuers of DRs.

Access to capital

We provide access to the largest pool of international equity assets in the world. This culture is embedded in London’s investment management community, which understands companies from home and abroad and wants to invest in the global economy.

Once they are listed and admitted to trading on the Main Market, companies should not underestimate the value of being able to return to the market to raise funds through further issues. Even during the recent difficult market conditions, the Exchange successfully facilitated significant levels of capital raising. Further issues by Main Market companies provided capital injections that were used to pay off debt, rebuild balance sheets and fund further growth.

Expert advisory community

The decision to join the Main Market is a pivotal one. To achieve a successful listing and admission to trading, companies must deliberate over many considerations.

Underpinning the Main Market is a network of experienced advisers who will guide you on the journey to an initial public offering (‘IPO’) and provide ongoing advice once your company is listed.

Selecting the right advisers for you and your company is vital. Getting it right early on will help ensure that disruptions to the process are minimised and you are able to get on with the task at hand. Factors to consider when appointing advisers include the firm’s relevant and recent experience in relation to your business and the sector you operate in, as well as the personal rapport you develop with the individuals with whom you will be working.

The diagram on page 10 below shows the different advisers typically involved in a flotation on the Main Market and briefly highlights their varying roles and responsibilities.

Profile

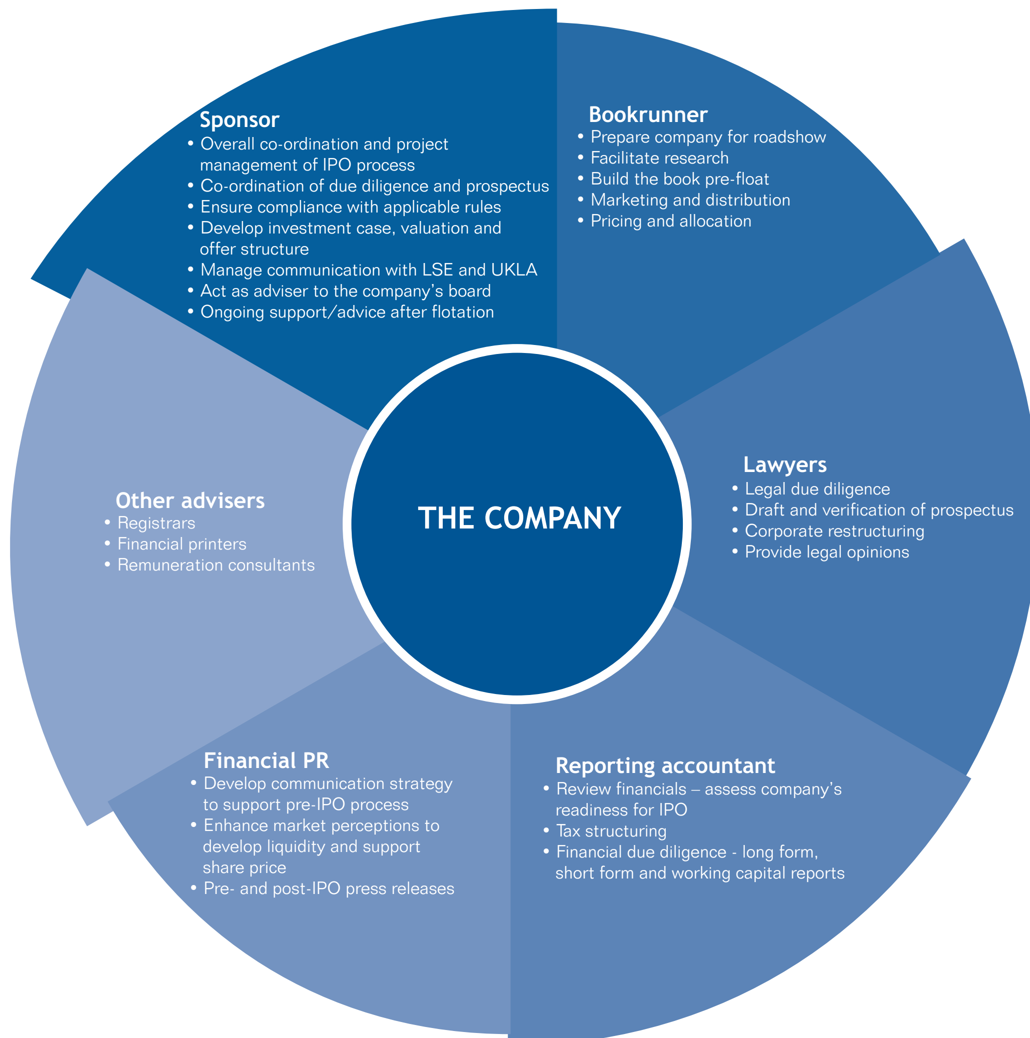
Floating a company on the Main Market raises your company’s profile and helps you to meet your strategic objectives. You will have the opportunity to project your company onto a global stage with increased media coverage, investor interest and broad analyst coverage.

With a Premium Listing comes the potential for inclusion in the FTSE UK series of indices which includes the FTSE 100, FTSE 250 and FTSE Small Cap indices. Access to these indices is often seen as one of the key benefits of achieving a Premium Listing since so many investment mandates – particularly in respect of the vast amount of capital represented by tracker funds – are driven by FTSE indexation. For more information see chapter ‘London: a unique investment opportunity’ on page 87.

Our commitment to the primary markets

There is a continuous stream of proposed regulatory

Advisers' roles and responsibilities



changes affecting companies on our markets, with legislation stemming from changes here in the UK and in Brussels. With companies' best interests front of mind, we continue to lobby on their behalf to ensure our markets are fit for purpose. It is crucial that through our lobbying we continue to promote a regulatory regime based on principles, seeking to limit disproportionate legislation applicable to issuers that are admitted to trading on our markets, while ensuring sufficient investor protection.

Once you are listed on the market, we are committed to helping you raise your profile and keeping you abreast of market developments. We help to do this through the provision of brand marks (see page 11); a dedicated page on our website specific to your company (including latest news and pricing information on the trading of your securities); educational initiatives, such as seminars and practical guides; and investor-focused events such as capital markets days that bring companies and investors together.

Main Market brand marks

These brand marks are provided exclusively to companies listed on the Main Market. Companies may use the brand mark across corporate and investor relations materials to showcase their association with the London Stock Exchange and provide information as to their listing status.
More information is available on the Exchange's website:
www.londonstockexchange.com/brandmarks

And finally...
Listing and admission to trading on the Main Market is an efficient way for companies to access capital to fund their growth, while simultaneously benefiting from enhanced profile and liquidity within a well-governed and regulated market structure.

As an ambitious company with plans to take your business to the next level, joining the Main Market is an ideal way to assist you in realising your global aspirations.

The role of the UK Listing Authority

UKLA

The role of the UK Listing Authority

The UK Listing Authority ('UKLA') is the name used by the Financial Services Authority ('FSA') when it acts as competent authority for listing, as competent authority for the purposes of the European Prospectus and Transparency Directives, and as competent authority for certain aspects of the Market Abuse Directive. These roles have a statutory basis in Part VI of the Financial Services and Markets Act 2000 ('FSMA'). Three sourcebooks in the FSA Handbook implement the relevant rules. These are:

- **Listing Rules** – these rules include the eligibility requirements for admission to the Official List (or 'listing') and the continuing obligations that apply thereafter. They come partly from the European Consolidated Admissions and Reporting Directive, but also include a significant body of rules that are 'super-equivalent' or additional to the European minimum requirements. These additional requirements include substantive eligibility requirements such as the need for a three-year track record, the class test and related party regimes, and the requirement for a sponsor in relation to a Premium Listing.
- **Prospectus Rules** – these rules stem primarily from the enactment of the European Prospectus Directive and detail the circumstances when a prospectus is required and the disclosures a prospectus should include.
- **Disclosure and Transparency Rules ('DTRs')** – these rules govern the periodic and ad hoc disclosure of information by listed companies. Periodic information includes interim and annual accounts, and ad hoc disclosures, including major shareholding notifications and details of significant developments that might affect the price of the securities. These rules originate from the Transparency Directive and part of the Market Abuse Directive, and also from the 4th/7th Company Law Directives.

As a consequence, when a company wishes to make an initial public offering ('IPO') of its securities onto a regulated market such as the Main Market of the London Stock Exchange, the UKLA has two principal roles to perform: to review and approve the issuer's prospectus, and to admit those securities to listing once it is happy that the issuer complies with all relevant eligibility criteria.

Listing categories

The term 'listed' is used in a number of different contexts, but in the UK this technically means admitted to the Official List of the UKLA. The UKLA has created a number of different listing categories which determine the eligibility criteria and continuing obligations that apply to the issuer and its securities.

The UKLA introduced the listing categories to help clarify that listing refers to admission to the Official List of the UKLA, and does not relate to the market to which a security is admitted to trading. Listing categories are also intended to clarify the regulatory standards that apply to different types of listing. A Standard Listing requires compliance only with EU minimum standards, whilst a Premium Listing also requires compliance with the more stringent super-equivalent standards. Note that only equity shares may be admitted to a Premium Listing; issuers of other securities may only seek a Standard Listing for their securities. A table showing the key differences between Premium and Standard Listings can be found on page 18.

Eligibility

An issuer will generally select its preferred market and listing category in consultation with its advisers prior to engagement with the UKLA. For issuers requesting a Premium Listing of their equity shares, contact with the UKLA will be undertaken by the issuer's appointed sponsor firm. The role of a sponsor is to guide the issuer on the application of the Listing Rules and the Prospectus

Listing segment	Premium			Standard				
Listing category	Equity shares	Equity shares	Equity shares	Shares	GDRs	Debt & debt-like	Securitised derivatives	Misc. securities
Examples of types of companies/ securities	Commercial companies	Closed-ended investment funds	Open-ended investment companies	Equity shares* Non-equity shares		Debt securities Asset-backed securities Convertible securities Preference shares (specialist securities)		Options Subscription warrants
Listing Rule chapter	LR6	LR15	LR16	LR14	LR18	LR17	LR19	LR20

* an investment entity will only be able to benefit from this Standard Listing category for a further class of equity shares if it already has (and only for so long as it maintains) a Premium Listing of a class of its equity shares

Rules. This includes liaison with the UKLA on behalf of the issuer, and to provide certain declarations to the UKLA that provide comfort that the relevant rules have been complied with and the issuer has established appropriate procedures.

The UKLA maintains a list of approved sponsors and conducts supervisory activities in order to ensure that the list of sponsors contains only those firms that meet the eligibility criteria for a sponsor. For issuers that are seeking a Standard Listing, the UKLA has no preference as to whom the main point of contact should be, although it should be someone that is reasonably knowledgeable about the UKLA and its processes.

To start the eligibility process, the UKLA generally expects that a letter is submitted detailing the issuer's compliance with the applicable eligibility requirements. The UKLA suggests that such letters are sent in as early as possible in the IPO process and that they are as detailed as possible, including relevant background information on the nature of the issuer's business. This is because unnecessary delay can be caused to the timetable where significant eligibility concerns arise late in the IPO process.

Issuers seeking a Premium Listing of equity shares will be required to comply with the more substantive eligibility requirements that are imposed by the super-equivalent parts of the Listing Rules, in addition to those requirements in the Listing Rules based entirely on EU law. For commercial companies, these additional requirements include the requirement for a clean three-year track record of operations, and the requirement for a clean working capital statement for at least the next 12 months. For investment

entities, these requirements include an additional degree of regulation in relation to the corporate governance of the issuer. Overseas issuers wishing to comply only with the minimum standards applied by the EU Directives can apply for a Standard Listing of either equity shares or GDRs. The UKLA has recently also extended the Standard Listing category to UK issuers of equity shares which could previously only have had a Premium (formerly 'Primary') Listing.

Prospectus review and approval

An admission of securities onto the Official List and the Main Market of the London Stock Exchange requires the production of an approved prospectus. As the UKLA is the UK's competent authority for the purposes of the Prospectus Directive, it typically approves prospectuses produced during an IPO.

Although final confirmation of an issuer's eligibility can only be given once its prospectus has been approved, the UKLA will generally try to resolve any major eligibility issues prior to starting its review of an issuer's prospectus. This review involves an iterative process of reviewing and commenting on drafts of the prospectus until the UKLA is satisfied that all applicable rules have been complied with. The number of drafts necessary to reach this point will depend on the complexity of the issues and the quality of the submissions. By way of example, many large IPOs can involve the review of five or more substantive drafts for one reason or another.

The UKLA seeks to comply with its published service standards for the document review and approval process, and aims to provide comments on an initial draft of a new applicant prospectus within 10 working days, and comments on each subsequent draft within five working days. On average, the review and approval of a prospectus takes around 6-8 weeks for an IPO.

The prospectus can be published once it has been formally approved by the UKLA. The actual timing of that approval will depend on the issuer's choice of issuance method – for example, if the issuance involves a retail offering then approval and publication must occur sufficiently in advance of the beginning of the offer. A prospectus relating only to an introduction where no offer to the public is made may be approved as little as 48 hours prior to admission to listing.

Listing Particulars

Although no prospectus is required for the admission of securities to unregulated markets such as the Professional Securities Market (the 'PSM'), the UKLA does require Listing Particulars for the admission of those securities to listing on the Official List. In these cases, the process for reviewing the document, and the content requirements, are very similar to the requirements for a prospectus. The principal difference is that the financial information in a prospectus must be prepared in accordance with IFRS or an equivalent GAAP. In the case of Listing Particulars where securities are to be admitted to the PSM, the financial information can be prepared in accordance with local standards.

Passporting

An overseas issuer may also seek to passport onto a UK-regulated market, using a prospectus that has been approved by another competent authority. Although in these circumstances the UKLA will rely upon the passport to satisfy the requirement for an approved prospectus, it will still separately assess the issuer against the relevant eligibility requirements. As part of this process, the UKLA reviews the issuer's proposed prospectus to help in its assessment of eligibility, so again the UKLA recommends that an issuer makes contact sufficiently early in the process, and certainly before the prospectus has been approved by the home competent authority.

Post-IPO interaction with the UKLA

- **DTRs** – a listed issuer must comply with the DTRs on an ongoing basis, as failure to comply with these rules may result in the suspension of the listing of its securities. The UKLA has a team dedicated to monitoring issuers' compliance with the DTRs, and to providing guidance on these rules on a real-time basis.
- **Prospectus requirements** – if the issuer seeks admission of further securities of the same class it will be required to produce a prospectus, unless an exemption applies. Exemptions include, among other things, the issue of shares under employee share schemes and bonus issues. The UKLA would typically be required to approve any future prospectus.
- **Significant transactions** – if the issuer has a Premium Listing of its equity shares, it will be required to consider whether any significant transaction that it undertakes will need announcement or, if it is of sufficient size, shareholder approval. Lower size thresholds are applied if the transaction is being undertaken with a related party such as a director or substantial shareholder. The Listing Rules include rules governing the disclosure requirements in circulars where shareholder approval is sought, and also clarify which circulars require UKLA approval.
- **Timetables** – the UKLA staff (or 'readers') allocated to a particular case will typically be working on a large number of transactions at any one time. Whilst the UKLA makes every effort to accommodate tight timetables it cannot deal with every issue immediately or meet unrealistic timetables. Complex issues will need time for proper consideration prior to resolution and therefore the UKLA always advises that such issues should be brought to its attention as early as possible.
- **Helpdesks** – the UKLA offers several different helpdesks to provide guidance on the Listing Rules, Prospectus Rules, and the DTRs. This enables complex issues to be discussed and agreed prior to the submission of documents, or in relation to significant transactions (Tel: +44 (0)20 7066 8333).

A summary of the key differences between Premium and Standard listings

Key eligibility criteria	Premium – Equity Shares	Standard – Shares	Standard – Depositary Receipts
Free float	25%	25%	25%
Audited historical financial information	Three years	Three years or such shorter period	Three years or such shorter period
75 per cent of applicant's business supported by revenue-earning record for the three-year period	Required	n/a	n/a
Control over majority of the assets for the three-year period	Required	n/a	n/a
Requirement for clean working capital statement	Required	n/a	n/a
Sponsor	Required	n/a	n/a

Key continuing obligations	Premium – Equity Shares	Standard – Shares	Standard – Depositary Receipts
Free float	25%	25%	25%
Annual financial report	Required	Required	Required
Half-yearly financial report	Required	Required	n/a
Interim management statements	Required	Required	n/a
EU-IFRS or equivalent	Required	Required	Required
UK Corporate Governance Code	Comply or explain	n/a	n/a
Model Code	Applies	n/a	n/a
Pre-emption rights	Required	As required by relevant company law	n/a
Significant transaction ('Class tests')	Rules apply	n/a	n/a
Related-party transactions	Rules apply	n/a	n/a
Cancellation	75 per cent shareholder approval required	No shareholder approval required	No shareholder approval required

This list is not exhaustive and should be read in conjunction with the FSA Handbook (Listing Rules, Prospectus Rules and Disclosure & Transparency Rules).

Preparing for an IPO

John Woolland and David Seal
UBS Investment Bank

Advertisement

Personal wealth management

At UBS Wealth Management we know that floating a business can be the most important financial decision an owner may ever make. Having the right advice, not just during the IPO but at an earlier stage, can make a real difference. It may seem obvious that the list of advisers would include a solicitor, an accountant and an investment bank, but it is also prudent for owners to seek guidance on the implications for their personal wealth.

Most people who IPO a business want to realise part of the value in cash. A higher proportion of their assets may now be in stocks or shares. Early wealth management advice can help the owners extract and maximise the value of the investments they have built up.

Drawing on the expertise of the UBS group, our clients can benefit from a wide range of specific investment opportunities, blending traditional asset classes with private equity, hedge funds, commodities and real estate (where suitable to the client).

UBS provides brokerage services, foreign exchange execution and strategy, collateral backed lending and whole-of-market advice. Where there is a need for financial planning, our team of experts provides advice on structuring personal and corporate assets, pensions options and succession planning, with full back-up at every stage of life.

For more information about UBS Wealth Management please contact Michael Bishop on +44-20-7568 9587.

www.ubs.com/uk

UBS

Preparing for an IPO

Initial public offerings ('IPOs') are among the most challenging transactions that a business can undertake. The decision on whether to list a company's shares on a public market is a significant one; obtaining a public quote is a major milestone in any company's life. The process of going public is time-consuming, but it is an opportunity for a company to critically examine itself. A company, its management and its owners are likely to be in the public eye to a much greater extent than before.

A company's decision to launch an IPO must be based on a realistic assessment of its business, its management resources, its stage of development and its prospects. Public ownership offers significant advantages, such as access to the public equity and debt markets to finance growth and strengthen a company's financial position, as well as the creation of an open market for a company's shares. However, a company will face heightened scrutiny and greater demands on its management.

Planning is a key element in any IPO. In order to avoid unnecessary delays and distraction, which could be costly, management should evaluate in detail how it will commit adequate resources to meet the pressing deadlines of an IPO process.

The run-up to a company seeking a listing on the Main Market can be broadly divided into two phases – pre-IPO preparation and the IPO process itself. Pre-IPO preparation includes the critical review of a company's business plan and growth prospects, assessing the management team, appointing an appropriate board, tightening internal controls, improving operational efficiency and resolving issues that may adversely affect the listing early on.

The United Kingdom Listing Authority's ('UKLA') Listing Rules set the specific regulatory requirements that a company has to meet to be allowed to list on a market. Unsurprisingly, a number of the UKLA's requirements coincide with the attributes which investors are looking for in a company. The precise regulatory requirements are covered in the chapter 'The legal framework for an IPO' on page 31. Areas such as a demonstrable trading record and appropriately experienced directors clearly help to satisfy both the regulators and the potential shareholders. Ultimately, the ability to meet the market's commercial expectations is crucial.

For management and owners, an IPO may also crystallise the need to examine their tax planning and personal wealth management. This should be addressed early to avoid distraction during the final, and often hectic, few weeks of the IPO process.

Pre-IPO preparation

Businesses often begin their preparations for becoming public companies well before they launch the IPO process. Typically, pre-IPO preparations take four to six months, but they can take considerably longer. Advance preparation is a key success factor that allows for a smooth and efficient execution process and the ability to take advantage of market windows.

Management team

A company's management team will need to explain the business, its strategy and prospects to investors, and demonstrate knowledge of the sector, as well as its challenges, in order to gain the support and confidence of the market. The directors of a company will be accountable to its new and existing shareholders for the performance of the business when it is a public company. Therefore, as a company prepares for its IPO it may need to ensure that its management has sufficient depth and breadth.

Business plan

For the purposes of an IPO, a company needs a

comprehensive business plan that sets out its products, markets, competitive environment, strategy, capabilities and growth objectives. Companies engaging in successful IPOs tend to have a clearly defined vision for the future performance of the business that can be articulated credibly, clearly and quantifiably.

Companies that are in mature or shrinking industries, operate within small markets, or provide a narrow range of products to a small and highly specialised customer base may be unsuitable for an IPO.

Financial performance

A company should expect to show investors a consistent pattern of top- and bottom-line growth and a sound balance sheet post-IPO. For a company seeking a Premium Listing, its financial statements need to adhere to International Financial Reporting Standards ('IFRS'). Further technical requirements of the financial information required to be included in a prospectus are covered in the chapter 'Accounting requirements and advice through the IPO process' on page 43.

Growth prospects

Before investing in a company, most investors want to feel confident about its future growth prospects. A company should develop a financial model that quantifies its business plan and expected growth. The sponsor (see page 26) may work closely with management and external consultants/experts to develop this model and will conduct due diligence on the assumptions behind the model and stress-test the projections.

Raising funds?

The majority of listings take place with a simultaneous share offering to investors. This can take the form of:

- raising additional capital for the business by issuing new shares in a company to new and existing shareholders (a primary offering)
- existing shareholders selling their shares to new or other existing shareholders, ie no additional capital is raised for the business (a secondary offering); or
- a combination of both.

If existing shareholders intend to sell in the IPO, it is helpful to know the likely quantum early so that the IPO can be planned accordingly.

Use of proceeds

If a company is raising new capital, the use of proceeds should be clearly articulated and in line with its strategy. In many cases, the proceeds will be used to either pay down debt, fund capital investment or to provide working capital for expansion.

In determining the quantum of new capital, a company needs to consider its future capital structure and its ability to pay dividends at an appropriate level.

Financial controls

The market expects companies to have proper financial controls in place. In addition, the UKLA requires the sponsor to provide written confirmation of the adequacy of a company's financial controls. Companies contemplating a listing will therefore need to ensure that they have systems in place to ensure a flow of accurate, timely information.

Board

A public company needs to satisfy corporate governance requirements. The principles are set out in the UK Corporate Governance Code (the 'Code') and a company is required to comply with the Code, or explain why it has not, in its prospectus. It is typically necessary to appoint new members to the board who are independent and to form new committees (eg audit and remuneration). Identifying suitable candidates can take a

significant amount of time. Potential directors often want to be involved in the IPO process at an early stage. The sponsor frequently assists in the recruitment and assessment of potential board members for a company seeking a listing.

Group reorganisation

The reorganisation steps undertaken in preparation for an IPO will vary, depending on the existing and intended group structure. One of the key steps is determining the jurisdiction of incorporation of the listing entity. At IPO it is essential to ensure that the group holds all assets, intellectual property and contractual rights necessary to carry on its business operations. Part of the group reorganisation may involve their transfer where they are currently held by related parties outside of the group.

Change may be necessary to optimise a group's tax position, or to remove businesses or assets that are not part of the group to be floated. For example, company-owned horses, boats and so on are unlikely to be appropriate for a quoted company.

Determine employee and management compensation and incentive plans

As part of the IPO process, many companies review the amount of equity owned by their top executives and employees. Additional equity options or other incentives at the IPO may be granted to increase management and employee ownership and to align incentives from the IPO with a company's new investors. Remuneration consultants can advise on the structure of any schemes, as well as trends in the appropriate industry. The recommendations should be reviewed by the sponsor and bookrunner(s) to ensure that the awards are in line with market expectations.

Wealth management and financial planning

For many managers and owners of a business, an IPO is an opportunity to realise or transfer part of their wealth. Early planning of their personal tax and financial affairs is advisable to avoid delay or difficulty in the final stages of an IPO.

Controlling shareholders

Potential investors may be influenced, negatively or positively, by the presence of a controlling shareholder. A company should assess what will happen with such shareholders post an IPO, ie whether they will sell down some or all of their holdings, continue to have board representation or maintain veto rights on certain company decisions. In most situations, any special rights will be unwound and, where appropriate, a relationship agreement may be entered into as part of the IPO process to avoid potential future conflicts of interest.

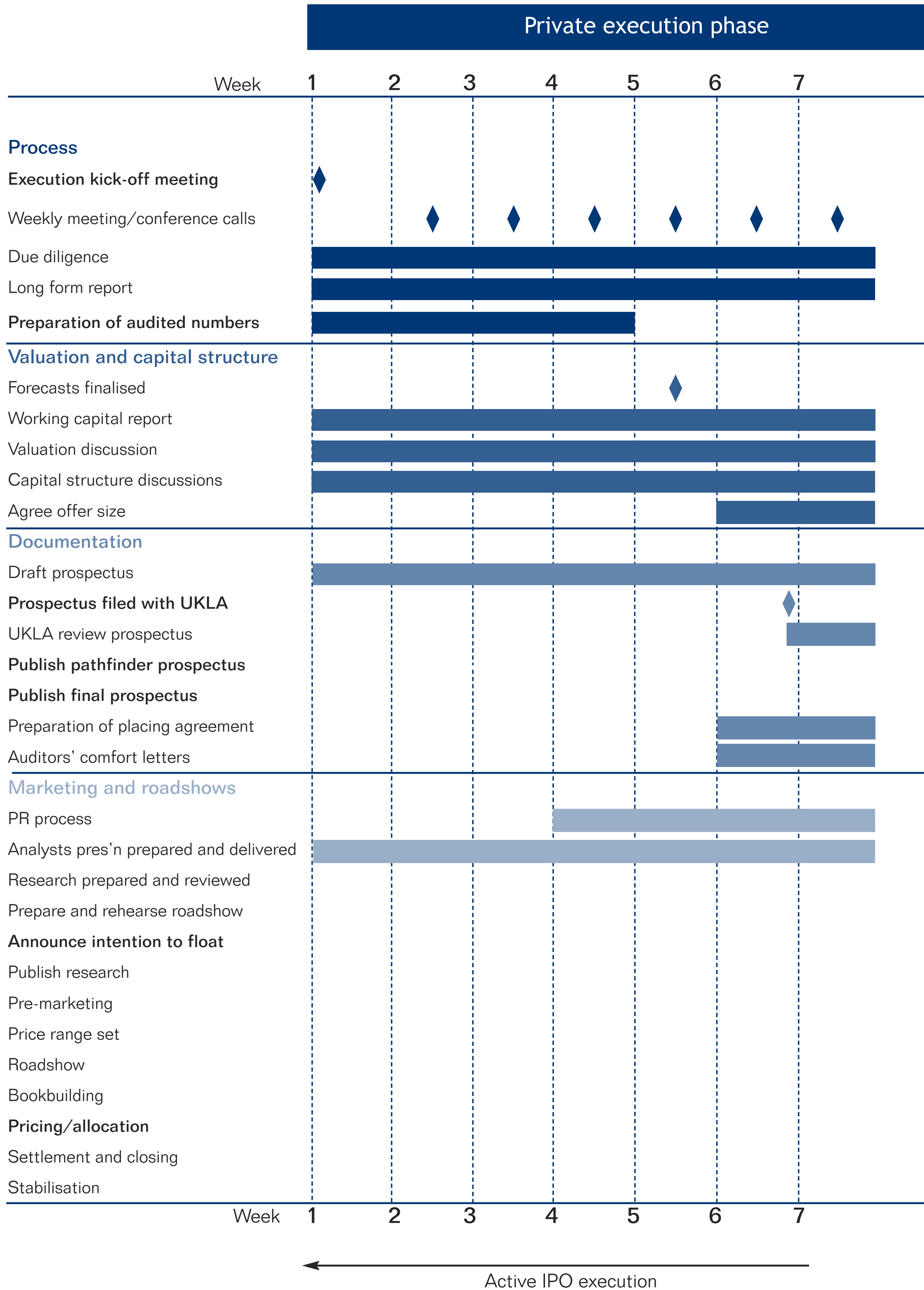
Related-party transactions

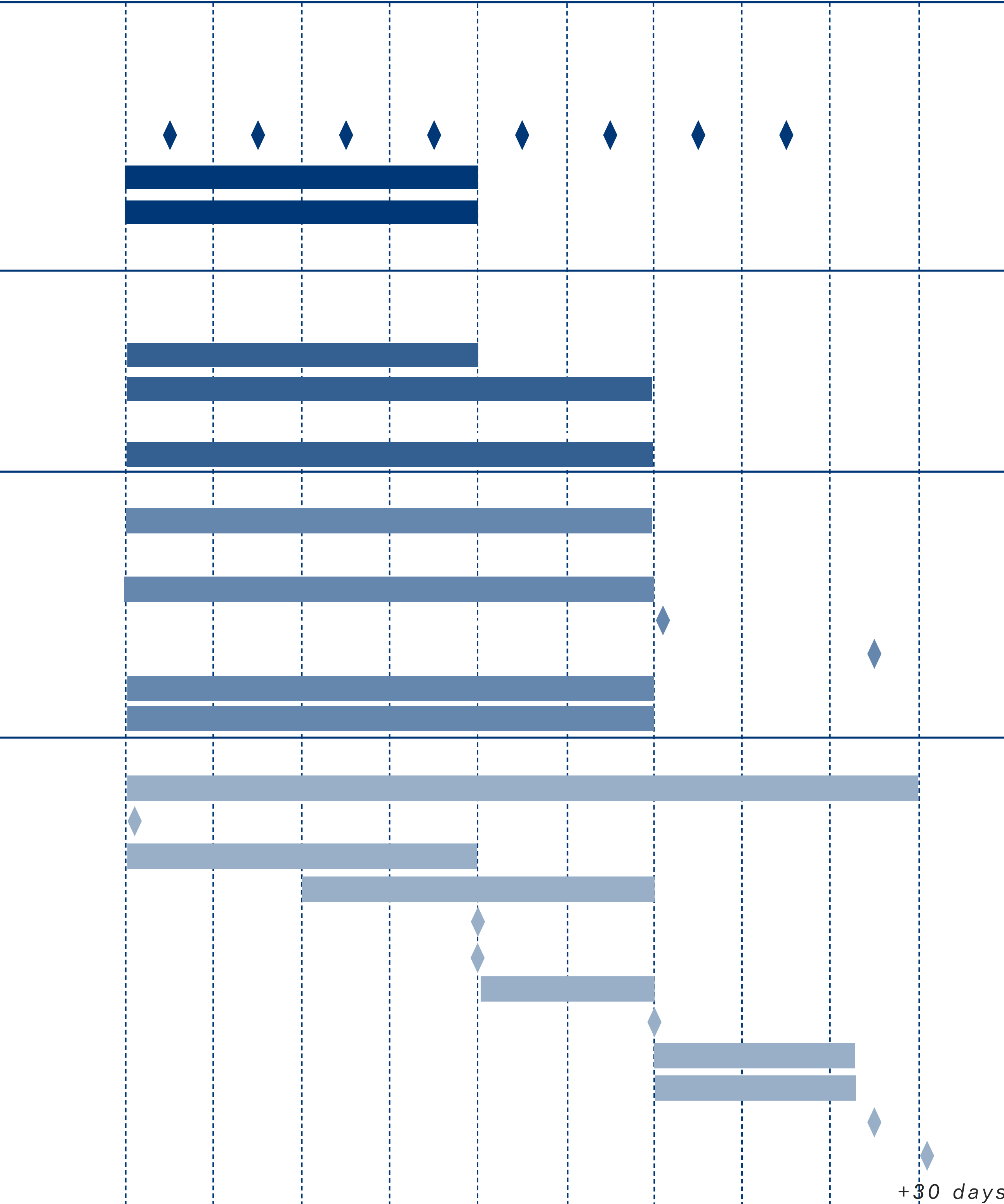
Any internal transactions, compensation arrangements and relationships involving management or the board that might be appropriate for a private company but improper for a public company must be eliminated. A company should therefore consider whether any outside affiliations will be negatively perceived by the market.

Investor relations ('IR')

IR is the term used to describe the ongoing activity of companies communicating with the investment community. While the communication that public companies undertake is a mix of regulatory and voluntary activities, IR is essentially the part of public life that sees companies interacting with existing shareholders, potential investors, research analysts and journalists. Larger companies frequently create a separate IR function to meet the demands for information and to assist in all communications with the market. Please refer to the chapter 'Managing the company's profile' on page 69 for more detail on this topic.

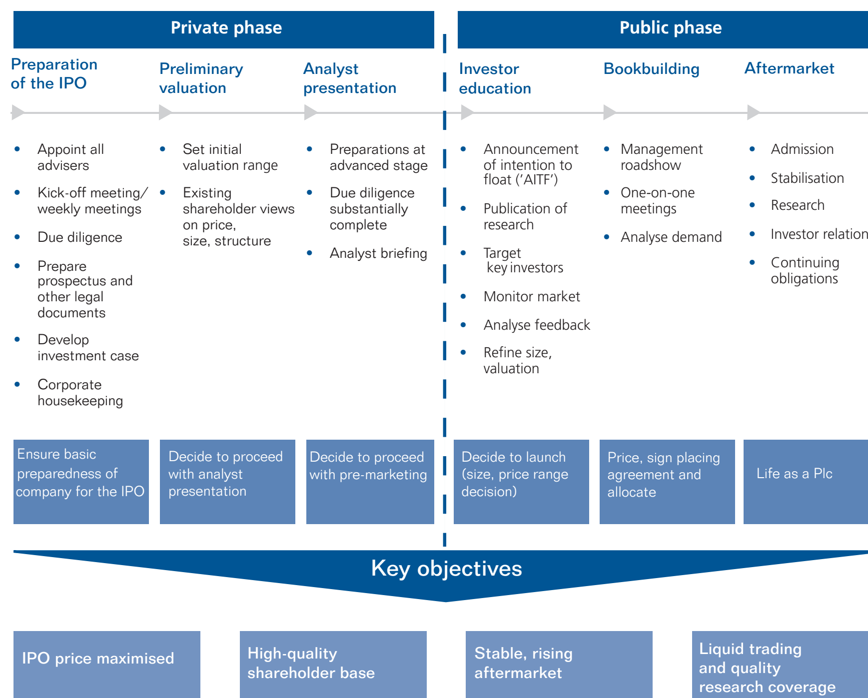
IPO timetable





Public execution phase
8
9
10
11
12
13
14
15
16
17
+30 days
Active IPO execution

IPO process



The IPO Process

The IPO process involves both a private and public phase (see 'IPO Process' chart above).

Private phase

Select the sponsor

A company seeking a listing is required to appoint a sponsor. The sponsor leads a company's team of professional advisers and coordinates their roles to ensure a company successfully completes the listing process. A full list of approved sponsors and their contact details is available on the Financial Services Authority ('FSA') website: www.fsa.gov.uk

Often, companies approach the appointment of advisers by holding 'beauty parades' with a series of sponsors, asking each about their expertise, experience and fees, and getting a feeling for what it would be like to work closely with them over an extended period. Since acting as a sponsor requires a high degree of commitment, the appointment process is often 'two-way'. Hence, the sponsor will also want fully to understand a company's business before agreeing to take on the listing.

The sponsor has responsibilities both to the company and to the UKLA. For example, the sponsor is required to submit an eligibility letter to the UKLA setting out how the company satisfies a number of the Listing Rules. The sponsor is also obliged to consider whether "the admission of the equity shares would be detrimental to investors' interests".

Appointment of other professional advisers

In addition to the sponsor, a company needs to assemble a number of other advisers to guide it through the process. This includes the bookrunner(s), lawyers (one firm advising the

company and another firm to advise the sponsor/bookrunner(s)), accountants, financial public relations advisers, remuneration consultants, registrars and financial printers. Experts in valuations or sector consultants may also be appointed.

IPO timetable

See 'IPO timetable' chart on pages 24 and 25.

An IPO can generally be completed within 15 to 20 weeks. The exact timetable will vary depending on market conditions, the scope and complexity of the deal and a range of other factors.

Kick-off meeting

A kick-off meeting is usually held in person and involves discussions to make sure that the working group fully understands the structure of the transaction, the process, timetable and all other relevant issues. The sponsor will usually provide a detailed organisation book that goes through all these issues in detail.

Weekly meetings

In order to ensure that the process remains on track, the sponsor is likely to organise weekly meetings/conference calls. These meetings give an opportunity for all parties to be kept fully up to date on the process and for any key issues to be raised.

Prospectus – UKLA process

Before a company can be listed, the sponsor must get a company's prospectus approved by the UKLA. Although the prospectus is a legal document, it is also a marketing tool to help to sell shares to potential investors. A company's lawyers usually take the primary responsibility for drafting the prospectus although the sponsor/bookrunner(s) assist a company in crafting the appropriate marketing story. The drafting of the prospectus takes several weeks and will involve all advisers. A number of drafting sessions will take place on various sections of the document. From a marketing perspective, the prospectus outlines a company's strengths, strategy and market opportunity. The precise areas that must be covered in a prospectus, such as the inclusion of risks relating to a company, are covered in the chapter 'The legal framework for an IPO' on page 31.

The sponsor is responsible for submitting drafts of the prospectus to the UKLA. The UKLA is allowed 10 business days after the first submission to respond to the sponsor with a comment sheet. The company and its advisers will then revise the prospectus so that the sponsor can submit an updated draft with the UKLA for a further review. For the second and subsequent drafts, the UKLA responds via its comment sheet within five business days. As every transaction is unique, it is impossible to predict exactly how long this process will take. However, as a rule, the timeframe is approximately six to eight weeks from initial submission of the prospectus to the UKLA (approximately three to four submissions) to preliminary approval ahead of launching the transaction, often with a Pathfinder prospectus (see page 29).

Due diligence

The overall purpose of due diligence is to ensure the accuracy, truthfulness and completeness of a company's prospectus, and to understand any issues associated with the company. While each professional adviser performs a different role in this process, the sponsor/bookrunner(s) will focus on the diligence of a company's operations, management, financial prospects, historical performance, competitive position and business strategy. The advisers will also look closely at factors such as a company's suppliers, customers, creditors and anything else that might have a bearing on the offering or viability of a company as a public company and on the accuracy and completeness of the prospectus.

Due diligence comprises many interrelated processes. Business due diligence is conducted mainly by the sponsor and bookrunner(s) and is designed to verify a company's business strategy and potential for future growth. As part of the information and fact-gathering process, the sponsor/bookrunner(s) may conduct onsite inspections, particularly for manufacturing and property-intensive businesses. They may also interview company officials, suppliers and customers to understand fully every aspect of a company's business and its financial statements. The knowledge obtained will later help the sponsor/bookrunner(s) and management to craft a strong, consistent message that can be used during the marketing process.

Financial due diligence is geared toward confirming a company's historical financial results and understanding its operational and financial prospects. Key areas of focus include:

- audited and interim financial statements
- capital structure
- breakdown of historical financials by business
- detailed review of budgets
- meetings with auditors
- budget versus actual financial statements
- accounting policies and auditor management letters
- use of proceeds
- financial control systems
- working capital requirements
- debt covenants.

The financial due diligence workstreams are covered in more detail in the chapter: 'Accounting requirements and advice through the IPO process' on page 43.

Legal due diligence is conducted by the solicitors and is the process of verifying a company's legal records, material contracts and litigation. Key areas of focus include:

- litigation
- compliance with laws and regulations
- title to principal assets
- corporate structure
- debt covenants
- environmental issues
- intellectual property.

Legal restructuring, documentation and agreements

During this stage, a company's management, sponsor and lawyers work together to draft the necessary legal documentation and implement any required corporate restructuring. The collective purpose of these documents is to assure investors and regulators that the IPO has been objectively vetted for gaps, irregularities, misleading statements and other potential problems. The documents include:

- the placing agreement (if funds are being raised)
- comfort letters
- legal opinions
- lock-up agreements.

Continue to prepare a company to become a public company

The sponsor/bookrunner(s) will assist a company on a number of matters critical to its transformation into a public entity. These include:

- discussion of valuation
- development of investment case
- the composition of the board and its committees
- internal controls
- prevailing market conditions.

Marketing strategy

The bookrunner(s) and sponsor will set up a comprehensive marketing plan to target specific investors.

Analyst presentation

It is common practice for senior management to meet with the research analysts employed by the bookrunner(s) before the IPO and for such analysts to publish pre-deal research on a company before the start of the roadshow. To prepare fully for the presentation, several meetings and rehearsals with senior management are usually required. Material information must be included in the prospectus, but considerable additional information will be provided to the analysts to ensure a full understanding of a company's business and sector.

Public phase

The main components of the marketing process are outlined below and explained at greater length in the chapter: 'Generating and capturing investor demand during an IPO' on page 57.

Announcement of Intention to Float ('AITF')

The first time that a company provides specific confirmation of its IPO plans is in a public announcement known as the AITF. At this stage the marketing process begins in earnest, often with publication of research by analysts connected to the bookrunner(s). Larger companies are likely to have a carefully developed media PR campaign to promote knowledge of the business and management to the media.

Pathfinder prospectus

At this stage in the process, a draft prospectus (also referred to as a Pathfinder prospectus) is often made available to prospective investors. This document is an almost final version of the prospectus. Apart from details of the precise size of the IPO and the subscription price of the new shares to be offered (which are unlikely to be finalised at this stage), it should include all other relevant details.

Investor education

Investor education is the process whereby the analyst(s) referred to above market the story to investors using the research they have written. This takes place on larger IPOs and is in advance of the management roadshow.

Considerations for overseas companies

For inclusion in the FTSE UK Index Series, it is important for overseas companies to note that:

- a company not incorporated in the UK will be required to publicly acknowledge adherence to the principles of the UK Corporate Governance Code, pre-emption rights and the UK Takeover Code, as far as is practical; and
- a company not incorporated in the UK must have a free float of not less than 50 per cent.

Details in relation to the FTSE UK Index Series are covered in the chapter: 'London: a unique investment opportunity' on page 87.

Management roadshow presentation

The management roadshow is a series of meetings with potential investors. It typically includes a formal presentation by the CEO and CFO outlining the company's business operations, financial results, performance, markets, products and services. As with the analyst presentation, the role of the sponsor/bookrunner(s) in this workstream includes assisting a company in the preparation of the presentation and organising rehearsals.

Completion and pricing meeting

Following the management roadshow and the pricing of the IPO, a completion meeting takes place where all relevant documents and paperwork are reviewed in their final form by both the directors and their advisers. The exchange of new shares for funds typically occurs three business days after pricing. During this three-day period, the shares may trade on a 'when issued' basis, meaning that the bargains are not settled until the listing becomes effective.

Impact Day
This is typically the day after the completion meeting and is the day on which the availability of the prospectus is advertised and the listing is officially announced to the market.

UKLA final approval
The prospectus must be submitted in final form, which will include the relevant pricing and size information, to the UKLA for final approval.

The UKLA also requires any supporting documents, including directors' service contracts, audited accounts and all reports referred to in the prospectus, to be delivered on the date of approval. The UKLA only approves the prospectus on the day it is dated and published.

Applications for listing and trading
At least 48 hours before admission, the formal application for a listing is submitted to the UKLA. At the same time, a formal application for admission to trading is submitted to the Exchange.

Admission
This is the point at which a company's shares are 'admitted' to listing and the shares are traded publicly on the Main Market. The listing is officially granted by the UKLA in conjunction with admission to trading being granted by the London Stock Exchange.

Specialist companies
Specific rules apply to a variety of businesses including investment companies and resource companies and certain financial companies. In some cases, expert reports will be required (eg to report on oil and gas reserves).

Occasionally, companies may be able to IPO when they do not meet the three-year rule on financial statements, such as when they are seeking a Standard Listing. The requirements for listing should be discussed in advance with both the sponsor and the London Stock Exchange or the UKLA.

Summary
When contemplating an IPO, a company's management and its owners should not underestimate the significant time, resources and planning required in listing a company on the Main Market.

There are two distinct stages: pre-IPO preparation and the IPO process itself. It is imperative for the success of an IPO that a company undertakes sufficient pre-IPO preparation to ensure it is suitable to become a public company.

To assist in the planning process, a sponsor, which is usually an investment bank, should be appointed. A sponsor is able to advise a company through its pre-IPO preparation and will, during the IPO process, lead a company's team of professional advisers and coordinate their roles to ensure a smooth listing process.

The legal framework for an IPO

Simon Witty and David Cotton
Freshfields Bruckhaus Deringer LLP

FRESHFIELDS BRUCKHAUS DERINGER

An IPO is just the beginning.

In 2009, we helped our clients complete 14 initial public offerings (IPOs) globally, raising in excess of $15bn. We also completed 58 further issues, raising in excess of $62bn.

We're proud of those statistics, but they're only a part of the story. We cover every kind of mandate and, because we work hard to maintain long-standing client relationships, we get to work with clients through the good times and the challenging. Freshfields Bruckhaus Deringer currently acts for over a third of the FTSE 100 and those clients know that, when the going gets really tough, we are the law firm they can turn to for business-focused advice on the most complex challenges.

With over 2,500 lawyers in 27 offices, we are able to offer our clients the best legal advice for their business – wherever they need it, whatever the jurisdiction and through every stage of development.

If you would like more information please contact any of sarah.murphy@freshfields.com, stephen.revell@freshfields.com or simon.witty@freshfields.com.

www.freshfields.com

Freshfields Bruckhaus Deringer LLP is proud to be the official legal services provider to the London 2012 Olympic and Paralympic Games.

The legal framework for an IPO

This chapter provides an insight into the following areas:

- regulations governing the Main Market and an overview of the relevant rulebooks
- eligibility criteria for companies seeking Premium and Standard Listings
- contents requirements for the prospectus
- considerations for companies located outside the UK
- continuing obligations.

The legal and regulatory basis of the Main Market

The Main Market of the London Stock Exchange (the 'Exchange') is governed by EU law, UK Acts of Parliament, regulations drawn up by the Financial Services Authority ('FSA') and the Exchange's rules.

EU law, through various directives and regulations, provides the minimum standards (applicable EU-wide) that apply to the Main Market. The UK has, where necessary, implemented these directives and regulations through the Financial Services and Markets Act 2000 ('FSMA') and through the Listing Rules, the Prospectus Rules and the Disclosure and Transparency Rules. Among other things, FSMA gives statutory powers in relation to listings and listed companies to the FSA, which also acts as the UK Listing Authority ('UKLA'). The UKLA is also the UK's 'competent authority' for the purposes of EU legislation. Also relevant to interpreting and applying the relevant EU and UK legislation are guidance published by the Committee of European Securities Regulators ('CESR'), materials published by the FSA/UKLA (eg *LIST!*) and the UK Corporate Governance Code (formerly the 'Combined Code'), which is published by the Financial Reporting Council.

Access to the Main Market is a two-stage process: first it is necessary for the UKLA to admit a company's shares to the official list of the FSA (the 'Official List'), and then for the Exchange to admit those shares to trading on the Main Market.

In order to obtain admission to the Official List, a company must meet the requirements of the Listing Rules and have published, or passported into the UK, an approved prospectus. The requirements of the Listing Rules will vary according to the type of listing being sought – a Premium Listing or a Standard Listing. In order to be admitted to trading on the Main Market, in addition to obtaining admission to the Official List, a company must comply with the Exchange's own regulations as laid out in its Admission and Disclosure Standards ('A&DS').

Eligibility for joining the Official List/Main Market

For shares to be admitted to the Official List and to trading on the Main Market, a company and the shares it issues must satisfy the relevant Official List and the Exchange's eligibility requirements. A company also needs to bear in mind, and ensure that it is able to comply with, the continuing obligations to which it will be subject following listing and admission. These are described on page 39 and following.

UKLA eligibility requirements

The UKLA eligibility requirements are found in the Listing Rules. There are requirements that apply to all listings, as well as additional requirements that apply only to Premium Listings. One such requirement that applies to companies seeking a Premium Listing is that they must appoint a 'sponsor', which will generally be an investment bank, to advise them on the Listing Rules and Prospectus Rules and to give confirmations as to their compliance with those rules and certain other matters to the UKLA. Although a sponsor is required to provide advice to the company, its primary responsibilities and obligations are owed to the UKLA. The Listing Rules contain provisions as to the independence of the sponsor and

identifying and managing conflicts of interest between its relationship with the company and its role as sponsor (it is, for example, customary for a sponsor also to be a bookrunner or underwriter in an offering). See the chapter 'Preparing for an IPO' on page 19 for more detail on the role of the sponsor and the chapter 'Generating and capturing investor demand during an IPO'on page 57 for more information on the role of the bookrunner(s).

Eligibility requirements that apply to both Standard and Premium Listings

Chapter 2 Listing Rules requirements

Chapter 2 of the Listing Rules contains basic requirements that, subject to some modifications, apply to listings of all types of securities.

The first set of requirements relates to legal matters and these require that the company is duly incorporated, validly existing and operating in conformity with its constitution and that its shares comply with the laws of the company's place of incorporation, are duly authorised and have all necessary statutory and other consents. The shares must also be admitted to trading on a recognised investment exchange, such as the London Stock Exchange (in practice, the listing and admission to trading will take place simultaneously), be freely transferable, fully paid and free from any liens or restrictions on the right of transfer (save for failure to comply with a statutory notice requiring information about interests in shares). Neither usual selling restrictions imposed as part of an offering nor a contractual lock-up arrangement would be considered a bar on transferability for these purposes. In addition, all the shares of the same class as the listed shares must be listed and the shares must have a minimum market capitalisation of £700,000. Finally, a prospectus relating to the shares must be approved by the FSA (or by another EEA state competent authority and passported into the UK) and published.

'Free-float' requirement

In order to obtain a Premium or Standard Listing, at least 25 per cent of the entire class of shares must, by the time of their admission to listing, be held by 'the public' in one or more EEA states. The amount of share capital held by the public is also known as the 'free-float'. Generally speaking, shares are deemed held by the public unless they are held by one or more of the following: (i) directors of the company or group members; (ii) persons connected with directors of the company or group members; (iii) trustees of any group employee share scheme or pension fund; (iv) a person who has the right to nominate a director; and/or (v) persons who individually or acting in concert have a 5 per cent or greater interest in the share capital.

This rule is to ensure that there are sufficient smaller and non company-related shareholders for the market in the shares to operate properly – that is, for there to be sufficient liquidity in the shares. Given this, the UKLA does sometimes allow a smaller free-float than 25 per cent – for instance, where there are shares held outside the EEA that would be capable of being traded, or where the company's market capitalisation is so large that a smaller percentage might still allow for a sufficiently liquid market in the stock.

This rule is of particular interest in an IPO where the existing owners intend to maintain a substantial majority stake following the listing, as it will limit the number of shares they can retain post-IPO, especially if there is also a 'strategic' investor with more than 5 per cent.

Eligibility requirements for a Premium Listing

The eligibility requirements for a Premium Listing are found in Chapter 6 of the Listing Rules ('LR6'). As indicated above, these go beyond the basic requirements of the EU legislation.

Audited historical financial information
A company seeking a Premium Listing must generally have published or filed accounts for at least the last three financial years, audited without modification (which will generally mean without qualification), and the most recent must be for a period ended not more than six months prior to the date of the prospectus. This requirement will often drive the IPO timetable and will necessitate the preparation of interim audited accounts where the existing annual accounts are not sufficiently recent.

In addition to the above requirements, the auditors must be independent of the company and the company must obtain written confirmation from them that they comply with the relevant accounting and auditing independence guidelines.

75 per cent of the business being supported by revenue-earning record, control of assets and independence
At least 75 per cent of the business of a company seeking a Premium Listing must generally be supported by a revenue-earning record covering the period for which accounts are required under LR6 – namely, at least three years. In practical terms, this means that a company that has made major acquisitions (amounting to 25 per cent or more of its business) over the financial track record period must include financial information for these businesses both before and after their acquisition.

The form this information will take will be determined in accordance with the rules relating to 'complex financial histories' (rules contained, amongst other places, in Regulation 211/2007, which amended the Prospectus Regulation 809/2004 EC (the 'EU PD Regulation')).

A company must also have controlled the majority of its assets for at least the three-year period for which accounts are required and be carrying on an independent business as its main activity. Where shareholders continue to own a substantial stake after IPO, it is customary to put in place a relationship agreement between those shareholders and the company to assist in demonstrating its operational independence.

The requirements relating to the nature and duration of the company's business activities are intended to enable investors to make a reasonable assessment of the future prospects of the company's business. Accordingly, an issuer may not satisfy these provisions if its strategy, business or financial performance in the future is expected to be significantly different from that in its three-year track record.

Working capital
A company seeking a Premium Listing is required to satisfy the FSA that it has sufficient working capital for at least the next 12 months. On a practical level, this is generally satisfied by the working capital statement to this effect included in the prospectus and the sponsor's declaration to the FSA. By contrast, an issuer seeking a Standard Listing need not have sufficient working capital for the next 12 months, although if not it would need to explain in its prospectus how it intends to procure such capital. To support the working capital statement and, where applicable, the related declaration, the company and its accountants will prepare a working capital report. The sponsor will review this report and conduct other related due diligence.

Warrants or options to subscribe
The total of all issued warrants and options to subscribe for equity share capital of the company must not exceed 20 per cent of its issued share capital.

Mineral companies and scientific research companies
Mineral companies and scientific research companies are subject to additional eligibility requirements, although they are not required to have a three-year, revenue-earning, audited track record.

London Stock Exchange eligibility requirements

The London Stock Exchange eligibility requirements are found in the A&DS. The essential requirement of the company is that it complies with the requirements of the securities regulators by which it is regulated (ie the FSA and any other home state regulator) and any other stock exchange on which it has securities admitted to trading. The A&DS also impose requirements relating to the trading and settlement of the shares: the shares must be capable of being traded in a fair, orderly and efficient manner and they must be eligible for electronic settlement.

The prospectus

A prospectus must be published by a company before its securities can be listed and admitted to trading on the Main Market. A prospectus sets out detailed information about a company's business, management and financial information, and there are detailed provisions in the FSA's Prospectus Rules and the EU PD Regulation regarding its content. The prospectus and its contents also form the base for marketing any offering to potential investors.

Passporting

The EU Prospectus Directive introduced the possibility of using a single prospectus approved within one EU jurisdiction to enable companies to offer or list securities throughout the EU. The requirements to effect the passporting into the UK of a prospectus approved elsewhere in the EU are minimal: the relevant regulator must provide the FSA with a copy of the prospectus and confirmation of its approval and the summary section of the prospectus (expected to be no more than 2,500 words) must be available in English.

'Pathfinder' or 'Price Range' prospectus

By the time a company has completed its IPO it is likely that it will have produced a 'pathfinder' prospectus (strictly an advertisement rather than a prospectus) as well as the UKLA-approved prospectus. The pathfinder prospectus is a near-final draft of the prospectus that, in the context of offers to institutional investors only, will be used as part of the book-building and marketing process of the IPO. A few days before the day of admission to both the Official List and trading on the Main Market, a final, complete and UKLA-approved prospectus will be published containing the price at which the securities are offered for sale. If the offer is also being made to non-institutional investors, a pathfinder prospectus is not normally published, and instead a UKLA-approved 'price range' prospectus is used, offering shares to investors within a specified indicative offer price range. A pricing statement would subsequently be issued once the offer price is fixed at the end of the book-building and marketing period.

What must the prospectus contain?

The prospectus must contain the information necessary for investors to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the company, as well as the rights attaching to the securities being offered. This information must be presented in a way that is comprehensible and easy to analyse.

These are the overarching requirements of FSMA, but there are also more detailed content requirements contained in the Prospectus Rules, which along with FSMA implement the Prospectus Directive and the EU PD Regulation (which will be shortly amended, although mainly in the context of secondary offerings rather than IPOs). Additionally, certain of these detailed requirements are further described in guidelines and questions and answers published by CESR, which will be taken into account by the FSA when it is determining whether the company has complied with its obligations regarding the prospectus. Further guidance on the application and interpretation of the EU PD Regulation and Prospectus Rules can be found in the *LIST!* newsletters published by the UKLA from time to time.

Summary of prospectus contents

Summary	This section must briefly (in no more than 2,500 words) convey in non-technical language the essential characteristics of, and the risks associated with, the company and its securities. This will usually include a summary of the company, its business, strategy and prospects along with a summary of its financial information and the risk factors.
Risk factors	This section must describe the principal risks of relevance to the company and an acquisition of its shares. The former should be specific to the company and its industry – often a prospectus will divide the risk factors so as to address these separately. It will generally take a considerable time to draft the risk factors. As part of the approval process, the FSA will check to ensure that the risk factors do not undermine any of the statements made in the rest of the prospectus, especially the working capital statement.
Business description	This section describes and discusses the company's business and operations. It will generally start with an overview section, followed by a summary of the group's strengths and strategies. Following this, there will be a description of the principal products or services sold by the group, together with details of where and how these are produced and sold, including information on the group's customers and suppliers. An overview of the industry in which the group operates will also be included in this section, or included as a standalone section. The business description section will also typically include information on the group's employees, research and development, the group's competitors and the legal and regulatory framework in which the group operates.
Operating and financial review	This section is intended to provide investors with the information necessary to enable them to assess the key drivers of the group's business, of relevance to both past and future performance, and to understand management's perception of these matters. The operating and financial review will also include a description and explanation of the trends in the financial information included in the prospectus (including by business segment where appropriate) and a description of the group's sources and uses of liquidity and capital resources.
Financial information	This section must include information about the company's assets and liabilities, financial position and profits and losses for the three most recent financial years (or, unless a Premium Listing, such shorter period as the company has been in operation) as well as any interim results published. The financial information needs to be audited (subject to certain exceptions) and prepared in accordance with IFRS or an 'equivalent' GAAP (eg US GAAP). As well as the historical financial information, the prospectus must include a 'pro forma' table, illustrating the effect of the IPO (and any significant transactions that are not consolidated into the financial statements) on the balance sheet and income statement. If the company wishes (for marketing reasons) or is obliged (because it has previously published one that remains current) to include a profit forecast or estimate in its prospectus, that forecast or estimate must be reported on by an auditor and that report must be included in the prospectus.
Working capital and no significant change	The directors must make a working capital statement stating that the company has sufficient working capital for the requirements of its group for the 12 months following publication of the prospectus (or, in the case of a Standard Listing, if not, how it intends to procure sufficient working capital). In addition, the prospectus must include a statement confirming that there has been no significant change in the financial or trading position of the group since the end of the last annual or interim financial period (or, if there have been changes, include details).
Other information about the company	• dividend policy • material litigation • directors and senior management • related-party transactions • major shareholders, and • terms of the share offering and share capital.

Who is responsible for the prospectus?

The company directors are obliged in the prospectus to state that they accept responsibility for the information in it and that it is true to the best of their knowledge, having taken reasonable care to make sure that this is the case. The issuer will also be responsible for the prospectus, as potentially are certain others (for example, providers of any expert reports included in the prospectus).

Responsibility for the prospectus carries with it the possibility of liability for the company, its directors and others. Quite apart from these considerations, the accuracy and completeness of the prospectus are of the utmost importance for commercial and reputational reasons. As a consequence, procedures have developed around the preparation of any prospectus, collectively referred to as 'due diligence', with this aim in mind. The process depends on the collective efforts of management as well as the banking, legal, accounting and other advisers. The due diligence exercise may also include a specific 'verification' exercise in which the steps taken to check material factual statements in the prospectus are recorded.

Timetable

The process, from the start of due diligence to the final printing of the prospectus prior to UKLA approval, is accordingly a complex one and can take four months or more to complete (see IPO timetable on pages 24 and 25 in the chapter 'Preparing for an IPO').

Considerations for overseas companies

There are a number of additional factors that a non-UK company needs to take into account. For example, although non-UK companies can obtain a Premium Listing, FTSE index inclusion (one of the main motivations for a Premium Listing) will not always be possible. A non-UK company also needs to consider which competent authority will be responsible for approving its prospectus. In the case of companies incorporated in another EEA state this will normally be the competent authority in its state of incorporation.

Eligibility requirements

Subject to the additional eligibility requirement in respect of non-EEA companies without a home listing (see below), the Official List and London Stock Exchange eligibility requirements are the same for both UK and non-UK entities. However, non-UK companies may find it more difficult to comply with some of the Official List eligibility requirements.

Absence of a home listing

Where the shares of a non-EEA company are not also listed in that company's country of incorporation or the country in which the majority of its shares are held, the FSA must be satisfied that the absence of a listing is not due to the need to protect investors. For instance, the company has not been delisted or refused a listing in its home country due to breaches of law or regulation.

Financial information

A non-UK company that has not historically prepared its financial information to IFRS or an equivalent set of standards (eg US GAAP) will need to restate its historical financial information to IFRS or an equivalent set of standards, which can be a lengthy and costly process. This would apply to a listing anywhere in the EEA.

Settlement

To be eligible for admission, a company's shares must be capable of being traded electronically. For admission to the Exchange's Main Market, this means that the shares must be capable of being admitted to CREST, a system operated by Euroclear UK & Ireland Limited ('Euroclear') to hold and transfer uncertificated securities. Only shares of a UK or Irish company can be admitted directly to CREST. For other issuers, depositary interests in respect of the underlying shares will need to be created and admitted to CREST.

As well as giving rise to an additional workstream and extra costs, Euroclear imposes certain eligibility requirements as to the laws of the country of incorporation before it will admit depositary interests in respect of shares. Not all countries have historically been able to meet these requirements (for example, Russia). A depositary interest is similar to a global depositary receipt, but it has the advantage that the shares themselves are listed rather than receipts, which, among other things, can increase the range of potential investors and permits a Premium Listing.

Home member state

In addition to the various obligations that will apply by virtue of being admitted to trading on a UK-regulated market, a company will be subject to certain ongoing obligations as to periodic disclosure of financial and other information, disclosure of major shareholdings and treatment of shareholders under the law of its 'home member state' (see 'Continuing obligations' below). The securities regulator in a company's home member state will also be the regulator responsible for approval of prospectuses prepared by that issuer. The identity of a company's home member state is therefore important as it will affect both an IPO process (and any future prospectuses) and ongoing obligations.

If a company is incorporated in the EEA, its home member state will be its state of incorporation. If it is not incorporated in the EEA, the home member state may be chosen from the state(s) in which the issuer first makes an application to admit its shares to trading or makes an offer of those shares. For non-EEA entities seeking a listing in London, the home member state will generally be the UK. However, it is not uncommon for non-EEA groups to establish a non-UK EEA-incorporated holding company (for example, in Cyprus, Luxembourg or the Netherlands), in which case the issuer's home member state will be the state of incorporation of that holding company. An issuer facing this issue should consider the ramifications of being subject to two sets of rules and two regulators (including having a regulator other than the FSA approve prospectuses).

FTSE inclusion, Takeover Code, UK Corporate Governance Code and pre-emption rights

Only securities with a Premium Listing are potentially eligible for inclusion in the FTSE UK indices series (see FTSE's chapter, 'London: a unique investment opportunity' on page 87, for more information on non-UK companies accessing the FTSE UK series of indices).

Ongoing obligations

A non-UK company should also consider the continuing obligations to which it will be subject following listing and admission to trading. Although these continuing obligations do not generally differ between UK and non-UK entities, companies without prior experience of being subject to such obligations will need to ensure that the necessary systems and controls are in place and that their employees have been adequately trained to comply with them following listing. In addition, some of those obligations may require changes to the company's constitution to give shareholders pre-emption rights and impose a regime consistent with the UK Takeover Code.

Continuing obligations

A company will become subject to a number of continuing obligations once its shares have been listed on the Official List and admitted to trading on the Main Market. Certain obligations apply to all listed companies, whether they have a Standard or Premium Listing, and there are additional obligations that apply only to Premium Listed companies. The main obligations are set out below. Of particular note are the significant transaction and related-party transaction rules that apply to issuers with a Premium Listing. These restrict the company's ability to complete major transactions, or transactions outside the ordinary course of

business with related parties, without first publishing a detailed circular and obtaining shareholder approval.

This section assumes that the company's home member state is the UK, which will generally be the case for a London-listed company. If, however, its home member state is another EEA state, not all of these requirements will apply or apply in full (for example, DTRs 3, 4 and 5). That said, similar requirements may well be imposed by that other member state as many of these rules are taken from EU legislation.

Continuing obligations that apply only to Premium Listed companies

Significant transactions

A Premium Listed company is required to classify certain transactions on the basis of the 'class tests', which produce a ratio of the transaction size to certain company indicators (eg market capitalisation) set out in the Listing Rules. Not all transactions need to be classified, including transactions of a revenue nature in the ordinary course of business and issues of securities or transactions to raise finance that do not involve the acquisition or disposal of assets. An eligible transaction will be classified as 'Class 3' (ratios all less than 5 per cent), 'Class 2' (any ratio at least 5 per cent, but all less than 25 per cent), 'Class 1' (any ratio at least 25 per cent) or as a reverse takeover (an acquisition where any ratio is at least 100 per cent or that would result in a fundamental change in the board or voting control). Related transactions within a 12-month period are aggregated.

Entry into a Class 3 or Class 2 transaction requires the notification of certain information on the transaction to the market via a 'Regulatory Information Service' ('RIS') (see below). The entry into a Class 1 transaction is a more significant matter, requiring publication of a 'Class 1 Circular' to shareholders and shareholder approval (with a simple majority). A Class 1 Circular needs to be approved by the UKLA and will contain certain information in relation to the proposed transaction and its expected effect on the listed company. Among other things, a Class 1 Circular is also required to include a working capital statement on the basis that the transaction has gone ahead, a no significant change statement and, if the Class 1 Circular relates to an acquisition, financial information on the target.

A reverse takeover is subject to the same requirements as a Class 1 transaction and, in addition, the UKLA will generally cancel the listing of the issuer and require the combined entity to reapply for listing (which will, among other things, require the combined group to comply with many of the eligibility requirements of Chapter 6 of the Listing Rules as if it were a new applicant).

Related-party transactions

Certain transactions entered into between Premium Listed companies and 'related parties', or which benefit a 'related party', require publication of a shareholder circular and shareholder approval by a simple majority, with the related party not voting. The shareholder circular must be approved by the UKLA and include a recommendation from an independent adviser (generally an investment bank) that the terms of the transaction are fair and reasonable as far as shareholders are concerned.

A 'related party' is a person who is or was within the previous 12 months a substantial shareholder (broadly speaking, a shareholder holding at least 10 per cent), a director of the company or another group member, a person exercising significant influence over the company, or an associate of any of these persons.

Certain related transactions are exempt from the requirement to publish a circular and obtain shareholder approval. These include transactions

of a revenue nature in the ordinary course of business, very small transactions (below 0.25 per cent based on the class tests) and certain transactions in relation to an issue of securities. In addition, for related-party transactions where the class test ratios are all below 5 per cent, a circular and shareholder approval are not required, but an independent adviser is required to confirm in writing to the FSA that the terms of the transaction are fair and reasonable as far as shareholders are concerned.

Sponsor

A Premium Listed company is required to appoint a sponsor to advise it and, if applicable, to give certain confirmations to the FSA – for example, where the company is to publish a Class 1 or related-party circular or prospectus.

Model Code

A Premium Listed company must require each of its 'persons discharging managerial responsibilities' (PDMRs) to comply with a securities dealing code at least as rigorous as the Model Code annexed to the Listing Rules. The Model Code governs when and in what circumstances a PDMR is able to deal in the company's securities and imposes certain obligations on a PDMR in respect of his or her connected persons.

In particular, the Model Code restricts PDMRs from trading during 'close periods' (that is to say, in the weeks before publication of annual, semi-annual and quarterly reports) and during any other periods when the company is in possession of inside information. There are some exceptions to these restrictions, but they are very limited. A similar restriction applies to the company and members of its group dealing in the company's securities.

Unaudited financial information and profit forecasts

If a Premium Listed company has published unaudited financial information or a profit forecast or estimate, it must reproduce the figures in its next annual report and accounts and, if the actual figures differ from them by 10 per cent or more, provide an explanation of the differences.

UK Corporate Governance (the 'Code')

A Premium Listed company is required to comply with the Code, or explain the reasons for non-compliance in its annual report. The Code is published by the Financial Reporting Council and contains a number of rules governing the composition and operation of the board of directors and board committees of a listed company. Among other things, the Code requires that (except for smaller companies outside the FTSE 350) at least half the board (excluding the Chairman) is comprised of independent non-executive directors.

Pre-emption rights and further issues

A Premium Listed company is generally required to make issues of new shares on a pre-emptive basis, except where pre-emption rights have been disapplied in accordance with the UK Companies Act or equivalent national legislation. For non-UK entities where pre-emption rights do not exist as a matter of law, this requirement will need to be addressed in the articles of association or equivalent constitutional document.

When offering new shares to investors, a Premium Listed company is, in broad terms, required to ensure that the offer price is at a discount of not more than 10 per cent to the existing market price of those shares, unless a larger discount has been approved by shareholders, shareholder pre-emption rights have been disapplied or the offering takes the form of a rights issue.

Repurchase of securities

Various rules regarding the repurchase of securities apply to Premium Listed companies. These include a prohibition on repurchasing shares during a period in which PDMRs would be prohibited from dealing under the Model Code,

limits on the price at which shares can be repurchased and a requirement for a tender offer in relation to purchases in excess of 15 per cent of the company's share capital.

Continuing obligations that apply to all listed companies

Disclosure of inside information
A company is required to publish any 'inside information' that directly concerns it on a RIS as soon as possible. 'Inside information' is information that, if made public, would be likely to have a significant effect on the price of the shares or related financial instruments. There is limited ability to delay disclosure of inside information – in practice this is normally limited to transactions subject to ongoing negotiation, the disclosure of which could prejudice the outcome of those negotiations.

A company will also be subject to various other rules on the control and management of inside information, including a requirement to maintain lists of persons who have access to inside information and to provide such lists to the FSA on request.

A RIS is a service that disseminates regulatory information, such as company announcements, and must be approved by the FSA. The Exchange operates the Regulatory News Service (RNS), which is a RIS.

Disclosure of dealings and shareholdings
PDMRs and their connected persons are required to notify the company of all transactions in its shares (including instruments relating to those shares). In addition, persons who hold voting rights (or rights to voting rights – such as convertibles) must notify the company if they reach, exceed or fall below 3 per cent, or any 1 per cent threshold in excess of 3 per cent, of the company's total voting rights (for instance, if a shareholder moved from a 4 per cent holding to a 5 per cent holding or vice versa). The company is in turn required to notify a RIS of any notifications made to it under these rules.

Periodic reporting
A company will be required to publish annual and semi-annual reports including consolidated financial information for the relevant period, together with an accompanying review of the company's business for that period, within four months and two months respectively of the end of the relevant financial period. The annual financial information must be audited. The semi-annual financial information need not be audited. As well as a report on the company's business for the period, certain other information is required, including information on the risks and uncertainties facing the business. The reports are also required to include responsibility statements from the relevant directors of the issuer, for example the Chief Financial Officer ('CFO').

A company is also required to publish an interim management statement twice a year, between its annual and semi-annual reports. This is not required to include any financial information but should include an update on the group's business and financial position in the period.

Free float
An issuer is required to ensure that at least 25 per cent of its shares are at all times in 'public hands' (see 'Free float requirement' on page 34 for a description of how this is calculated).

Further issues
Further issues of shares of 10 per cent or more of the company's share capital (aggregated on a 12-month rolling basis) will generally require the publication of an approved prospectus.

Accounting requirements and advice through the IPO process

David Wilkinson
Ernst & Young LLP

Accounting requirements and advice through the IPO process

Although the initial public offering ('IPO') event itself generally lasts for between four and six months, the process of transforming a business into a public company begins at least a year or two before the IPO, and continues well beyond it.

An IPO is a key turning point in the life of a company. As such, it should be seen as a business transformation process rather than simply a one-off financial transaction. The IPO is also an opportunity for a business to simplify its structures, formalise business practices and make improvements that will prepare it to face the challenges of operating in the public spotlight.

This chapter summarises the principal financial information requirements for a company seeking a Premium Listing and admission to trading on the London Stock Exchange's (the 'Exchange') market for listed securities. The prospectus requirements set out below apply equally to Standard and Premium Listings, but those eligibility requirements under the Listing Rules, and the requirement to appoint a sponsor, only apply to a Premium Listing.

Regulatory background

The Financial Service Authority's ('FSA') Prospectus Rules, Listing Rules and Transparency and Disclosure Rules (collectively, the 'Rules') establish a regulatory framework that determines the financial reporting requirements for a listing. In applying the Prospectus Rules, the FSA will take account of guidance issued by the Committee of European Securities Regulators ('CESR guidance').

Financial information requirements

The most significant requirements arise from:

Prospectus requirements

A company seeking to list on the Main Market must prepare a prospectus presenting detailed information on management and the underlying business.

The equity growth story for the business to attract investors must be presented, however, other key information required includes:

- operating and financial review
- current trading and significant changes in the business
- key investment risks
- audited financial record
- unaudited interim financial information*
- indebtedness, funding requirements and capital structure
- statement on the adequacy of working capital
- pro forma financial information*
- profit forecast.*

** only required in certain circumstances*

While some of these requirements must have an opinion from a reporting accountant/auditor, not all will lead to disclosure of financial information in the prospectus. They will, however, all need to be based upon financial information.

Listing Rules

These require a company (subject to certain industry-specific exemptions) to have accounts that have been audited without qualification and:

- cover at least three years
- have a final balance sheet that is not more than six months before the date of the prospectus
- show a revenue-earning record that supports at least 75 per cent of the company's business.

The financial information implications of these requirements should be carefully considered and, where necessary, they should be agreed with the FSA at an early stage in the IPO process. It is particularly important if major acquisitions have occurred during the period covered, as they can significantly impact the work required by both the company and the reporting accountants.

Sponsor

The Rules require that any company seeking a Premium Listing of equity securities must appoint a sponsor (see chapter 'Preparing for an IPO' on page 19). The sponsor will make an assessment of the company's suitability for IPO and the contents of the prospectus. As part of its responsibilities, the sponsor is required to make a declaration to the United Kingdom Listing Authority ('UKLA') which covers among other things:

- whether the company has established appropriate financial reporting procedures ('FRP')
- that the directors of the company are satisfied at the time of the IPO that the company will be able to meet its future reporting obligations as a listed company
- the directors' basis for the working capital statement. This statement declares that the company will have adequate financial resources for its present requirements, covering at least 12 months from the date of the prospectus. Making this assessment will form an important aspect of the IPO preparation.

The sponsor will usually require the company to commission the reporting accountant to prepare reports covering both of these matters.

The reporting accountant's role

The reporting accountant is instructed to prepare a number of reports. These either:

- meet specific regulatory requirements; or
- assist the directors and sponsor in meeting their obligations.

As such, much of their work is based on accepted market practice and therefore results in reports that are not published.

The directors bear legal responsibility for the contents of the prospectus and the sponsor faces considerable reputational risk should it prove to be deficient. The due diligence process is designed to mitigate these risks and the work carried out by the reporting accountant is therefore extensive.

Key reports prepared by the reporting accountant

Long form report
A private due diligence report on significant aspects of the business – its exact scope will be determined by the company's circumstances (see table on pages 47 and 48).

FRP report
A business should be able to meet its reporting obligations as a public company and therefore consideration of FRP is critical in determining its listing suitability. The report assesses the suitability of the company's reporting procedures, and controls, as a basis for the directors to make judgements on the company's financial position and its prospects.

Accountant's report
The company's historical financial record contained in the prospectus must be reported on. While this can be achieved by audit opinions provided for each set of financial statements included, market practice is for an Accountant's report to be issued on the entire financial track record. This forms part of the prospectus and is equivalent to an audit report, but provides greater flexibility as it does not need to be issued by the same firm that issued a previous audit opinion.

Working capital report
This is a private report that considers the basis for the working capital statement in the prospectus. This includes the company's approach to financial forecasting, its projections underpinning the working capital statement, as well as analysis of the impact of changes in the key assumptions, and the available banking facilities.

Other reports
If a company includes either a profit forecast or pro forma financial information in the prospectus, an Accountant's report on the compilation of information must be included in the prospectus. While companies rarely choose to include a profit forecast, owing to the additional risk, cost and time involved, pro forma financial information is commonly used to illustrate the effect of the IPO, recent transactions or a reorganisation that are not reflected in the historical financial information. When a profit forecast is reported on, it is usual for the reporting accountant to prepare a detailed private report that comments on the preparation of the forecast and the risks to its achievement.

The reporting accountant also provides a 'comfort letter' to the directors and sponsor to assist with the verification of other financial information in the prospectus.

The following sections explain what the various reporting entails and how disruption to the company's business and cost can be minimised through appropriate preparation.

Long form report

This is an integral component of the IPO process. It is established practice in the UK, rather than a legal or regulatory requirement, for the report to be prepared as part of the consideration of the company's suitability to be admitted to a public market. While the report is not made publicly available, it will influence the contents of the prospectus.

The long form report is often prepared by the same firm that audits the company's accounts, but the work is performed by personnel who are not part of the audit team. This is owing to the specialist nature of the work and the need to provide a more objective and independent view.

The table below illustrates the typical contents of a long form report and some of the issues that it may need to address. These will be raised with the company and sponsor as the work progresses for consideration and/or timely action, as appropriate. The scope of the report is tailored to the requirements of each IPO and is agreed between the reporting accountant, the company and the sponsor.

The report's extensive scope requires management to make a significant commitment of time and resources in order to provide the necessary information and explanations. This coincides with competing demands on company resources arising from other aspects of the IPO, and some of the same information will also be required by the other IPO advisers. Cooperation between the various IPO advisers is required to reduce the pressure on the management team.

Long form report contents

	Illustrative scope of work	Illustrative due diligence issues
Business overview	• markets and competition • sales strategy, sales organisation • customers, contracts and pricing • products range, description, development, life-cycle, revenue and contribution • purchasing strategy, purchasing organisation, principal suppliers (and associated purchases) • manufacturing strategy, facilities, capacity and utilisation • distribution • premises	• size of the market, growth potential and resilience to market conditions • supply constraints, regulatory, economic or technological issues • opportunities for further expansion • key customer and supplier reliance • historical development of the business (organic vs acquisition) • scalability of business • impact of related inter-company transactions and intended relationship post-IPO
Organisational structure, management and personnel	• management committees • directors' and senior executives' biographies • organisation of personnel department and responsibilities • analysis of employees (eg part/full-time, function, remuneration) • pensions and other employment and post-employment benefits, share incentive, share option and profit-sharing schemes	• suitability of current management structures • whether management appear qualified and/or experienced to manage a UK-listed business • staff shortages in key areas

Long form report contents (continued)

	Illustrative scope of work	Illustrative due diligence issues
Financial performance	• historical trading performance, including analysis by business segments and reasons for significant fluctuations • analysis of and commentary on 'exceptional' items • adjusted EBITDA • current trading performance • balance sheets at each year/period end of significant trends and 'on-balance sheet' exposures • 'off-balance sheet' exposures and financing arrangements • cash flow performance • seasonality in working capital requirements • cash conversion rate	• the historical results may be impacted by one-offs/non-recurring items, provisions, acquisitions/disposals, changes in accounting policies/applications • drivers of year-on-year revenue and earnings growth • reliance on key products/geographies • current trading performance/monthly run-rate may not support short-term projections • overstated net assets or understated liabilities (eg off-balance sheet items) which might impact valuation
UK and overseas taxation	• status of agreement of tax filings and payments, details of any tax audits and open correspondence with the tax authorities • impact of the IPO on the taxation position • compliance with corporation tax, employment tax and sales tax regulations • details of the provision for tax in the accounts	• tax compliance position may be substantially in arrears • tax impact of any envisaged pre-IPO restructuring work • adequacy of tax balances in audited balance sheet to cover the business's declared taxes, including deferred taxes, and any additional tax liabilities identified by due diligence
Accounting policies and basis of preparation	• consistency of accounting policies and procedures applied • compliance of policies with GAAP/law • alignment with industry practice and 'best practice' • impact of any proposed changes	• inconsistent accounting policies over the period • aggressive accounting policies, not in line with listed peers • significant differences between local country GAAP and IFRS • inappropriate allocation bases used to derive 'carve-out' numbers, separation/standalone costs
Information systems	• significant information systems • significant application and hardware • support and maintenance procedures • controls over systems development and data file access • recovery and back-up procedures • IT personnel • IT strategy	• core business applications and related IT infrastructure may not support current/future business requirements • additional unplanned IT investment may be required • governance procedures may not be sufficient for a UK-listed business • separation of company from parent may create certain gaps • company may require transitional IT services

Long form report preparation tips

- start planning early and in particular:
  - identify information requirements that might not be straightforward, eg GAAP conversions, complex transactions, and related-party and inter-company transactions
  - check the quality and consistency of information across all subsidiaries
- assign a project manager to deal with information requests. It may be appropriate to hire additional resource
- establish an electronic data room. This can be particularly beneficial when information is being drawn from many sources and locations and/or different advisers require access to the same information
- start the due diligence in advance of the other IPO work streams. A draft report can be prepared and then updated for current trading later in the IPO process. This reduces pressure on the company's resources and provides a useful basis from which to draft the prospectus.

FRP

Failure to make timely disclosure of financial and price-sensitive information can damage a company's reputation and result in fines for both the company and its directors. Significant emphasis is therefore placed on a company's FRP during the IPO process, culminating in the sponsor's declaration to the FSA that the company has established procedures that are fit for purpose. The lack of appropriate FRP can result in postponement and, in some cases, abandoned flotations.

Most companies will need to improve their FRP, as it takes time to identify changes, and to design and implement revised procedures. The key message is that FRP needs to be addressed early with, ideally, an initial gap analysis performed at least 12 months prior to the IPO. This will be particularly important if the company has made acquisitions that need to be integrated.

The reporting accountant will normally prepare a private report commenting on the FRP and give an opinion as to whether it considers that the procedures provide the directors with a reasonable basis on which to make judgements concerning the company's financial position and prospects. The focus on prospect management has become increasingly important in recent years.

The work performed would not typically extend to testing the relevant controls or procedures. However, identifying the key performance indicators ('KPIs') is critical. Once these are identified, the reporting accountant will assess whether the procedures are capable of producing information for the KPIs on a timely and reliable basis.

An example scope of work for FRP includes, but is not limited to, the following areas:

- high-level financial controls (eg 'tone from the top', risk identification and management, internal audit function, board and its committees)
- design of internal controls
- budgeting and forecasting processes
- treasury management
- accounting policies and procedures
- management reporting framework
- financial statement consolidation and reporting procedures
- IT general controls and application controls for production of key financial information.

Historical financial information

Aside from a few specific exemptions (investment, mineral and scientific research-based companies) a company must be able to present financial information covering at least three years.

FRP – a separation case study

The separation of a large energy business from its parent, and subsequent IPO onto the Main Market, involved the complex detachment of legal entities, assets, people, systems and shared/centrally-provided services. As the new entity had not previously operated as a standalone business, the design and implementation of new FRP was a priority.

Ernst & Young identified the FRP gaps through an early readiness assessment and the following actions were undertaken:

- A comprehensive separation plan was developed, which was led by a dedicated separation manager. The key areas covered were:
  - management and people
  - the scope of central services to be provided by the parent
  - shared and separated IT systems
  - contractual agreements
  - confidentiality considerations
- An action plan was then developed to address the implementation required for new FRP relating to corporate governance, management and statutory reporting, preparation of IFRS management accounts, budgeting and forecasting.

Ernst & Young's readiness assessment and the resulting remediation plan enabled the company to avoid delays and unnecessary cost by ensuring its FRP were appropriate in advance of the IPO.

The action plan also highlighted the additional expertise that the company would need to hire in order to implement the new FRP procedures successfully, particularly with regard to International Financial Reporting Standards ('IFRS').

However, there are some additional, potentially onerous, requirements that are considered below.

Reporting

The financial information must be reported on, either by means of an audit report or, more typically, an Accountant's report. The opinion in each of these reports is essentially the same, but an Accountant's report may require additional work. Whichever form of report is used, it should be unqualified. Any audits must have been performed in accordance with auditing standards accepted in an EU member state or equivalent.

Age of historical financial information

The financial information for Premium Listings must be drawn up to date no more than six months before the prospectus date. This could mean that full, audited financial statements are required to an interim date, with comparative information, although the latter can be unaudited.

Interim information should be prepared and audited early in the IPO planning process, as failure to do so can cause a delay and incur additional costs.

If a company wishes to offer shares in the US to qualified investors under Rule 144A of the US Securities Act and the latest audited financial information is more than 135 days old, the auditors

Achieving successful financial reporting

The regulators do not want any surprises and want to know that companies can meet their reporting requirements in a timely fashion. Listed companies must be able to respond quickly and effectively to the rigorous information demands of a listing on the Main Market.

Companies should:

- conduct an early gap analysis of FRP
- allow time to resolve gaps in key controls and financial information gathering
- embed policies and procedures into the business, including the effect of IFRS
- ensure that FRP are scalable, to support both existing processes and future growth plans.

may need to review more recent, unpublished financial information so that they can issue the auditor's comfort letter, required by the underwriters to the offering.

Financial track record and transactions

A minimum of 75 per cent of the company's business must be supported by a revenue-earning track record for the three-year period.

The implications are that, even with this track record, a company may still not be eligible for listing, if, for example, its core activity has changed fundamentally during the three-year period or the level of operations has increased exponentially. In such cases, management should discuss the matter with the FSA to determine whether the company will be eligible for listing at the present time.

If the company has made a significant acquisition in the three years leading up to the IPO, it may mean that its existing financial information does not reach the 75 per cent threshold. To reach this threshold, additional pre-acquisition financial information for acquired companies will have to be presented separately.

This inevitably adds to the work of the finance team and the reporting accountants, particularly when the financial information in question has not previously been audited or was prepared using different accounting policies from those of the company.

Accounting policies

At least the last two years of the financial information must be prepared using the accounting policies that will be used in the first set of audited accounts post-listing. For EU-registered companies preparing consolidated accounts, this will mean accounts prepared under IFRS as adopted by the EU. Non-EU registered companies have greater flexibility, as they can also use certain other approved GAAPs.

Companies that do not already prepare accounts under IFRS should give advance consideration to the conversion. This can be very time-consuming and could impact the IPO story if the trading track record changes significantly when looked at through a different accounting lens.

Adopting IFRS will necessitate a change in internal reporting and may require new or different internal controls that will also impact the FRP workstream.

Working capital statement

The prospectus will include a working capital statement that considers both internal and external financial resources available to the issuer in order to meet its liabilities as they fall due. This statement cannot be qualified, or stated to be subject to assumptions, although the Listing Rules provide potential concessions for certain regulated companies.

The directors therefore need to be satisfied that the company has sufficient working capital to finance its business plan and also sufficient margin or headroom to cover a reasonable worst-case scenario.

Projections

To prepare a working capital statement, the company will make unpublished financial projections and identify the key assumptions. The projections take the form of an internally consistent cash flow, profit and loss and balance sheet, on a monthly basis. While the statement only covers 12 months after the proposed date of listing, the projections typically extend to at least 18 months.

To prepare the projections, the company needs to:

- perform an analysis of its existing business
- consider the strategy and plans of the business, the related implementation risks and resultant uncertainties
- identify assumptions that address the uncertainties, checking against external evidence
- include capital expenditure and other resource requirements of the business
- identify the financing facilities available and required
- perform sensitivity analysis to identify the impact of changes in key assumptions.

IFRS conversion – a case study

The complexities of a pre-IPO IFRS conversion were heightened for a private equity-backed consumer product business by a significant overseas acquisition made 18 months prior to the float. When asked after the successful IPO what he would have done differently, the company's CFO stated that he would have started much earlier on the preparation of the IFRS historical financial information.

His first challenge related to IFRS conversion. Issues arising included:

- accounting for hedges and other financial instruments and, in particular, issues around demonstrating the effectiveness of hedge instruments for accounting purposes and valuations
- fair value accounting and valuations for the intangible assets arising on the acquisitions made during the three years included in the track record
- segmental reporting requirements
- deferred taxation changes.

The second challenge related to the overseas acquisition. The requirement in the Listing Rules for 75 per cent of the business to be supported by a historic revenue-earning record, meant that separate historic financial information had to be included for the overseas acquisition. At the IPO date, this made up more than one-third of the group's business. The acquisition had not previously been subject to a full audit and its accounts were not prepared under IFRS. As a result, significant lead time was required by Ernst & Young to complete this process for the pre-acquisition period.

In addition to preparing the historical financial information under IFRS, the team had to build the new accounting policies into the ongoing management reporting and forecasting processes. This also took significant time and effort to complete, but was essential for the company to operate on the same metrics used by market participants.

Finance facilities

In making a working capital statement, the company may only include facilities to which it has secured access at the time of making the statement. This means that committed bank facilities (for the period they are committed) and the proceeds of an offering (if they are either fully underwritten, or, in the case of a placing, firmly placed) can be taken into account when making the statement.

The company should also consider projected compliance with any loan covenants (including under the sensitivity analysis, unless there are mitigating actions) and the borrowing limits in its Articles of Association.

Working capital report

The reporting accountant will then prepare a private report* commenting on the:

- preparation of the projections
- assumptions
- accuracy of the previous forecasting
- availability of financing
- restrictions on cash movements within the group
- sensitivity analysis
- the directors' basis for making the working capital statement.

** There are additional requirements in place for mineral companies that have not been producing on a commercial scale for the previous three years.*

Tax considerations

Structure

- holding company location
- personal holding structure – 50 per cent tax rate, capital vs income
- rollover/cash out of existing debt and equity structure, including share options
- tax clearances and transaction taxes (eg stamp duty)

Float process

- availability of tax information and in-house tax resources
- project management and coordination of tax structure, tax disclosure for long form, short form, working capital report, funds flows etc
- likely UK GAAP to IFRS adjustments

Tax status

- ensure all tax filings and payments are up to date
- look to resolve any open items with the relevant tax authorities
- review the approach taken to any other areas of tax uncertainty
- tax assets (eg unprovided deferred tax assets)

Post-float

- tax resource requirements
- post-close tax filings and payments
- ongoing tax compliance, planning and reporting
- securing tax upsides
- securing tax assets
- management of structure and optimising tax profile

Tax structuring – a case study

Ernst & Young carried out a tax readiness review for a large private mining group in order to identify potential tax issues (and opportunities) in preparation for its listing on the Main Market. The determination of the tax residence of the parent company was identified as a key issue.

Key management individuals were personally tax resident in a number of jurisdictions, so the structure was assessed in detail to ascertain what was practical for the group, recognising implementation issues. The most practicable solution was a bespoke tax structure that aligned with the company's commercial strategy.

If this issue had not been identified well in advance of the planned IPO, the potential and significant tax consequences would have, at best, resulted in an additional tax charge; at worst, a delay to the IPO process.

In order to ensure that the structure was managed in a way expected of a company with a Premium Listing on the Exchange, new procedures were needed for corporate governance, the physical location of key management activities and the commercial structure of the entity to be listed.

As the design, implementation and management of tax residence were demanding matters, there was a risk that they would occupy significant management time. However, the process went smoothly because the issues had been identified and acted upon early. Consequently, much of the implementation of the tax structuring work had been completed in advance of the IPO and management were not tied up in dealing with these matters during the key IPO execution phase.

Tax structuring

Companies seeking admission to the Main Market should consider their tax structure prior to listing, and in particular the location of key management. A structure should be implemented that closely aligns with the commercial and operational management structure of the group to be listed, so it can be effectively managed in the future.

It is essential that management understands the effect of the decisions taken about the IPO on future tax rates and the tax position of existing investors. Failure to prepare early may constrain the flexibility of management's decision-making closer to the IPO event and may also create additional burdens on management's time during the challenging later phases of preparation.

A range of potential tax implications should be considered in order to determine the future optimal structure. These are highlighted in the table on page 53.

Overseas companies

Overseas companies thinking of listing in London will need to be aware of the implications of becoming UK tax-resident and how appropriate structuring and good governance can preserve non-resident status.

A UK listing does not automatically place the business within the UK tax net if it comes through an overseas holding company.

Overseas companies with a free float of less than 50 per cent are not eligible for inclusion in the FTSE UK index series (see chapter 'London: a unique investment opportunity'). Companies in this position therefore tend to use a UK-incorporated company as the listing vehicle.

However, a successful challenge by the UK tax authorities on the parent company's tax residence can result in profits of overseas subsidiaries being

brought into the UK tax net under existing or future controlled foreign company rules. The UK tax authorities increasingly look at a group's transfer pricing policies as a further way of bringing additional tax income into the UK.

Personal tax factors and employee incentives

UK tax rates are, at the time of writing, high and careful structuring of remuneration and shareholdings is crucial to protect employees' tax position and avoid incurring higher company costs (eg tax and social security). Appropriate tax structuring though can result in a more effective and motivational reward package.

Becoming a listed company also provides opportunities, through shares, to incentivise a much wider group of employees. A range of possible plans are available for executives and all employees, some with specific tax breaks approved by HM Revenue & Customs.

The implications of an IPO on employee remuneration and incentives are summarised in the table opposite.

Ongoing obligations post-IPO

Once the IPO has been completed and the company has been admitted to the Main Market, a listed company will be subject to a number of reporting obligations. These include:

Report and accounts

- audited annual report and accounts must be published within four months of the year-end and include corporate governance disclosures
- unaudited figures must be prepared for the half-year within two months of the half-year end
- interim management statements during each of the first and second halves of the year.

Implications of an IPO on employee remuneration and incentives

Pay structures in public companies differ significantly to those in private companies and come under a great deal more scrutiny from non-executive directors, external regulators and investor bodies.

Companies planning for an IPO should consider:

- the quantum of pay, bonuses and structure of any share incentive schemes. Salary benchmarking is required to ensure these are in line with comparable listed businesses and market practice
- ensure institutions are comfortable with level of dilution of pre- and post-IPO equity incentives, usually requiring shareholder approval on admission
- early indication and communication to investors of any likely charge going through the income statement
- appropriate performance targets post-IPO
- ensure as far as possible that remuneration and incentives are delivered in the most tax-efficient manner whilst being aware of the attitudes of investors in this regard
- 'lock-in' arrangements are likely to apply to management shareholders, in order to help retain key management, which is key to the value of the business from an investor perspective
- the remuneration committee will set pay design and levels for executives
- current management shareholdings investments and options will be impacted by any restructuring of the group pre-listing and tax advice should be revisited as part of the listing process.

Disclosure of price-sensitive information

- the company must make a prompt announcement in connection with any price-sensitive information.

Transaction and document disclosure

- many types of transactions have to be disclosed to the market and some require shareholder approval.

Acquisitions and disposals post-IPO

Transactions by Premium Listed companies are subject to 'class tests' that compare the size of the potential target to the listed company's existing business, based on a number of financial measures. A proposed transaction that exceeds the 25 per cent class test would be conditional upon shareholder approval. Additionally, if the 100 per cent threshold is breached, the company enlarged by the acquired entity would need to reapply for listing. The class tests are based on:

- gross assets
- profit before tax
- gross capital
- consideration: market capitalisation.

These requirements could introduce an element of uncertainty into a transaction, potentially affecting the company's competitiveness in an auction process. Additional costs are added with these requirements, including the need to provide a circular to shareholders to enable them to reach a decision. The company would need to appoint a sponsor to provide declarations to the FSA concerning the transaction and reports will also be required from a reporting accountant.

A shareholder circular, and approval, is also required for transactions with 'related parties' that exceed 5 per cent of any of the class tests.

A business transformation process

As this chapter shows, the work of the reporting accountant is extensive. It has to be performed at a detailed level to satisfy the regulatory requirements and to provide the directors of the company and the sponsor with the comfort they need. Providing all the information mandated by reporting requirements presents an onerous task to management. The burden will be particularly heavy on the finance team, who will already be subject to competing demands from other parties involved in the listing process. The reporting accountant can assist with many aspects where help is required, but are precluded from some for independence reasons, so management should consider employing additional temporary resources.

The key message that should come through from this chapter is the need to start this process early. The earlier that management starts to identify the gaps in their company's IPO readiness, the sooner they can address the tasks required to fill them. Those companies that start to behave like a public company before they list, will find their new environment post-IPO very much easier to navigate. For these reasons, it is essential to view an IPO as part of a business transformation process, rather than seeing it as a standalone transaction.

Think and operate like a listed company pre-IPO. Early preparation is everything.

Generating and capturing investor demand during an IPO

Christopher Smith and Alex Bloch
UBS Investment Bank

Market-leading capabilities and *the extra mile.*

Your IPO marks the beginning of a new chapter for your business. With UBS, you'll have one of the most experienced, highly-regarded teams in Europe working with you every step of the way, providing detailed analysis, sound judgement and guidance to ensure that the process meets your objectives and is smooth and successful. We are chosen as trusted advisers by hundreds of companies from around the world and our market-leading equities franchise delivers exceptional access to high quality investors. You can be confident that we'll put the full strength and depth of our resources to work for you.

Start your journey with us. Visit ubs.com/investmentbank

Best Pan-European Equity House
Thomson Reuters Extel 2001-2010

Contact us
John Woolland
+44-20-7568 2336
john.woolland@ubs.com

Christopher Smith
+44-20-7568 4389
christopher-mp.smith@ubs.com

UBS

www.ubs.com

© UBS 2010. All rights reserved.

Generating and capturing investor demand during an IPO

From a capital markets perspective, there are three main objectives of an initial public offering (‘IPO’):

- to raise sufficient proceeds for the company and/or for the selling shareholders
- to optimise the price at which shares are sold (this is important both for selling shareholders and to minimise the dilution impact of new money being raised for the company)
- to provide the company with a strong shareholder base for its future development.

The objectives of the IPO

In this chapter, we explore the process used to maximise investor interest and demand for an IPO on the Main Market, as this is critical in raising adequate funds for the company and the overall success of the transaction. There can sometimes be a conflict between maximising the price at which the shares are offered and optimising the shareholder base for the company’s future. Whilst the ideal result would be an IPO which is priced highly with a very strong, long-term investor base, there is sometimes a degree of trade-off. To inform that debate, companies should build-up an understanding of the characteristics of different potential shareholders as the make-up of the register post-IPO is critical to the after-market and the company’s ability to access the equity market in the future. Below is a list of some of the key investor qualities one should look for when establishing a strong shareholder base through an IPO:

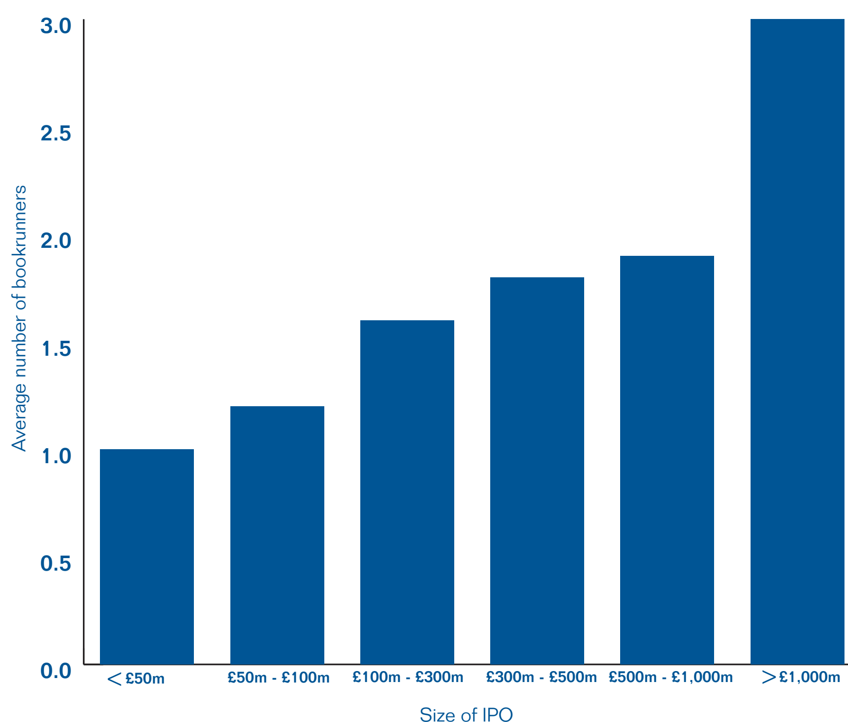
- **a strong understanding of the company’s equity story and its positioning** – it is important that a company’s shareholders should thoroughly grasp its investment case. Focusing the marketing process on investors who are thought leaders and highly experienced will make this a more likely outcome
- **the ability to maintain a shareholding over the long term** – investors with a long-term investment horizon will be less influenced by short-term trading considerations and are more likely to help the company achieve its future ambitions
- **the ability to invest further in the after-market** – the IPO should not be seen as the end of the investment process and certain shareholders will look to increase their holdings in the company after the IPO. Such investors lend important support to the stock in the after-market
- **the ability to act quickly and participate in future equity raisings and/or sell-downs** – the company may have requirements to raise additional equity at some point after the IPO (eg in connection with an acquisition) or there may be further sell-downs by existing shareholders. These transactions are likely to be best facilitated if the company’s largest shareholders are able to react quickly and are likely to be supportive.

The overall goal of the IPO should therefore be to achieve transaction success whilst maximising the quality of the share register with which the company begins life as a public company on the Main Market.

Appointing a syndicate to manage the offering

In addition to the sponsor, who is responsible for advising the issuer on all market and regulatory issues and for representing to the FSA that the issuer has met its responsibilities, a bank/broker or number of such institutions will be appointed to market the offering to investors. It is typical for the sponsor to have a dual-role and also perform this function, but this need not necessarily be the case. For certain IPOs, it may be appropriate to have a single bank or broker performing the marketing role, but for larger transactions it is common to see a number of banks or brokers appointed. Such banks or brokers are often called ‘bookrunners’ because they are responsible for running the order book of demand which is built during the marketing process.

Average number of bookrunners in a syndicate
(IPOs on the London Stock Exchange since 2000)



The two important questions relating to this topic which face any company considering an IPO are:

(i) how many bookrunners should be appointed to handle the offering, and
(ii) which are the right bookrunners for the IPO?

Whilst increasing the number of bookrunners involved in the IPO will increase the syndicate's potential marketing 'reach' with investors, there is likely to be an optimal syndicate size for a given deal. Beyond this, the additional marketing 'reach' of an extra bookrunner will be outweighed by the additional complexities of involving another bank or broker in the process. The chart above illustrates the average number of bookrunners in a syndicate (for IPOs on the London Stock Exchange (the 'Exchange') of different sizes since 2000). It may help companies to decide on the optimum number of bookrunners required.

In order to select the right bookrunners for the IPO, many companies and their shareholders will invite a number of potential candidates to a formal 'beauty parade' (so that they can hear the views of each and make an informed decision on the back of that information). This process has become more common in recent years and is well advised for any company considering an IPO. In certain circumstances, an independent adviser may be hired to assist in the process of selecting bookrunners for the offering.

Some of the criteria that can be used to assess the candidates are listed below, but this should not

be considered prescriptive and each company will look for different qualities in its IPO bookrunners:

- quality of project team and commitment
- relevant credentials and distribution capabilities
- quality of research analyst and market credibility
- industry knowledge, understanding of the issuer and its equity story
- ability to support the issuer in the after-market
- views on valuation and positioning
- proposed level of fees
- company's relationship/rapport with the adviser.

The investor universe for a UK IPO

The bookrunners will be able to advise the issuer on the specific characteristics of individual investors but an understanding of the target investor community and its different constituents will assist the management team to prepare itself properly for the marketing process. We set out below general comments on the main investor groups for a UK IPO although in practice the lines between the long-only and hedge fund investors is blurred. Many long-only investors have in-house hedge funds and many hedge funds run long-only funds and have long investment horizons and rigorous, research-based investment processes.

UK 'long-only' institutions

The term 'long-only' is used to refer to investors that only take long positions in securities. A long position is one which generates a return to the investor if the share price increases. Long-only investors are typically traditional institutions that are seeking to generate a return on their investments over a relatively longer time horizon than certain other market participants. Such investors include pension funds, insurance companies, investment trusts and mutual funds. They include investment advisers who manage assets using long-only strategies on behalf of both institutional and retail clients.

UK long-only investors manage equity assets representing approximately 45-50 per cent of the total UK market and are therefore of paramount importance to any company seeking to raise equity capital in the UK. Many of these investors will only have a mandate to invest in UK equities. In most IPOs on the Exchange, UK long-only investors are the single biggest provider of demand.

International investors

There is often a grey area between what might be considered a UK investor and an international investor. A number of global investment institutions will have offices in London, some of which may only invest in the UK, making the distinction even less clear. However one treats international investors with offices in London, there is also a separate class of investors that only operate out of offices overseas. The most important regions for UK IPOs have tended to be the US and Europe and it is common for companies to market their offerings in both regions (this is something that needs to be reviewed by the legal advisers as it impacts the due diligence exercise and the offering documentation).

Many of those non-UK investors that are interested in UK equities have a mandate to invest only outside of their domestic region and, in certain cases, they may be running funds that solely invest in the UK or Europe. These types of fund managers are often as well-versed in UK equities as domestic, long-only institutions and they form an important pool of additional demand for IPOs on the London Stock Exchange.

Sector specialists

While most investors will be interested in companies in a variety of industries, some investors are sector specialists that will only invest in certain sectors. This specialism can sometimes

be at an institutional level, but is more common at a fund level. So, for example, within some of the largest asset managers, there may be certain funds dedicated explicitly to investing in mining companies. Other sectors which lend themselves to specialist funds include real estate, financials and technology. For companies in these sectors considering an IPO, it is critical to tap into this additional pool of demand and in-depth understanding during the marketing process.

Hedge funds

Hedge funds are investment vehicles which explicitly pursue absolute returns on their investments. While long-only investors target outperformance relative to their benchmark indices, hedge funds target positive returns to their investors, irrespective of the wider market backdrop. Such funds are able to employ strategies that allow them to generate positive returns when security prices are falling. The term 'hedge fund' has come to incorporate any absolute return fund applying non-traditional portfolio management techniques (including shorting, leveraging, arbitrage, the use of derivatives and so on).

These funds have become increasingly significant in the market place. Whilst historically there has been scepticism about their motivations among some corporates, it is important to note that a number of these funds are extremely long-term in their focus. Indeed, many of the most sophisticated asset managers in the investor community are now employed in such institutions. Furthermore, the distinction between long-only institutions and hedge funds is getting increasingly less clear, as many investment advisers now manage funds which employ both types of strategy. Lastly, these types of investors can provide a significant amount of demand and liquidity in an IPO and will always form some component of the final book of demand.

The marketing process

The marketing of an IPO can be divided into a number of stages, not all of which are equally public in their nature. The process described in this section is a common one, but slight modifications to it will be made in some instances.

Syndicate analyst research and the process to publication

Outside of the IPO process, investment banks employ research analysts to monitor the performance of different companies that they 'cover' in a certain sector and to make investment recommendations to their investor clients on those stocks. In most IPOs, the bookrunners' research analysts will write detailed research notes on the company in order to educate investors before the company's management markets the transaction. The company's management team typically presents to the syndicate analysts early on in the preparatory process. This ensures that they have sufficient background information and understanding of the company and its prospects to write a research note.

This is an important part of the preparatory process for the IPO. Ensuring that the analysts properly understand the company's business model and prospects is critical to ensuring that the investors have a good grasp of this before meeting management. Whilst investors carry out their own detailed analysis ahead of making an investment decision, the work, forecasts and views of the syndicate analysts will be important in informing investors' opinions. As such, it is essential for the company's equity story to be effectively conveyed to the syndicate analysts in this presentation.

The analysts will have a period of one to two months to write their research note. During that time, they will be in regular dialogue with representatives of the company (including the CFO) to have their questions on the business

addressed. Draft research notes will be submitted to the company and the lawyers for a review of their factual accuracy. The research note will need to be completed by the time the company issues its 'Announcement of Intention to Float' as at that stage the analysts will begin a process of investor education, which is described further below.

Initial meetings with potential investors ('pilot fishing')

This exercise is one part of the marketing process which certainly does vary from deal to deal. The purpose of carrying out 'pilot fishing' meetings with investors is to introduce the company to them before the transaction is publicly launched so as to obtain feedback on how the market will assess and value the company. Such meetings also help to build relations with potential key investors early on. However, they are not always carried out and may not be required if the company has a simple business model with known, listed peers and limited valuation outturns. To the extent that such meetings are held, they would be organised by the bookrunners and limited to a very small number of investors so as to maintain the transaction's confidentiality.

Announcing the intention to float

The announcement of the intention to float is the formal start of the public marketing exercise. The content of this announcement should be carefully considered because it is likely to include a summary of the company's investment case and information on the offering, potentially including its size (though that may still be undetermined at this stage).

It is usual for a number of meetings to be held with the media on the day the announcement is released. This ensures the most positive media reaction to the company and the IPO.

On the same day, the bookrunners (and any other banks in the syndicate which have written research) will publish their notes on the company. This day marks the beginning of what is usually a two-week process of investor education.

Investor education

Investor education is the process through which the market is educated about the company and its investment case. This is carried out by the research analysts of the various syndicate banks, together with their equity sales forces. Equity salespeople are individuals at an investment bank who are responsible for discussing investment ideas with the bank's investor clients. They leverage the work of the research department in these client conversations.

In the IPO process, it will be common for the equity salespeople to book a series of investor meetings in different regions.These provide the research analysts with an opportunity to educate their institutional clients about the company. Feedback from the meetings will be collated by the analyst, the salesperson responsible for that client and by the equity capital markets teams. The feedback is used to refine the company's thinking on and presentation of the investment case in its subsequent meetings. This is also the point in the marketing process when meaningful conversations about valuation begin to be held with investors. Ultimately, the feedback from this exercise needs to be used to set a price range for the shares that will be offered in the IPO.

Management roadshow

The final stage in the marketing process is also the most important. During this stage the management team (typically the CEO and CFO) will meet with a significant number of investors (usually over a two-week period) to explain the business, the investment case and the rationale for the IPO. Depending on the size of the transaction and the legal restrictions around the offering, this roadshow will take place in a number of regions. For larger IPOs, it is common for the management team to hold meetings in the UK, Europe and the US. In

certain instances there will be more than one team of presenters attending these investor meetings.

Almost all investors will want to have spent some time with management before committing any meaningful amount of capital. These meetings are therefore fundamental to the entire process. The analysts will have educated the market on the company and the investment case, but it will ultimately be the management of the company that must 'sell' its equity story to the investors. This is crucial for encouraging them to participate in the offering at an attractive valuation for the company.

Pricing the offer

Participating in an IPO is an investment decision. Investors first need to establish whether they 'believe' in the investment case before deciding how much they are prepared to pay to buy the shares being offered. Since there will be no public market value for the business to inform them of the 'right price', their challenge is to establish what that public market value should be. The existing shareholders will be looking to maximise the valuation of the business, either to minimise their dilution or to maximise the proceeds of any shares they sell (or both). Having said that, existing shareholders and the company itself will know that it is also important to establish a strong (but not excessive) share price performance in the after-market. There are therefore a number of dynamics which impact the pricing process and managing these is one of the key roles of the bookrunners on the IPO. The process of pricing an IPO involves a number of stages – discussed in detail below.

Syndicate analyst research valuation range

The research reports written by the syndicate analysts will typically each include a valuation range. These ranges will be the market's first public attempt at putting a value on the company's equity. The methodology used to value the company will vary between companies, sectors and even analysts, but there are a number of common methodologies which are often applied. In many cases, these methodologies will be similar to those used by the analysts to value the company's listed peers. Examples of the techniques used include applying the multiples at which the listed peers trade (or potentially a premium or discount to those multiples depending on the company's investment case); using a discounted cash flow analysis, or using a valuation of the group's individual businesses to arrive at a combined 'sum-of-the-parts' valuation.

Throughout the process of investor education, the bookrunners' analysts and salespeople will discuss the valuation range contained in the research note with investors and this will allow the bookrunners to assess the market's reaction to that valuation. Investors, at this stage, will still not have met management and some may still be familiarising themselves with the business model, so these initial discussions should be interpreted accordingly. In many cases, there will be scope for the investor's valuation to increase from this point.

Setting the price range

At the end of the investor education exercise, the bookrunners, the company and its existing shareholders will discuss the feedback from the investors meetings and agree a price range within which the offering will be marketed. In certain cases (especially fund offerings), the IPO will be at a fixed price, but for most corporates a price range will be used.

The price range is used to generate a competitive auction for the shares to ensure that pricing is maximised, subject to having a stable after-market. There are different strategies for setting a price range, but the 'textbook' approach is to set the bottom of the range where there is broad 'buy-in' from the investor community. This allows the bookrunners to generate sufficient demand to 'get

the book covered' (ie have demand for all the shares being offered) quickly. From this point on, competitive tension between buyers can be established to increase the price. If there is no 'hook' at the bottom of the range, there is a risk of insufficient momentum, which potentially means that the book might not be covered.

Typically, the price range is set before the management begin their roadshow, but in certain circumstances it may be appropriate to delay the setting of the range by a few days. This both reduces the period of 'market risk' and can allow for a higher and tighter price range, if early feedback from the management meetings is highly positive.

Building the book of demand

Once the price range has been set, the bookrunners begin taking orders from investors. This process allows the bookrunners to build a book of demand, showing how much demand there is for the shares being offered at different prices. The system is electronic and pooled between the bookrunners to give the company and each bookrunner a view of the combined demand generated. This process of bookbuilding lasts for the full duration of the management roadshow. Orders can come in various styles – some investors may put a price limit on their order (ie a cap on the amount they are willing to pay such that they have no demand above that price), others may give an unlimited order and some will give stepped orders throughout the price range (ie giving precise amounts of demand at different prices).

Setting the offer price and allocating the shares

At the end of the bookbuilding process and management roadshow, the time will come to set the price of the shares in the offering. A meeting to agree that price will be held with the bookrunners, the company and certain of the existing shareholders. Sometimes this will be a short discussion – in the ideal scenario, the book will be many times covered by high-quality investors at the top of the range. However, there is often a balance to be sought between price and quality of investors. The debate will be about where to set the IPO price so that proceeds to sellers are maximised and/or dilution minimised, consistent with providing the company with a strong shareholder register and stable after-market performance. Having agreed on the price, the bookrunners and the company will then agree on the allocation of the shares and these allocations will be confirmed to the investors the following morning, before the shares begin trading.

The after-market

Typical trading patterns post IPO

It is common after an IPO to see some turnover in the shares in the first few days. Certain investors may be looking to buy more stock whilst others who have participated may trim their exposure. The average volume of shares traded in the first day post the IPO is 23 per cent of the shares offered in the transaction (based on IPOs on the London Stock Exchange over the last five years). This number increases to 34 per cent for the first week post-IPO. Over time, trading will settle down and come more into line with the typical levels seen elsewhere in the secondary market.

Stabilisation

Because there is a heightened sensitivity to the share price performance immediately post-IPO, regulators internationally permit one of the bookrunners to support the share price in the after-market ('stabilisation') through buying shares in the open market. In the UK, such stabilisation is only permitted for a period of 30 days and the bookrunner selected to carry out this activity is only allowed to buy stock in the market if the shares are trading below the issue price in the IPO, and only for the express purpose of supporting the share price.

To allow the stabilisation process to occur, the bookrunners initially over-allot shares in the IPO (up to a maximum of 15 per cent of the total number of ordinary shares which comprise the base offer in the UK). The proceeds from this over-allotment may then be used to buy back up to that number of over-allotted shares if stabilisation is required. By way of example, if the offer has been set at 100 shares, the bookrunners may actually sell, say, 115 shares to investors. They would borrow 15 shares from an existing shareholder to deliver to new investors at the time of the IPO. If the share price drops below the IPO issue price, the stabilisation bookrunner may elect to buy up to 15 shares and return these shares to the original owner. If the shares trade above the IPO issue price, no stabilisation will be carried out and the proceeds of the sale of the over-allotted shares will be paid to the original owner.

The ongoing role of the corporate broker

The IPO is the beginning of the company's life as a listed entity. A critical component of that life is managing the company's relations with the market – with research analysts, investors, the London Stock Exchange, the regulators, the media and so on. Whilst the company's corporate broker will be responsible for advising the company on regulatory aspects, the broker will also be an important 'voice' for the company and will act as the company's eyes and ears in the market.

The corporate broker's research analyst will disseminate the company's equity story widely to maximise the investor following and understanding of the story in the market. The salespeople will ensure the message is disseminated to a generalist audience as well as to the sector specialists who will also be the focus of the research analyst.

The corporate broking professionals at the firm will advise the company on all aspects of the company's interaction with the market, including the development of key messages and how they are best communicated to the market. Their role includes capital markets and corporate transactions advice and strategic non-transaction advice such as dialogue on the company's investment case, being a sounding board on key strategic issues (strategy, capital structure and dividend policy) and providing support around key investor events. The corporate broker will also provide its clients with relevant market intelligence such as share price movements, trading strategies, key market themes and macroeconomic events. In addition, a corporate broker will carry out investor targeting exercises, organise investor meetings and collate feedback from investors.

It is usual that the banks or brokers selected for this role will be some or all of those that acted as bookrunners in the IPO. In many ways, they should be the firms that best understand the company's investment case and are therefore best-placed to present that to the rest of the market on an ongoing basis. In order to perform the role well, the corporate broker must be thought of as a 'trusted adviser' by the company and this is the relationship that is best forged from the outset of the IPO process.

Other IPO considerations

Retail offerings

In some instances, the company or its existing shareholders may wish to make the offering available to the general public, or to a subset of it – the company's customers, for instance. These offers were a common feature of government privatisations. In most cases, the public will participate on the same terms as the institutional investors. Sometimes a discount or other reward is given to encourage public participation. Retail demand can be meaningful in IPOs of certain types of companies. It is most applicable where the company has a strong brand presence and level of customer loyalty. A retail offer can be

made as an offering to the public, through public application forms (which has certain technical implications on the timetable and documentation), or as an intermediaries' offering which is made available to clients of private client brokers only.

Employee offerings

These are similar to the above, but are only made available to the company's employees. They are relatively simple to execute and facilitate increased employee ownership of the business – often a positive for the company and its staff. If this is being considered, it is important to ensure that the appropriate legal steps have been taken where the employee base is international as this can constitute an offering into other jurisdictions (giving rise to regulatory implications).

Additional considerations for international issuers

The Exchange is a popular listing venue amongst international issuers. Being incorporated outside the UK is typically not an issue from a marketing perspective. It may, however, encourage the bookrunners to adjust the regions in which the investor education and management roadshow are carried out to reflect potential investment interest from the company's home country. Aside from this, and certain technical considerations around ensuring that the company is eligible for FTSE index inclusion, there are limited differences to the marketing process on an IPO of a UK incorporated company and an international issuer on the Exchange.

Summary

The Exchange provides an excellent platform for marketing any IPO. Optimising the marketing exercise is critical to the IPO's success and will ultimately impact the valuation achieved for the company and its shareholders. This exercise needs to be carefully designed by the bookrunners to achieve the objectives of raising sufficient proceeds for the company or its shareholders, optimising the price at which shares are issued and establishing a strong share register for the company's future.

The key areas to focus on, as discussed in detail in this chapter, are as follows:

- ensuring the right bookrunners are appointed to market the offering
- positioning the investment case in a way which effectively demonstrates the attractions to equity investors
- meeting enough and the right type of investors on the management roadshow; and
- setting the price range to generate momentum and a successful bookbuilding exercise.

Getting these critical points right is the key to achieving a successful listing on the Main Market of the Exchange.

Managing the company’s profile

Andy Berry
Fishburn Hedges

Maximising value, building reputations

Fishburn Hedges advises UK and international clients on all aspects of their communications with the City and investor communities.

We provide ongoing financial PR support for quoted companies fulfilling their financial calendar and continuing disclosure obligations:

- Strategic communications advice
- Analyst/investor relations
- Media relations
- Media and presentation training

We provide transaction support to clients undertaking major strategic projects:

- IPOs
- Rights issues
- M&A
- Demergers
- Corporate defence
- Crisis communications

We provide corporate PR and public affairs advice to clients seeking to manage their corporate reputation with all relevant stakeholders:

- Campaigns and issues management
- Public affairs/regulatory
- Annual report design and production
- Internal communications
- Website design

For more information, contact:
Andy Berry
andy.berry@fishburn-hedges.co.uk

Dan Bradley
dan.bradley@fishburn-hedges.co.uk

T +44 (0)20 7839 4321
77 Kingsway, London WC2B 6SR

www.fishburn-hedges.co.uk

fishburn hedges.

Managing the company's profile

For companies looking to join the Main Market and begin the flotation process, corporate communications can be an important and valuable tool. An ongoing PR programme is fundamental to establishing and maintaining a company's profile and is a key component to ensuring a successful flotation.

Joining the Main Market offers considerable benefits to companies. Gaining access to capital to fund business growth and an enhanced international profile are key advantages. So, too, are offering a new currency for acquisitions and the staff motivation that a listing encourages. But in order to realise the full potential of these benefits, the positioning of your business is important. Investors are selective and will look to invest in those companies with a strong and well-established corporate reputation. As a company you will need to be transparent, committed to building long-term value for both customers and shareholders and become an active member of and contributor to the communities to which you belong.

Reputation adds value

So, does reputation have value for a company? Absolutely. Reputation is intrinsically valuable and can set companies apart from their competitors. That might mean the difference between a high and modest valuation, or – in tougher times – between a successful market debut and a failed issue.

It should also be recognised that, following the global financial crisis, the world is markedly different. In the UK, for example, an already cynical media industry is now only too ready to voice strong opinions about companies that stand out for the wrong reasons. There is also a growing view in many quarters that companies do not just exist to create value for shareholders: they must also demonstrate that they serve the interests of a wider group of stakeholders, which includes employees, analysts, potential investors, the media and the community in which the company operates.

In this chapter we explain why good communications are instrumental in achieving a successful IPO and how a well-constructed PR campaign can add value to your proposition through building and maintaining reputation. This runs from the preparation stages of defining your objectives and understanding your audiences, through to executing an effective strategy within the confines of the IPO timetable. We also look at life beyond the IPO and how communications, done well, can help you maintain the valuation your company deserves.

Your communications objectives

Set your objectives early on

It is critical that communications objectives are set from the start of the IPO process. Of course, it is important to be flexible, but you will need a clear plan to follow, and it is vital that your communications objectives dovetail with your overall strategy. At the core of this is the need to:

- build a strong, credible story – introduce management to stakeholders and explain why the company is a 'must have' investment opportunity

Checklist for a successful IPO

- define key overall objectives – maximise advantages and minimise risks
- preparation is paramount – build value in advance to attract the investors you want
- set long-term expectations – a successful IPO is the starting point, not the finishing line
- be ready to communicate in a clear, effective and transparent manner.

And don't forget…

- work towards the good times, but prepare for the worst – you must have a crisis communications plan.

- build the relationships that matter – ensure you have a 'fan-club' ready to support you
- position the IPO as a stage in the company's development, not as an end in itself.

Be prepared

As part of ensuring that the IPO runs smoothly, it is necessary to prepare for unexpected events that have the potential to impact negatively on the process. You should have a crisis plan in place to deal with any issues that arise, whether concerning the IPO itself or from an operational perspective.

Audiences and stakeholders: who are you talking to?

Understand your audiences

In order to achieve your objectives, it is important to identify who your different audiences are, as well as understanding their needs, objectives and – crucially – how they interact with each other.

The IPO will be one of your company's most newsworthy events, and this news will be of interest to a wide range of stakeholders including media, investors, analysts, employees, trade unions, trade associations, customers, partners, regulators, government and a variety of opinion formers. These stakeholders form a complex matrix, informing each other and shaping the response to your IPO. The structure of this network means that public market transactions can face a much higher level of scrutiny now than in the past few years, and you need to be prepared for this.

While communication across all stakeholder groups must be consistent, it is also important to address the interests of individual audiences. For example, all stakeholders will want assurance of the company's long-term growth potential, but potential investors will need convincing that they can make a return on their money, and employees will want to know that their jobs are secure. Anticipating and appreciating the needs and interests of each group will allow you to run your communications strategy smoothly.

A strong public relations campaign is central to any flotation, particularly in an environment where many established norms are changing. It is important to understand the evolving media landscape and consider how different forms of media can help you communicate with your stakeholders. Traditional print media has gone digital with specific online coverage, podcasts and vodcasts; digital-only publications have sprung up; and social media and user-generated content have exploded. In addition, we now have citizen journalism, where anyone with a mobile phone can report on a story and share their views with a wide audience. (see 'Identifying your audience' chart on the next page).

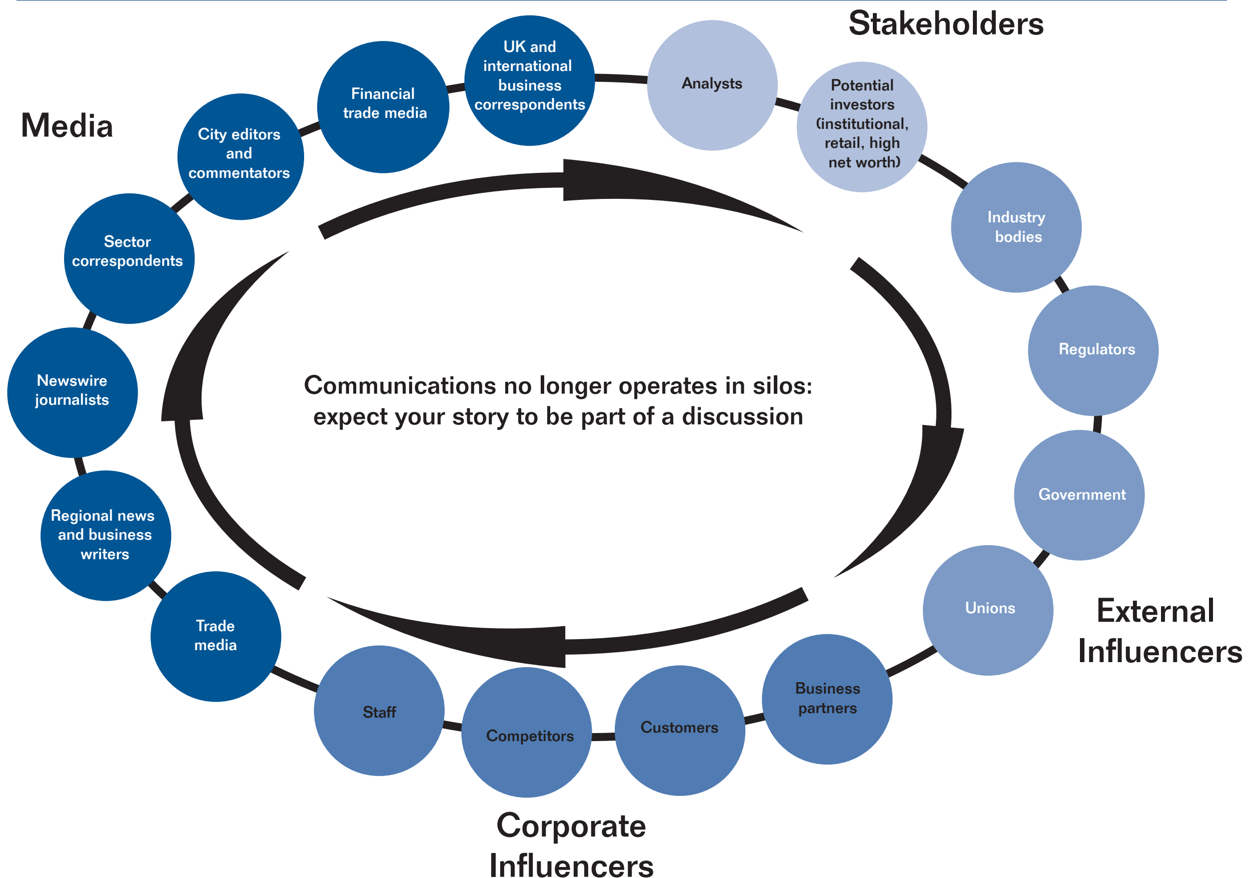
Coordinating the communications strategy

In the past, PR was often seen as an added extra, bolted on towards the end of the IPO process shortly before the official 'go live' date. This inevitably meant that external communications were secondary to the rest of the IPO activity. But the increased scrutiny of quoted companies brought about by the financial crisis means that this is at best ill advised, and at worst potentially damaging to the entire IPO process.

Start your PR early

For this reason, PR considerations should be worked into the overall strategic plan right from the beginning of the IPO process. Indeed, it is better to think of PR around the IPO as part of your overall communications strategy and not as a one-off project – just as the IPO itself should be seen as an integral part of your company's long-term business strategy. This holistic view will best be able to address the different but interconnecting interests of your various audiences, so achieving the overall aim of building long-term value by establishing your company as a superior investment opportunity.

Identifying your audience



Identify your story

To this end, your PR agency should work closely with you and your other advisers from early on in the process to identify and develop your corporate story. This will ensure that all regulatory guidelines are followed and, if you are working on a dual listing, that the needs of each regime are identified and respected. Once the right story has been developed, it will be included in IPO marketing materials, regulatory documents and press releases.

Make the most of it

Having the right communications story in place as early as possible will allow you to make the most of the opportunities thrown up by the IPO process. Typically, this falls into three phases:

- the corporate or pre-offer phase – where the objective is to raise awareness and understanding of the company as a potential investment opportunity
- the offer phase – where the emphasis is on the details of the offer, the timetable and the subscription period
- the post-offer phase – capitalising on the success of the flotation and building on the long-term, strategic goals of the company.

Preparation, preparation, preparation

Your communications strategy should be coordinated around these phases. Focusing on PR

during the pre-offer phase means that you can start to raise the profile of the business prior to the live IPO work. The aim of this is to begin the value-building process early, raising awareness of your company and thus laying a good foundation for the later fundraising activities.

Once you enter the offer phase, communications activity will take place around the most important events typically occurring in the IPO timetable:

- announcement of the intention to float
- announcement of the pricing range
- announcement of the final pricing
- announcement of first-day dealings.

A regular stream of positive announcements and updates will help maintain momentum and keep the investment opportunity in front of your audience.

Announcement of intention to float
This will be the first time that you will be declaring your plans publicly. Typically, your financial PR agency will work with you and your other advisers to choose the best time to 'go live' with the story and decide which tactics to use in order to achieve maximum profile. The press release that is issued at this time will reflect the corporate story already identified, and will describe the company and its main attributes, set out the anticipated timetable for the IPO and include quotations from the company's management.

If other supporting material (such as an analyst's note) is also available, this can be packaged up with the press release to provide positive accompanying commentary. Photography can also be used – a good picture can enhance the attraction of the story. All in all, the intention to float announcement is a chance to start the fundraising process in a positive, high-profile fashion – crucial when trying to compete for investment.

Getting the story right

This is crucial as it will run through the entire IPO process, linking up the work you do with potential investors, press, analysts and your own employees. The 'story' will need to answer these questions, and potentially others:

- What aspects make your company stand out?
- Why is your company the best recipient of investors' money?
- Why are you right to come to a public market?
- How will you use the money you raise?
- How you will ensure long-term success?

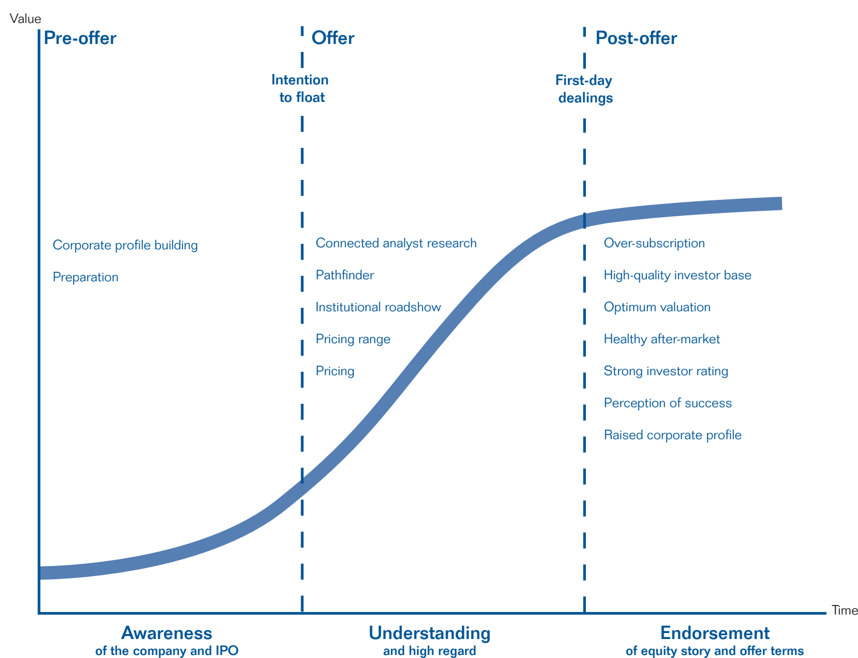
You will need to be able to answer all these questions and deliver your messages in a short, succinct and memorable way.

Pricing range
With the issue of the pathfinder prospectus, a further press release can be used to announce the pricing range of the IPO. Media expectations here need to be handled carefully to ensure that the IPO will be perceived as a success. This is particularly important in the UK, as the media will often look for bad news and want to highlight IPOs being priced towards the bottom of their range.

Announcement of final price
Once the marketing period is completed, the final IPO price can be announced. Again, care needs to be taken here to ensure that this is positioned appropriately.

First-day dealings
An announcement can also be issued to mark the first day of dealings on the stock market. This is a

The communications timetable



good opportunity for management to brief external research analysts on the story, as well as alerting market commentators to the stock on its market debut.

While these are typically the fundamental stages in the IPO timetable, your PR agency and advisers will work to identify any other suitable opportunities to support the marketing process, if appropriate. These could include profiles of senior management and news of appointments or contract wins.

Internal communications: don't forget your staff

In their annual reports and accounts statement, it has become commonplace for chairmen of listed companies to acknowledge that the company's most valuable assets are its staff and to thank them for their efforts over the year.

However, it is less common for companies to remember this when planning their IPO. All too often, communication with staff is something of an afterthought, coming late in the process and, as a consequence, failing either to counter the fears staff may have or to help obtain maximum value from the flotation.

Keep your staff informed

When considering a flotation, one of the first internal communications steps is to decide when and how to advise staff of the decision to list. This will always be something of a balancing act: weighing up the desire for confidentiality with the need to ensure that staff are appropriately informed, and see the listing as a welcome and exciting event for themselves and for their company.

It is important to recognise that, in most industries, few members of staff will be familiar with the process of a company joining the market. They may also harbour fears that the listing will prove to

Create momentum - make the most of set-piece moments

The communications strategy should flow from the objectives which have been set out at the start. They should dovetail together in order to make a robust, distinctive, credible case about your company's qualities and ensure a successful flotation.

Effective co-ordination of communications enables the release of information to take place in a controlled and strategic manner. This will reinforce the perception that the flotation is being professionally managed by the company and its advisers.

It is essential that the flow of communications should build momentum and keep the story intact, maintaining the focus on the business and the investment case. Clear, consistent communication with all stakeholders will not only help your company navigate through potential pitfalls, but will build and protect its reputation and brand in subsequent years.

Throughout the duration of the campaign, it is essential that the timing and sequence of messages are carefully managed and the momentum of the campaign maintained. Without careful preparation and guidance, it is all too easy to create misleading perceptions or expectations, which will adversely affect the outcome of the flotation. Communication of key information must be clear, comprehensively prepared and consistent with the agreed timetable.

be a catalyst for additional change within the business – something that may threaten their job security.

Hopefully, internal communications procedures within the company are already compliant with best practice, with meaningful dialogue with staff established as the norm rather than the exception. If that is not the case, plan well in advance and work with your PR advisers to audit and upgrade your internal communications as soon as possible.

Make sure they understand the process

You can probably afford to tell staff about the potential listing rather earlier than you might imagine. Tell them what it means for the company and – vitally – what it means for them. If you plan to introduce incentive programmes for staff at, or prior to the IPO, inform them, but make sure that you communicate clearly, avoiding financial jargon. Staff also need to understand what they can and cannot say to their contacts – most likely your customers. There is little point in setting out on a campaign of customer communications if the customers' day-to-day contact points – your staff – are uninformed and uncertain of what the listing means.

None of this is to suggest that your staff should or could become official spokespeople for your company at this important time. Rather it is to recognise that they need, at the very least, to be aware of the issue and to whom any questions should be referred.

Engage and communicate

The increasing use of social media will have a significant influence on the way that you should communicate with your staff. You can be sure that once informed of the listing, staff will discuss this among themselves online, and equally sure that, as a result, this debate will be visible to the outside world. So any evidence of disquiet among staff will be only too clear to potential investors and others. Engage and communicate with staff, understand their concerns, address their questions and ensure that achieving the listing becomes a joint objective – something to which they can all contribute.

When the IPO has happened and you are quoted on the Main Market, you must continue to communicate openly. Make sure your members of staff are all aware of their responsibilities in connection with the handling of material or price-sensitive information. Remember them when you are communicating company results or corporate developments, such as major contracts or joint ventures. There can be few things more demotivating for staff than finding out about news affecting their company and their working lives from the newspapers or social media outlets.

Internal communications – done well – will add significant value to your IPO and your communications with staff could, over time, prove to be the most valuable of all.

Post-flotation: ongoing financial PR strategy

After many months of preparation and much anticipation of a successful outcome, you have finally made it – trading in your company's shares has started, hopefully at a premium to the offer price. You have become a member of one of the world's most exclusive clubs. It is unlikely to mean, however, that now is the time to relax.

Keep up the good work

The regulatory rules are clear on what is required from listed companies in terms of disclosure and communications – and the mindset which should be adopted throughout the IPO marketing process is no less meaningful once a company is on market.

In order to achieve and retain an optimum valuation for your shares, only those companies with the highest reputation for transparency will succeed. Put simply, increasing cynicism from media and investors alike means that merely complying with the minimum levels of disclosure required is not likely to be enough. Investors and the media are only too ready to judge companies, not just on the accuracy and completeness of disclosure, but on their whole approach to communicating with the market. Any sense that the market is being informed of anything less than the full story will be punished by a lower valuation than might otherwise be achievable.

There is, of course, a balance to be struck here. Investor and analyst appetite for information on listed companies is potentially limitless. You must decide what information is most relevant, most helpful and which – vitally – will not be damaging to your business if it were in the hands of competitors.

There is an increasing and welcome trend for information given to investors in corporate presentations to be made available more widely, often via a dedicated Investor Relations section on the company's website. Making information available in this way limits the scope for accusations of selective briefing of institutional investors in advance of the dissemination of information to the wider market.

Make disclosure work for you

In the early meetings with your new investors, and in the information that is released more widely at the same time, you will set the benchmark for what investors can expect from you on an ongoing basis. Bare compliance with the rules will be noticed and may well be marked down. In contrast, fulsome disclosure in a style that indicates the value you place on stakeholders' understanding of your business and the role it plays in its various communities, will stand you in good stead. Remember, too, that the market may well be suspicious of those companies that start with admirably high levels of disclosure but backtrack over time.

Take advantage of the communications opportunities

Having set the tone and content for early communications, what are the opportunities for telling your story? Well, the good news is that the financial calendar offers plenty of chances to

Typical financial calendar

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Key dates	Interim Management Statement		(31 March full-year end)	Trading update		Full-year results announced	AGM Interim Management Statement		Trading update (30 Sept half-year end)		Half-year results announced	Comms review of the year and look ahead to next year
Results				Pre-close meetings with analysts	Developing messaging Drafting statements Agreeing media strategy Drafting Q&As Rehearsals Analyst feedback Organising media interviews Organising analyst briefing				Pre-close meetings with analysts	Developing messaging Drafting statements Agreeing media strategy Drafting Q&As Rehearsals Analyst feedback Organising media interviews Organising analyst briefing		
Media engagement	Monthly meetings with key media Corporate and personal profile opportunities				Positive share price movement Promoting analyst research Bylined articles				Feature opportunities Proactive/reactive commentary Site visits			
Analyst engagement	Introduction to new analysts Site visits				One-to-one briefings				Individual visits to broking houses to address sales teams			
Events	Conferences Roundtables/seminars						Annual drinks event Corporate hospitality					
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC

update the market throughout the year (see chart above).

There are of course the annual and six-month results announcements, when full disclosure is made of the financial results for the period. These also offer the opportunity to provide an update on current trading and the outlook for your business.

In addition, you can update the market in Interim Management Statements twice a year and again at your Annual General Meeting.

Keep up the dialogue

Following the formal announcement of your results, analysts will expect a presentation from the company, expanding on the information in the press release and offering an opportunity for questions around your strategy and details of delivery. These presentations – and the dialogue that they generate – are pivotal in developing relationships with the analyst community and ensuring that those analysts understand your company and the markets in which you operate sufficiently well to provide realistic estimates of your expected financial performance.

But while investors, analysts and the media will want regular communication, beware of issuing too many press releases. You will want the market to listen closely to what you have to say; that is far more difficult if they become used to a frequent stream of largely inconsequential announcements

about your latest customer win. Consult closely with both brokers and financial PR advisers on this to ensure you get the balance right.

You should also think carefully about your approach to social media and how to manage messaging in the digital age. News travels fast and can cross from customers to investors, and from analysts to financial journalists, in seconds. The power of the internet means that these conversations are increasingly conducted in public, via social media channels.

Invest in PR and reap the rewards

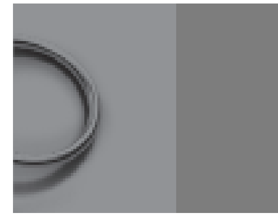
Most of all, the media demands transparency and ready access to the senior management of your company. You should expect to commit your own time to building relationships with important journalists and analysts. By helping them to understand your business and the challenges it faces, you are far more likely to get a fair hearing when things are tough – or to get the coverage that you want on a busy news day.

Taking communications seriously from the beginning of the IPO process, right through to your life as a listed company, will add value to your business and pay dividends. Done correctly, it will allow you to take advantage of all the benefits of the raised profile that a listing on the Main Market can bring.

The role of the registrar in an IPO

Paul Etheridge and Phil Roberts
Capita Registrars

CAPITA



Shaped to fit your business

Make the right choice for your IPO and share registration services

To find out why so many companies choose Capita Registrars to handle their IPO, please contact **Paul Etheridge** on **+44 (0)20 7954 9706** or email **petheridge@capitaregistrars.com**

More companies choose Capita than any other registrar. So far in 2010 we have managed more IPOs* than any of our competitors. No one offers a better combination of value, service and reliability.

We work in partnership with our clients to ensure they are totally satisfied throughout the project and beyond, delivering innovation, flexibility and a wide range of services.

– Full range of receiving agent and corporate action services
– Specialist support from an experienced team of company secretaries
– Extensive investor relations capability
– Market leading employee share plan expertise
– And the strength and reliability of a FTSE 100 parent company

Fifty six appointments in the first nine months of 2010, are proof that we offer the IPO service that issuers are looking for.

www.capitaregistrars.com

*In the UK, Ireland and Channel Islands. Source: Euroclear UK and Ireland. Figures correct as at 09 Sept 2010.
Capita Registrars Limited, Registered office: The Registry, 34 Beckenham Road, BR3 4TU. Registered in England No. 2605568.

The role of the registrar in an IPO

For companies considering an IPO, what a share registrar actually does might be something of a mystery. Simply put, the role of the registrar is to update and maintain the official register of members (or shareholders) of the company whilst reconciling the total number of shares authorised and issued by the company on a daily basis. But putting this apparently simple objective into practice requires a great deal of careful planning and specialised work – and this is where a good registrar will prove its worth many times over.

Early involvement

The complex and painstaking work that registrars need to complete ahead of an IPO cannot be carried out overnight, or as part of a last-minute rush. So whether you approach the registrar directly or through your advisers – be they a law firm, investment bank or another adviser – you should leave a minimum of four weeks between involving the registrar and the proposed date of the flotation. Be aware that more complicated cases may require an additional four to six weeks on top of that. For this reason, it is always advisable to get your registrar involved as early as possible in the IPO process.

Because the relationship with your registrar is a long-term one and does not end with the successful flotation of your company, you should look for a registrar that has strong capabilities in both project management (a dedicated implementation manager to oversee your listing plans is strongly advised) and relationship management, which can be of enormous value in meeting future goals throughout your life as a listed company.

Accuracy is also paramount. Your registrar is looking after an integral part of your business on your behalf, so you need to be confident that solid planning and attention to detail is present within its organisation.

Engagement period

As soon as it is brought into the IPO process, the registrar should begin by finding out as much about your company as it can so that it can best advise you on the correct course of action. The first – and initially most important – question is to evaluate the structure of the company coming to market. From a registrar's point of view these can typically be divided into three categories:

- UK-incorporated entities,
- offshore companies, usually established in the Channel Islands, Isle of Man or Ireland; or
- international companies, incorporated overseas.

As we will discuss later, the third of these options requires a very different approach to the first two and, as a result, a longer lead time should be taken into account.

But the engagement period does not begin and end with your choice of location. The type of offer you are wanting to bring to the market is also crucial. You may opt for an IPO targeting institutional investors, but it is possible to launch to a mix of institutional and retail investors. Alternatively, you may only be interested in an introduction to the market that does not involve raising any capital. The answers to these initial questions will dictate the core registration services your registrar provides on your behalf.

As with any major project, a good understanding between all the parties is vital if your goals are to be met successfully. The registrar will want to know a lot of detail about your business – your growth strategy, your sector profile and your goals, both short term and further ahead. It will also want to get an insight into your company ethos and values so that it can better advise you. For example, if your firm has a strong online presence or a brand commitment to protecting

the environment, the registrar may well suggest running an online IPO. This kind of information is best exchanged in an early project meeting – with you and all your advisers present.

This initial period of discussion is very valuable as the accuracy and clarity of the information provided at this stage will greatly assist the registrar – both in meeting your needs going forward and in avoiding potential pitfalls later in the implementation phase. Based on your responses, your registrar should be able to assign an appropriate relationship manager with relevant sector knowledge and experience.

Supporting your company secretary

This is also an excellent time to consider, in discussion with your advisers, the impact the flotation will have on your company secretariat. A good registrar will consider itself to be an extension of your company secretary's office, but even with its assistance, you will find that the company secretary's role expands hugely in the period before, during and especially after the IPO.

That is why it is advisable to look for a provider that can offer value-added support for company secretaries in the form of pre- and post-IPO health checks. These will rigorously examine your articles of association and even the structure of your secretariat team to ensure that you are ready to deal with the increased scrutiny and governance that comes with being a listed company.

This kind of company secretarial advice is particularly valuable for rapidly growing companies that may not have had experience of the kind of requirements involved in running a public company. It also applies to international companies that may not be familiar with the requirements of a London listing and the level of governance that is necessary.

Other early considerations

This is also a good time to talk about share plans and other share-based employee incentives. The registrar will take into account your future plans for such schemes at the IPO stage, even if the share plans are not going to be put in place until later. This will help smooth the process when the plans actually commence.

Moving to a successful implementation

Following the engagement period and now armed with a complete picture of your business and its future goals, your registrar will work, where applicable, with your other advisers, to establish the mechanics of effectively transferring the shareholdings of the selling shareholders – typically the founders of a company or private equity investors – to the buying institutions (or retail shareholders, if applicable) at the IPO. The registrar will make sure all the documentation is in place if new shares are being issued and on the day of the float it will ensure an effective delivery of shares.

When acting as a receiving agent to a public offer, your registrar will help write and comment on the prospectus and application forms to be issued and provide despatching or online services. Once the offer opens the registrar will provide banking facilities, and keep you and your advisers up to date with the number of applicants and the value or amount of stock applied for.

In addition there are various technical and operational aspects of bringing a company to market. These are described in more detail below.

CREST set-up

Operated by Euroclear UK & Ireland Ltd, CREST is the electronic settlement system for the UK and Ireland. Your registrar will guide you through the process of setting this up and ensuring that all Euroclear requirements have been complied

with so that the shares can be electronically settled from Day One.

Share certificates

In a world of electronic trading of shares it might seem old-fashioned to have to arrange for paper share certificates to be produced. However, it remains an essential part of the IPO process. Your registrar will create, proof and print share certificates as required.

Articles of Association

Your registrar will undertake a careful review of your company's Articles of Association, especially with a view to identifying any transfer restrictions that might appear and the possible effect they might have on the IPO.

Due diligence

Like all your professional advisers, your registrar is required to carry out due diligence.

Electronic communications

Increasingly, companies coming to the market are opting to use electronic communications. As well as saving on the costs associated with printing and postage, this is considered to be the 'greener' option. E-comms also covers establishing an online portal that will give you convenient access to consolidated register information via the web, as well as the ability to generate management information.

Investor relations strategies

As part of the value-added services that it offers, a registrar will typically provide investor relations services . It will then be able to work with you to develop appropriate IR strategies, particularly in relation to fund manager and beneficial ownership information, combined with peer group and sector comparisons. If you already have an IR provider, the registrar will work alongside them to assist you.

Closing the deal

Throughout the progress of the IPO, your registrar should be keeping you up to date with weekly progress meetings or conference calls to ensure that everyone is aware of key milestones and what remains to be done.

As the IPO heads towards listing and admission of the securities to the Main Market, the registrar ensures that everything is up and running for the first day of trading.

Ahead of that date, the registrar will need to have taken on the existing register of shareholders incorporating any capital reorganisation required on the register. The registrar will also make sure that any deadlines issued by CREST Euroclear are understood, and adhered to, by everyone involved in the deal.

Once the IPO is complete and shares have begun to be traded and settled, the registrar will update the register to keep a record of the legal owner of the shares.

After the IPO

After the dust has settled and your company has been successfully brought to market, the registrar's function does not stop – indeed you should aim to form a long-term relationship with your registrar. As well as being able to assist you with your growth strategy by managing the operational aspects of key corporate tasks, such as takeovers, your registrar should also keep you abreast of industry matters through regular news updates and meetings.

The compliance requirements can be one of the biggest challenges for a company post-IPO, and your registrar's relationship manager should be able to help you to meet some aspects of these obligations. This will involve assisting with regular review meetings, reporting accounts, annual general meetings and dividends.

As well as relying on your registrar for advice and support, you should also ask it to put you in touch with other clients who are in the same position as you now find yourself. These peer networks can be an excellent source of practical advice from other firms that have already faced and overcome similar challenges, and a good registrar should be more than happy to use the strength and diversity of its client base to help you.

In summary, while you may not have worked with a share registrar before the point at which you consider an IPO, you will find it an invaluable adviser and ally as your listed company grows.

Depositary interests: a specialist solution for overseas companies

Shares of international companies cannot always be settled in CREST. As a result, some international companies choose to issue Depositary Interests ('DI').

What is a DI?

The DI is a method that allows overseas companies issuing shares to benefit from the competitive advantages of being electronically traded on one of the world's leading equity exchanges, such as the London Stock Exchange. This is achieved by a subsidiary of your registrar (authorised by the Financial Services Authority) acting as custodian and depository. That body will then hold all the shares related to the DI for the shares that are listed in London.

The instrument that is actually traded through CREST is a security in its own right, known as a DI – literally an interest in the depository shareholding. The International Security Identification Number ('ISIN') of the share is identical to that of the DI, so there is no requirement to list the DI separately from the share.

Why is a DI important?

The advantage of a DI is that it looks, feels and behaves like a share. In addition, it gives you full transparency so that, for example, when it comes to investor relations, looking at a DI register is exactly like looking at a share register.

Your registrar will need to set up the necessary legal framework ahead of the IPO. That requires considerably more documentation – and time – than in the case of a UK or offshore company (which can be covered by a straightforward registrars' agreement because the relevant processes are all UK standard practice). In the case of a DI, the additional requirements can include a trust deed and depositary agreement, as well as a registrars' agreement if appropriate. Furthermore, Euroclear requires various legal opinions, such as a UK tax opinion and two legal opinions from the country in which the company is incorporated – for example the Netherlands, the British Virgin Islands or another jurisdiction.

There are further considerations around complying with local laws about where the share register (if one is allowed) can be kept, along with other compliance and disclosure requirements. There are also licences, takeover provisions and threshold limits to take into account. These considerations vary from jurisdiction to jurisdiction, so the registrar must undertake a good deal of preparatory work – both in London and the chosen country.

In essence then, the DI is an alternative solution for overseas entities, but one that requires an enormous amount of careful implementation on the part of the registrar to get right. So while it is a proven method – around 250 international companies have DIs in London – it is advisable to choose a registrar that has long experience of bringing DIs to market and, particularly, developing new and existing jurisdictions.

While the timeline for an IPO will usually be set by the lead adviser, it is always the case, as we noted earlier, that the sooner you can get the registrar involved the better. And this is especially the case for DIs.

London: a unique investment opportunity

FTSE Group

FTSE
THE INDEX COMPANY

London: a unique investment opportunity

Given London's vibrant and varied trading history, it is not surprising that many UK companies listed on the London Stock Exchange are themselves geographically diverse with a broad range of business interests. In recent years, this dynamic has been reflected in the origin of profits and the locations of operations for companies listed on the Main Market. What this means for London as a financial centre is a dramatically different offering from most other markets, which primarily feature domestic securities and provide a snapshot of the local economy.

The UK's headline tradable index – the FTSE 100 Index (the 'FTSE 100')– is a prime example of the diverse nature of the companies listed on the Main Market. Most of its constituents' operations are not limited to the UK, with companies, including GlaxoSmithKline and Vodafone, instead having a corporate structure which reaches across the globe.

Although the FTSE 100 is often thought of as a yardstick for the UK economy, its purpose is actually to capture the returns of the largest 100 companies domiciled in the UK. This index has fulfilled this purpose since its inception in 1984, providing a global measure that spans far beyond the UK economy.

Setting standards

As companies in the UK continue to expand and adapt their business models against a global backdrop, the UK stock market is set to grow and diversify further, creating a unique opportunity for London. The following section covers some of the key elements that underpin the UK market and set it apart from other financial centres across the globe.

A diversified investment landscape

Situated in the middle of the world day, the UK market enjoys unique exposure during its trading hours to investors around the world. As a globally recognised index provider, FTSE's UK Index Series is by no means confined to domestic investment, being widely followed by both retail and institutional investors.

This ensures that no single group of investors dominates the share registers of UK listed companies. The combination of this global economic exposure and attraction of global funds ensures that the UK is less exposed to specific conditions pertaining to any one economy. In recent years, such factors have led to a wealth of companies showing an interest in Premium Listings to qualify for the FTSE UK Index Series, particularly the top two tradable indices – the FTSE 100 Index and FTSE 250 Index.

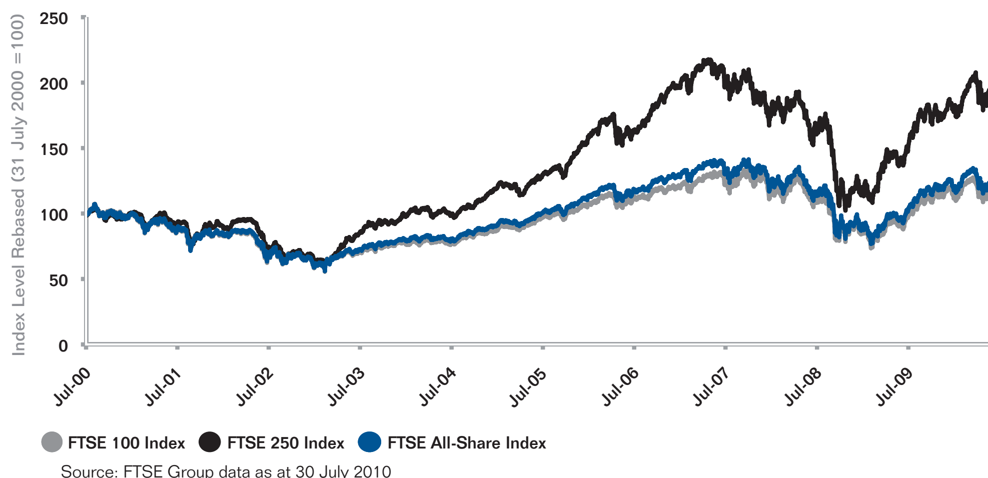
Inspiring investor confidence

As a financial market, London imposes some of the highest standards in the world for governance and investor protection. This inspires confidence in investors following the UK market and its major indices. Governance comes in the form of listing rules, company law and market practice, all of which are designed to protect shareholder interests and allow them to hold management to account.

This includes rules such as pre-emption rights, which offer shareholders any new issue of shares before being offered to non-shareholders. The purpose of this rule is to ensure that shareholders are able to prevent their stake from being diluted by new issuance.

Similarly, factors such as strict disclosure, which are included in company law and the UK's Listing Rules, are important, as they allow investors to assess companies in an accurate and timely manner. This focus on transparency remains the key to building trust amongst investors, which in turn leads to strong market activity, creating a more liquid market.

FTSE indices - July 2000 - 30 July 2010



Source: FTSE Group data as at 30 July 2010

All indices in the series are market capitalisation-weighted and currently priced off trading on the London Stock Exchange.

Ensuring liquidity

As an award-winning index provider, FTSE creates market-leading indices using robust data and methodologies, keeping tradability front of mind through the use of tough liquidity and market capitalisation screening. By doing so, FTSE ensures that its indices are highly suitable for the creation of financial products such as Exchange Traded Funds ('ETFs'), derivatives and structured products. The availability and proliferation of these products has not only increased opportunities for investors to .access the UK market, but has also provided a further catalyst for the increase in liquidity within the market.

The FTSE UK Index Series has been one of the most sought-after indices upon which products such as ETFs are built. The year 2000 saw the first ETF listed on the Exchange and based on the FTSE 100 Index. Many have followed since then. There are now over 350 ETFs admitted to the Main Market from major global providers including i-shares, Lyxor and db-X trackers, with £58.4 billion in Assets under Management.

Committed to market quality

Throughout the years, and on the advice of investors, FTSE has taken governance very seriously. Indeed, alongside the Financial Services Authority ('FSA'), FTSE has led the debate on improving market quality through its stringent requirements to include securities with Premium Listings (previously known as Primary Listings), as well as its treatment of non-UK companies. These publicly available rules are set out in the index series' ground rules. They are reviewed regularly, together with market consultation, to ensure the FTSE UK Index Series remains robust and in line with investors' requirements.

The engagement process

Companies incorporated in the UK looking to be included in the FTSE UK Index Series, and in particular the FTSE 100 Index, need to comply with the requirements of a Premium Listing, which go beyond the minimum standards set out by EU legislation.

For companies domiciled overseas which aspire to be constituents of the FTSE UK Index Series, the process works a little differently and involves a programme of engagement with FTSE, through the company's chosen corporate broker. FTSE is committed to working closely with a company to

assess it against the relevant requirements. This process is normally undertaken well before the publication of the prospectus, giving the company enough time to understand the steps it may need to take to ensure its eligibility for inclusion in the index series.

The requirements these companies must meet include a wealth of reporting requirements, compliance with the UK Corporate Governance Code and the City Code for Takeovers and Mergers. By meeting these criteria, companies show their ability to adhere to good practice across several elements of business including: board structure, accountability and relations with shareholders. In order to be included in an index in the FTSE UK series, companies without a UK incorporation must be incorporated in a developed market or other domicile approved by FTSE, as well as having a minimum 50 per cent free float.

Though the requirements for a Premium Listing are the toughest in Europe, the benefits of entering the liquid and internationalised UK market, as well as achieving FTSE 100 status, often far outweigh as well as justify these, especially amongst more ambitious companies.

The FTSE UK Index Series

The FTSE UK Index Series has been designed to represent the performance of UK-domiciled companies with a Premium Listing on the Exchange's Main Market. Investors are provided with a comprehensive and complementary set of indices that measure the performance of a range of capital and industry segments within the UK equity market. In addition to the standard UK series detailed below, FTSE has also launched a range of investment strategy versions, such as the FTSE 100 and FTSE 250 Short and Leveraged indices. These enhanced indices are created with FTSE's quantitative expertise and provide investors with new passive strategies and risk management opportunities.

The FTSE UK Index Series

FTSE 100 Index

The FTSE 100 Index is one of the world's most recognised indices and accounts for 7.8 per cent of the world's equity market capitalisation. It represents the performance of the 100 largest UK-domiciled blue chip companies which meet FTSE's size and liquidity screening. The Index represents approximately 85.2 per cent of the UK's market and is currently used as the basis for a wealth of financial products available on the Exchange and globally.

FTSE 250 Index

The FTSE 250 Index is comprised of mid-sized companies. This index is designed to measure the performance of the mid-cap capital and industry segments of the UK market which fall just below the FTSE 100 Index in both size and liquidity. The FTSE 250 Index represents approximately 12.5 per cent of the UK market capitalisation.

FTSE Small Cap

The FTSE SmallCap consists of companies outside of the FTSE 350 Index and represents approximately 2 per cent of the UK market capitalisation.

FTSE All-Share Index

The FTSE All-Share Index represents the performance of all eligible companies listed on the Exchange's Main Market. It is considered to be the best performance measure of the overall London equity market, with the vast majority of UK-focused money invested in funds which are benchmarked to it. The FTSE All-Share Index is the aggregation of the FTSE 100, FTSE 250 and FTSE Small Cap Indices and currently covers 630 constituents with a combined value of nearly £1.6 trillion – approximately 99 per cent of the UK's market capitalisation.

Preparing to list depositary receipts

Raj S.Panasar and Stephen Glasper
Cleary Gottlieb Steen & Hamilton LLP

CLEARY
GOTTLIEB

CLEARY GOTTLIEB STEEN & HAMILTON LLP

www.clearygottlieb.com

Preparing to list depositary receipts

Depositary receipts ('DRs') are negotiable instruments issued by a depositary bank that essentially repackages shares in another company. DRs are securities in their own right and can be listed and traded on the capital markets.

DRs are typically listed by companies incorporated outside the EU, frequently from emerging markets such as Russia and India. For such companies, a listing of DRs on an international exchange such as the London Stock Exchange can provide access to a significantly wider pool of international professional investors than a listing of shares on a company's domestic exchange.

Advantages of listing depositary receipts

Companies issue DRs principally to raise capital. DRs provide a particularly effective means for non-EU issuers to raise capital because of their appeal to international professional investors: they offer a means to invest in non-EU issuers while avoiding some of the inconveniences often associated with direct investments in the underlying shares, particularly as regards settlement.

Structure of a depositary receipt listing

The depositary mechanism

Setting up the requisite mechanics for a DR listing requires close coordination between the issuer, its advisers (principally its legal counsel and underwriters) and its chosen depositary bank (see 'Establishing a depositary receipt programme' chapter on page 105).

The deposit agreement

The deposit agreement sets out the legal rights and obligations of the depositary and the issuer. More importantly, the deposit agreement details the rights of the DR holders, set out in the terms and conditions of the depositary receipts, which are typically annexed to the deposit agreement and reproduced in the listing prospectus.

Structure of a typical DR listing

A typical DR listing will adopt the following structure:

- issuer's shares (either newly-issued shares, existing shares currently in the hands of a shareholder, or both) are deposited with the custodian bank of the issuer's depositary
- depositary becomes legal title holder of shares and is entered into issuer's share register
- depositary issues to investors DRs representing a certain number of issuer's shares
- depositary holds the underlying shares on bare trust for the holders of the DRs
- depositary will exercise its rights as a shareholder – including voting rights and rights to unpaid dividends – in accordance with investors' wishes, subject to the terms and conditions of the DRs
- investors are free to sell DRs in the secondary market, or, alternatively, to instruct the depositary to cancel the DRs and deliver the underlying shares instead, subject to the terms and conditions of the DRs and relevant securities laws.

'Listing' of depositary receipts

There are two distinct aspects to the process of 'listing' DRs in London, which occur simultaneously with each other:

- Admission to the Official List (the 'Official List') of the United Kingdom Listing Authority ('UKLA'), the United Kingdom regulator for the purpose of securities listings. DRs will be admitted to the Standard segment of the Official List – Premium Listings are only available to issuers of shares (the Premium and Standard Listing taxonomy is discussed in full in the UKLA's chapter on page 14)

- Admission to trading on the London Stock Exchange's Main Market (the 'Main Market') or the London Stock Exchange's Professional Securities Market (the 'PSM').

The admission of DRs to the Official List and to trading on the Main Market will usually (though not always) be conducted in conjunction with an offering of DRs to investors, to create the requisite 'public float' of 25 per cent of the DRs. If a listing of DRs represents the first time an issuer has offered securities to investors, it will be commonly referred to as the issuer's initial public offering ('IPO').

Block listings

It is common for a DR issuer to request admission to the Official List of a greater number of DRs than it intends to have admitted to trading on the Main Market at the time of its IPO. This is sometimes known as a 'block listing'. A block listing of DRs enables an issuer to have additional DRs admitted to trading on the Main Market, up to the aggregate size of the block listing, without having to publish a new prospectus or submit new applications to the UKLA or the London Stock Exchange. For an issuer planning to issue DRs on an incremental basis or who cannot control secondary deposits into the DR facility, a block listing is important.

US considerations

US securities law is relevant to any listing of DRs. The US Securities Act 1933 (the 'Securities Act') requires any issuer that proposes to offer securities anywhere in the world to undertake a lengthy US Securities and Exchange Commission ('SEC') registration process, unless an exemption is available.

For issuers that do not intend to market DRs to investors in the US, an exemption from the SEC registration requirement is typically available under Regulation S of the Securities Act ('Reg S'). Such a transaction would be referred to as a 'Reg S only' deal. The main requirements of Regulation S are that (i) the offer or sale of DRs is made outside of the US in an offshore transaction; and (ii) no marketing of the DRs takes place in the US (referred to as 'directed selling efforts').

For issuers that intend to market DRs to investors in the US (to access demand from US institutional investors), the US portion of the transaction is typically framed within the scope of Rule 144A of the US Securities Act, which provides an exemption for resales of securities to sophisticated institutional investors, known as qualified institutional buyers ('QIBs'). Such a transaction, which would also need to rely on Regulation S in respect of sales to investors outside of the US, would be referred to as a 'Reg S/144A' deal.

Example of a block listing

- issuer applies for up to 100 DRs to be admitted to the Official List but limits the IPO to 25 DRs (ie only 25 of the DRs will be admitted to trading on the Main Market)
- issuer is permitted to have up to 75 additional DRs admitted to trading on the Main Market at any time following the IPO and in as many increments as it wishes (provided the initial listing on the Official List is maintained)
- no requirement to apply to the UKLA or London Stock Exchange for subsequent DRs admitted to trading (up to the upper limit of the block listing)
- no requirement for a new prospectus for subsequent DRs admitted to trading (up to the upper limit of the block listing)
- to enable the UKLA to monitor the status of a block listing, the issuer is required to submit a form on a six-monthly basis stating how many of its DRs are admitted to trading.

Whether the DR listing is a Reg S only, or a Reg S/144A deal, great care must be taken to ensure that the conditions of the relevant exemptions are met; sanctions for breach of US securities legislation can be severe and concerns about compliance with the Securities Act can impede the ability of legal counsel to deliver the requisite opinions to underwriters, which can result in significant delays in the IPO process. Hence the importance of complying with the 'publicity guidelines' drafted for the issuer and the parties working with the issuer on its IPO.

Assessing suitability and eligibility for listing depositary receipts

Eligibility criteria

Issuers seeking admission of DRs to the Official List in connection with a Main Market listing must satisfy both the general eligibility requirements that apply to all applicants to the Official List and the specific eligibility requirements that apply to issuers of DRs (set out in Chapters 2 and 18 of the Financial Service Authority's ('FSA') Listing Rules, respectively):

- issuer must be duly incorporated and operating in accordance with its constitution
- DRs must (i) conform to the law of the issuer's place of incorporation; (ii) be duly authorised according to the requirements of the issuer's constitution; and (iii) have any necessary statutory or other consents
- DRs must be admitted to trading on the Main Market
- DRs must be (i) freely transferable; and (ii) fully paid-up and free from all liens and from any restriction on the right to transfer
- DRs, once listed, must be expected to achieve an aggregate market value of at least £700,000
- application must relate to the entire class of the relevant DRs (ie the application must cover all DRs in issue or to be issued at the time of admission to the Official List)
- at least 25 per cent of the DRs for which application is made must be in public hands (ie part of a public float, not held by major shareholders or persons connected with the issuer) at the time of admission to the Official List and for the duration of the listing. In certain limited circumstances the UKLA will agree to lower the 25 per cent threshold
- issuer must publish a prospectus approved by the UKLA. This requirement works in conjunction with the FSA's Prospectus Rules, which set out the circumstances in which an issuer must publish a prospectus. Note that the issuer's ability to meet the disclosure requirements for a prospectus – in particular, in relation to financial statements – effectively operates as an additional criterion for eligibility.

As noted above, issuers of DRs are not required to satisfy some of the more demanding eligibility criteria that apply to an issuer conducting a Premium Listing of equity shares. For example, a DR issuer is not required to produce a three-year financial track record that relates to at least 75 per cent of its business, nor is a DR issuer required to publish audited accounts no older than six months from the date of the prospectus, or satisfy the UKLA that it has sufficient working capital available for at least the next 12 months. The prospectus does, however, need to contain all material information, so financial statement requirements still need serious consideration, particularly where the issuer has made significant acquisitions or disposals.

Eligibility letter

To demonstrate compliance with the UKLA's eligibility requirements, the issuer must submit to the UKLA an 'eligibility letter' no later than on the date of the first filing of the prospectus (see example transaction timetable on pages 96 and 97). In addition, although not required by the rules,

continues on page 98

Example transaction timetable for listing DRs

Stage	Timeline	Action
Planning	24 weeks prior to pricing (referred to as T) (date on which price of DRs is agreed, underwriting agreement is signed and conditional dealing in DRs commences)	• issuer and underwriters to plan strategy and structure of listing • underwriters and legal advisers commence due diligence • assess issuer's eligibility for listing • prepare and submit UKLA pre-eligibility letter (if appropriate) • prepare and submit UKLA eligibility letter (no later than on date of first submission of draft prospectus)
Document drafting	T - 16 weeks	• begin drafting prospectus • conduct diligence meetings and drafting sessions • when draft prospectus is substantially complete, submit to UKLA with annotations (directing the UKLA as to how the issuer has complied with its specific disclosure obligations) with: o cover letter (drafted and signed by issuer's legal counsel) o prospectus disclosure checklist (not signed) o application for prospectus to be approved by the UKLA (Form A) (signed by issuer) o UKLA listing and document vetting fees • UKLA requires 10 full working days for review of first submission and 5 full working days for subsequent reviews • work towards clearing UKLA comments on draft prospectus; make further submissions of the prospectus by filing: o comparison document showing amendments to prospectus since previously submitted version o updated prospectus disclosure checklist o completed document response sheet (demonstrating how UKLA comments have been resolved)
	T-8 weeks	• begin negotiating underwriting agreement ('UA')
Marketing	T- 2-6 weeks	• obtain 'no further comments' clearance on prospectus from UKLA • arrange date for UKLA approval of the prospectus ('stamp off') • ensure ancillary UKLA listing documents are submitted at least 20 business days prior to desired date for stamp off (10 business days for issuers with securities already admitted to the Official List): o issuer contact details form o prospectus publication form o issuer board resolution authorising listing • liaison with London Stock Exchange: o submit draft application for admission of securities to trading (Form 1), draft prospectus and other documentation requested by London Stock Exchange o underwriters to discuss conditional dealings (if required) with London Stock Exchange • print preliminary prospectus (with all information finalised save for price) • marketing/roadshow

Example transaction timetable for listing DRs (continued)

Pricing	T	• issuer and underwriters to agree price • issue press release to announce price • finalise and sign UA • DRs allocated to investors / conditional dealing (if required) begins • obtain UKLA stamp off on prospectus by submitting: o two clean copies of final prospectus dated with the date of approval o comparison document showing any changes to prospectus since previous UKLA review o completed prospectus disclosure checklist (signed by issuer, dated date of approval) • print and publish final prospectus • arrange listing hearing with UKLA (for no sooner than 48 hours following prospectus stamp off) by submitting: o application form for listing hearing o application for admission to the Official List (signed by issuer) o stamped final prospectus o issuer board resolution confirming number of DRs to be issued • arrange for London Stock Exchange to consider application for admission of DRs to trading (at least two business days before unconditional trading in DRs is requested to begin, if applicable) by submitting: o completed Form 1 o copy of final prospectus o front cover of prospectus with UKLA stamp o London Stock Exchange fees to be paid following admission to trading
Closing	T+2	• DRs delivered to investors, payment transferred to issuer ('settlement and delivery') • Listing admission hearings: o UKLA considers the application for admission of the DRs to the Official List o London Stock Exchange considers application for admission to trading of the DRs to trading on the Main Market
Admission	T+3	• DRs are admitted to listing and trading from 8:00am (when London stock Exchange publishes its dealing notice) • settlement of trades with investors • unconditional dealing in DRs begins • announce admission of DRs via Regulatory Information Service (RIS) / press release

Not all DR transaction timetables include a period of Conditional Dealing (also known as When Issued Dealing (WID)). Issuers should assess whether a period of WID dealing is required in conjunction with their advisers. WID is a period of conditional dealing with deferred settlement ahead of full admission. Trades during the WID period, are conditional on the security being listed and can only settle once trading has become unconditional. Where the security does not list, all transactions effected during the period of WID are void. WID is made available by the Exchange on request and at its discretion. WID will normally last for a period of three business days.

it may be prudent to submit a pre-eligibility letter to address any particular issues unique to the issuer, for example, issues related to the financial disclosure the issuer plans to present in the prospectus.

Since DR issuers are not required to appoint a sponsor, the issuer's legal counsel will typically liaise with the UKLA on the issuer's behalf, initially to establish its eligibility for listing and ultimately to achieve the admission of its DRs to the Official List.

Admission timetable

The timetable for a DR listing will differ from deal to deal and will depend on each company's individual circumstances. For illustrative purposes, the table on pages 96 and 97 presents an example transaction timetable for an IPO of DRs on the Main Market, based on a total transaction length of 24 weeks.

The prospectus

Requirement for a prospectus

In connection with an application for DRs to be admitted to trading on the Main Market an issuer must publish a UKLA-approved prospectus. The preparation of the prospectus requires a significant effort on the part of the issuer and its advisory team and is one of the principal determinants of the deal timetable.

Due diligence

Due diligence is typically undertaken by the underwriters and, particularly if the deal involves a placement in the US, both the issuer's and underwriter's legal counsel. Due diligence helps protect the issuer, its directors, and the underwriters from liability and reputational damage.

The due diligence process might include:

- meetings with senior management and other key personnel
- meetings with key shareholders
- review of material documents relating to the issuer and its group (usually the issuer will create a physical or electronic data room for this purpose)
- site visits to view the issuer's principal assets and operations
- prospectus drafting sessions, at which further questions are put to the issuer's senior management in the context of the actual text of the draft prospectus
- preparation of specialist reports, such as mineral experts or property valuation reports, or a report of financial reporting procedures
- representations and warranties from the company and selling shareholders
- delivery of comfort letters from the accountants
- delivery of legal opinions from counsel.

General content of the prospectus

The overriding disclosure obligation

The principal purpose of a prospectus is to provide potential investors with the information necessary to make an informed assessment of the issuer and the rights attaching to the DRs. In other words, the prospectus must contain all information that could be relevant to an investor's investment decision – this is the overriding disclosure obligation. It supplements the equivalent overriding disclosure obligation under US rules if the transaction includes a placement in the US.

Detailed disclosure requirements

In addition to satisfying the overriding disclosure obligation, the prospectus must meet a number of detailed contents requirements, which are set out in Annex X to the FSA's Prospectus Rules.

The detailed disclosure requirements that apply to prospectuses for DR listings differ in certain respects from those that apply to prospectuses

for share listings. For example, unlike in a prospectus relating to a share listing (either a Premium or a Standard Listing), there is no requirement for a DR prospectus to include a working capital statement (to the effect that the issuer and its group has sufficient working capital available for its requirements for the 12 months following the date of the prospectus), and the requirements relating to financial disclosure can be more demanding in the context of a share prospectus, particularly where the issuer has a complex financial history.

Despite these differences, the disclosure in a DR prospectus is likely to look very much like that in a share prospectus, largely because of the overriding disclosure obligation to ensure that it contains all material information (an obligation which applies equally to shares and DRs). This is particularly the case in DR deals that will be marketed to US investors – Reg S/144A deals – where the document is likely to be drafted with a keen eye on the stringent disclosure requirements in the US.

Financial disclosure

The issuer's consolidated financial statements and the accompanying analysis set out in the operating and financial review section of the prospectus are critical to an investor's investment decision. Under Annex X, a DR prospectus must include:

- audited financial statements prepared in accordance with International Financial Reporting Standards ('IFRS'), covering the latest three financial years, or such shorter period that the issuer has been in operation. Non-EU issuers that do not prepare IFRS financials will be spared the requirement to restate their financials into IFRS if they have been prepared in accordance with generally accepted accounting standards ('GAAP') that are 'considered to be equivalent to IFRS' (as of the date of publication the GAAP of Canada, China, India, Japan, South Korea and the US are considered equivalent for this purpose)
- interim financial statements (which may be unaudited) covering at least the first six months of the year if the last audited annual financial statements will be older than nine months from the date on which the prospectus will be approved.

In certain cases, however, it is not sufficient for an issuer to limit the financial disclosure in the prospectus to the Annex X requirements. The issuer also must meet the overriding obligation to disclose all material information, which in certain circumstances will demand the disclosure of additional financial information, above and beyond that required under Annex X.

For example, it is not uncommon for an issuer to have been incorporated as a new holding company for the listing. Such an issuer might not have any financial history of its own. In such circumstances, investors would reasonably expect to see the financial history of the underlying business in order to make an informed investment decision. Alternatively, the issuer might have recently purchased, or agreed to purchase, another large business. The disclosure will likely need to deal with that new business, perhaps through pro forma and/or separate financial statements related to that business depending on its materiality and other information that can be provided about that business.

To ensure that an issuer in circumstances such as these meets the overriding disclosure obligation, one typically cross-refers to the rules that apply to share listings. An issuer of shares whose financial statements do not provide investors with a full picture of the underlying business is deemed to have a 'complex financial history'.

Such an issuer is required to disclose (i) the financial statements of another entity (for

example, the entity that operates the issuer's underlying business); and/or (ii) pro forma financial statements that demonstrate the impact of a recent or anticipated transaction (such as the acquisition or sale of a large business) on the issuer's financial statements.

While the complex financial history regime for share issuers does not apply to DR issuers, it is not uncommon for DR issuers to look at it by analogy to help satisfy the overriding disclosure obligation – in particular, by including the financial statements of an entity other than the issuer. The issuer and its legal counsel would usually address issues relating to the financial statement package with the UKLA by means of a pre-eligibility letter and agree an approach at an early stage in the transaction.

Drafting style

- the prospectus should be drafted in a manner that is comprehensible and easy to analyse
- it should avoid bullish rhetoric and 'marketing speak' in favour of neutral language, balanced and complete descriptions, and factual statements that can be substantiated
- discussion of the issuer's prospects requires particular care
- forward-looking statements will to some extent be necessary (for example, to describe the issuer's strategy or material capital expenditure plans). These statements should be drafted carefully to avoid unnecessary exposure to liability (ie if the anticipated event or outcome does not occur)
- drafting should try to ensure that the issuer's beliefs and expectations are not construed as statements of fact and, for material matters, might be accompanied by discussions of the factors that could cause actual outcomes to differ from those envisaged
- profit forecasts – statements that could be taken to suggest, for example, that the issuer will generate a particular income in the future – should generally be avoided.

Responsibility and liability

A DR issuer is required to make a statement in its listing prospectus to the effect that it takes responsibility for the contents of the prospectus. In addition, third-party experts who have prepared information or reports for use in the prospectus (such as reporting accountants and mineral experts) are required to accept responsibility for the contents of their reports. Unlike in a share listing, there is no requirement for the issuer's directors to take express personal responsibility for the prospectus.

Any party that takes responsibility for a prospectus will be liable under the Financial Services and Markets Act 2000 ('FSMA') to pay compensation to any person who acquires DRs and suffers a loss as a result of any untrue or misleading statement, or a material omission, in the prospectus. Depending on the circumstances, investors may be able to bring a claim under a different head of liability (for example, under the common law either for negligent misstatement, or false or misleading pre-contractual misstatement) against the issuer and potentially others; however, the FSMA offers investors a clear, purpose-built route to recovery.

In practice, steps will be taken to help guard against the issuer's (and its directors') potential liability through the due diligence carried out by it and its advisory team prior to, and in connection with, the drafting of the prospectus prior to its publication.

Advising the issuer after listing

Continuing obligations regime

An issuer with DRs trading on the Main Market is required to comply with a range of continuing obligations. The majority of these requirements are set out under the FSA's Disclosure and Transparency Rules. The key theme in this context is disclosure. Disclosure of pertinent information to

the market allows investors to make informed investment decisions. This, in turn, promotes investor confidence and facilitates the proper functioning and development of the market.

For many issuers, particularly those conducting an IPO, the practice of disclosing material information to the market is likely to represent a significant divergence from previous practice. It is therefore crucial that the issuer is properly advised of exactly what it will be required to do once its DRs are listed. This advice must be delivered at a sufficiently early stage in the listing process to enable the issuer to introduce procedures to ensure that it is able to comply with its continuing obligations immediately after listing.

One of the very first steps a DR issuer needs to take, in advance of listing, is to appoint a Regulated Information Service ('RIS'), such as the London Stock Exchange's Regulatory News Service. The issuer is required to make its disclosures to the market via its appointed RIS.

Disclosure obligations

In overview, a DR issuer admitted to trading on the Main Market is required to disclose to the market via its appointed RIS:

- information that could affect the price of the DRs ('inside information') – as soon as possible after it arises
- periodic financial reports – DR issuers are required to publish an annual financial report, no later than four months after the relevant year end (six months for issues of DRs admitted to the PSM). In addition, DR issuers customarily publish half-yearly reports.

Disclosure of inside information

As soon as an issuer submits its application for its DRs to be admitted to trading on the Main Market or the PSM, it is required to notify its appointed RIS as soon as possible of any inside information which directly concerns it, save in a narrow set of circumstances in which the rules entitle it to delay disclosure.

In the context of DRs, inside information is information that:

- is precise
- has not been made public
- relates (directly or indirectly) to the issuer or the DRs
- would be likely to have a significant effect on the price of the DRs if made public (ie is 'price sensitive').

The issuer must consider each set of circumstances on its own merits and reach a judgement as to whether it is in possession of inside information and, therefore, whether an announcement is required (or, alternatively, whether there are grounds to justify delaying an announcement). Very often, the key consideration is whether the information in question is price sensitive. The requirement to disclose inside information is also discussed in the chapter 'The legal framework for an IPO' on page 31.

Periodic financial reporting

In addition to the requirement to disclose inside information on an ad hoc basis, a DR issuer on the Main Market must publish its annual financial report as soon as possible after it has been approved and, at the latest, four months after the end of the financial period to which it relates (six months for issuers on the PSM).

In summary, the annual report must contain:

- audited consolidated IFRS financial statements
- management report, including a corporate governance statement (disclosing the corporate governance code to which the issuer is subject; the extent of its compliance with such code; and a

description of the issuer's internal control and risk management arrangements in relation to its financial reporting process)
- responsibility statement, attesting to the accuracy of the information in the report.

Unlike issuers of listed shares, DR issuers are not required to produce half-yearly reports or interim management statements. However, it is common for DR issuers to publish half-yearly reports as a result of market expectation and best practice.

Disclosure of transactions by persons discharging managerial responsibilities

The requirement to publish details of transactions in the issuer's shares carried out by 'persons discharging managerial responsibilities' ('PDMRs') and their connected persons does not apply to DR issuers. However, the UKLA has at least informally stated that compliance with the PDMR regime by DR issuers would be best practice.

Regulation of market behaviour

In addition to the continuing obligations disclosure regime described above, DR issuers, by virtue of having securities admitted to trading on the Main Market, must refrain from certain behaviour – broadly referred to as 'market abuse' – that could prejudice investors and jeopardise the efficient operation of the market. Both civil and criminal market abuse regimes apply to issuers with DRs listed on the London Stock Exchange, as well as to their directors and other officers.

Continuing obligations that do not apply to issuers of depositary receipts

As noted earlier, DR issuers are not subject to the full demands of the continuing obligations regime that applies to issuers of shares (particularly those with a Premium Listing of shares).

PDMRs

Some DR issuers comply with the PDMR regime on a voluntary basis as a matter of best practice.

A PDMR is a director or a senior executive of the issuer who:

1. has regular access to inside information relating, directly or indirectly, to the issuer; and
2. has power to make managerial decisions affecting the issuer's future development and business prospects.

If the regime were voluntarily followed to the letter, PDMRs and their connected persons would notify the issuer in writing of the occurrence of all transactions conducted on their own account in the issuer's securities, within four business days of the day on which the relevant transaction occurred. The notification would include:

- name of the PDMR or, where applicable, the connected person
- name of the issuer
- reason for requirement to notify
- description of the relevant security
- nature of the transaction (for example, an acquisition or disposal)
- date and place of the transaction
- price and volume of the transaction.

The issuer would then notify the above information to an RIS as soon as possible (and, in any event, by the end of the business day following receipt of the information by the issuer).

Disclosure

In terms of disclosures to the market, DR issuers are not required to publish:

- half-yearly financial reports or interim management statements
- details of acquisitions or disposals of major shareholdings
- details of transactions in the issuer's securities carried out by PDMRs and their connected persons.

However, as noted above, many DR issuers make some or all of the above disclosures on a voluntary basis as a matter of best practice.

Corporate governance

DR issuers are not required by the rules to follow the expansive corporate governance regime with which issuers of Premium Listed equity shares must comply, including:

- Listing Principles
- UK Code on Corporate Governance
- Model Code (while the Model Code does not apply to DR issuers, the guidance it provides on when an issuer and its senior management may conduct trades in the issuer's shares is instructive to DR issuers planning to conduct such trades)
- requirement to obtain shareholder approval for related-party transactions
- requirement to prepare circulars and obtain shareholder approval for major transactions.

An issuer might nevertheless give serious consideration to complying with certain of these corporate governance rules to assist with the marketing of its DR listing and if it has ambitions to progress to a Premium Listing of equity shares, to acclimatise to the more demanding regime it would be required to follow as a Premium Listed issuer.

Establishing a depositary receipt programme

Alex H.Hickson and Peter Russell
J.P. Morgan

Capital without borders

When companies need to access investors beyond their borders, they turn to the recognized leader in Depositary Receipts. At J.P. Morgan, we commit the entire resources of our firm to your success - that means focused advisory up front, aggressive support in the aftermarket, and the strength of our research and global reputation throughout.

J.P. Morgan manages some of the world's most widely held DR programs. Our DR professionals use their market knowledge and strong deal execution capabilities to structure innovative, well-invested, liquid and cost-effective DR programs for issuers. Since we created the world's first depositary receipt program over 80 years ago, there is no question about our leadership or commitment to our clients.

Best Depositary Receipts Bank
The Asset, Triple A Transaction Banking Awards 2009

Best Depositary Receipts Program
emeafinance, Achievement Awards 2009

To learn more about our depositary receipt services, please contact:

Asia **Kenneth Tse** at +852 2800 1859, kenneth.k.tse@jpmorgan.com
EMEA **Alex Hickson** at +44 207 777 2805, alex.h.hickson@jpmorgan.com
WHEM **Joseph Dooley** at +1 212 622 9225, joseph.dooley@jpmorgan.com

J.P.Morgan

The products and services featured above are offered by JPMorgan Chase Bank, N.A., a subsidiary of JPMorgan Chase & Co. JPMorgan Chase Bank, N.A. is registered by the FSA for investment business in the U.K. JPMorgan is a marketing name for Worldwide Securities Services businesses of JPMorgan Chase & Co. and its subsidiaries worldwide. © 2010 JPMorgan Chase & Co. All rights reserved.

Establishing a depositary receipt programme

Global Depositary Receipts (GDRs) have risen to prominence in recent years, becoming the favoured instrument used by companies from emerging markets, such as Russia and India, to raise capital on western stock exchanges:

- companies from more than 70 countries have depositary receipt programmes providing them with new investors outside their home markets
- more than 1,500 issuers have a sponsored depositary receipt programme
- more than 350 GDR programmes are listed on stock exchanges, of which 190 are listed on the London Stock Exchange (the 'Exchange').

For investors, GDRs facilitate investment in these foreign issuers while limiting many of the complexities and costs associated with cross-border investments, such as the settlement and custody of shares and foreign exchange transactions.

GDRs can carry many attributes of an issuer's local shares; they can provide similar economic rights (including the right to receive dividends), and if stipulated in an issuer's deposit agreement, voting rights in the issuer. For both issuers and investors, there are many more measurable benefits to establishing a GDR programme and listing on an international exchange.

Benefits of GDRs

Benefits to an issuer:

- offers a flexible mechanism for capital raising and a currency for mergers and acquisitions
- diversifies the shareholder base, with potentially greater liquidity for the underlying shares
- enhances visibility among international investors, consumers and commercial customers
- enables price parity with global peers through the provision of internationally recognised information
- may increase research coverage outside the home market.

Benefits to an investor:

GDRs also offer tangible benefits to investors seeking to diversify their portfolios globally:

- easier to purchase and to hold than an issuer's underlying ordinary shares
- trade easily and conveniently in US dollars and settle through established clearing houses
- eliminate unfamiliar custody arrangements
- limit risks associated with limited transparency or instability resulting from changing regulatory procedures in emerging markets
- option to acquire the underlying shares directly upon cancellation.

Structuring the GDR programme

GDRs have proven to be very flexible. When using GDRs to access Western capital markets, issuers interested in attracting international investors have several options:

Public offering and listing

In a public offering, GDRs are offered to institutional investors and listed on an international stock exchange outside the issuer's home market. The offering will be underwritten by an investment bank. A public offering is generally used by companies seeking to raise substantial amounts of capital and increase their profile in the market in which the offering will be conducted. A GDR offering can be aimed at European investors in a single tranche under Regulation S ('Reg S') which exempts offerings conducted outside of the US from Securities and Exchange Commission ('SEC') registration and reporting, or in two tranches: Reg S to non-US investors and to US institutional investors via Rule 144A (see below). A listing on an

international exchange provides transparent trading outside the usual market hours. GDRs will typically be offered to investors in the exchange's region. For example, a listing on an exchange in Europe would be aimed at attracting a substantial portion of European investors.

Rule 144A tranche

To access a broader pool of liquidity, GDR issuers can include a US institutional element through a restricted private placement of DRs, which is exempt from US securities law registration and reporting. Institutional investors legally able to participate in Rule 144A offerings are known as Qualified Institutional Buyers ('QIBs').

Listing

Issuers can list their GDRs without raising capital – known as an 'introduction'. By listing, issuers will have access to a wider group of institutional investors as well as increasing their visibility and name recognition. From a documentation and disclosure perspective, there is generally little difference between an introduction and a capital raising, other than the description of the sale of shares that would be included in an offering prospectus. While listing alone does not raise capital, it does enable companies to enter a market and get to know the participants without incurring the expense and requirements of a capital raising. At the same time, an introduction should only be considered together with initiatives aimed at raising secondary market liquidity.

Placing (private placement)

A placing is usually a more selective process whereby GDRs are offered to a small number of selected institutions. While this route gives the issuer more control over the distribution, it can restrict the shareholder base and naturally limit liquidity. In the secondary market, such privately-placed GDRs would be trading Over-The-Counter ('OTC'). Unlike in the US, where OTC platforms are regulated, GDR OTC trading in London takes place outside a dedicated platform and therefore provides little visibility to the issuer.

Creating GDRs

A GDR is issued and administered by a depositary bank on behalf of the (underlying) corporate issuer. Depositary receipts can be created or cancelled depending on supply and demand, with brokers either bringing additional ordinary shares to the depositary to create more GDRs, or withdrawing ordinary shares to cancel from the GDR facility. GDRs are created when the shares of a foreign issuer – either those currently trading in its local market or newly-issued shares in connection with an offering of securities – are deposited with a depositary's custodian in the issuer's home market. The depositary then issues GDRs representing those shares. At any time thereafter, an investor can sell these GDRs in the secondary market (eg the Exchange's International Order Book), or deliver the GDRs to the sponsoring depositary bank for cancellation in order to receive the underlying ordinary shares for settlement or sale in the foreign issuer's local market.

Typically, GDR programmes are governed by a Deposit Agreement agreed to by the issuer and the depositary bank, which, among other things, outlines the terms and conditions of the GDR programme.

Setting the GDR-to-share ratio

The initial price of a GDR primarily depends on the ratio between the number of GDRs and the underlying shares ('GDR ratio'). This ratio can vary widely; one GDR may represent an ownership interest in many shares of corporate stock or represent only fractional shares, depending on whether the GDR is priced higher or lower than the underlying ordinary shares.

There is no particular rule for setting the ratio, with the ease of calculation and relevance of the GDR price to the international norm for share prices

being primary considerations. Most GDRs are priced comparably to shares of peer companies trading on the same exchanges. While many successful programmes are established with a ratio of 1:1, many issuers with low home market prices have GDR-to-share ratios of 1:5, 1:10, or even 1:1000 etc. Companies deciding on a GDR price and the corresponding ratio should consider that:

- liquidity is enhanced when there is a significant number of GDRs eligible for trading; investors are more likely to buy GDRs that are perceived to be liquid and fairly priced
- while the fundamentals may be the same, an investor typically prefers to buy 100 shares of a US$20 stock instead of 10 shares of a US$200 stock.

The GDR ratio initially selected may affect the transaction costs that investors will pay. For instance, since fees for issuance (and cancellation) are assessed in cents per GDR, a GDR that is priced 'too low' can add incremental transaction costs for investors (see chart 'Issuance and Cancellation of GDRs' on page 113 for a description of the issuance and cancellation process). A ratio is established at the outset, but can be changed at any time by the issuer subsequently if the GDR price moves too far outside market parameters.

Most of the factors driving GDR prices are the same as those affecting the underlying shares: company fundamentals and track record, relative valuations and analysts' recommendations and, of course, market conditions. The international status of the company is also a key factor. Investors buying GDRs pay in dollars but are investing in an asset that moves in line with a foreign currency and foreign market. The ratio is simply part of the structure surrounding the investment that makes it easier to manage.

The deposit agreement

As a first step toward establishing a GDR programme, the foreign issuer and its chosen depositary bank jointly sign a deposit agreement. This contract details the legal relationship and obligations of the depositary bank and the issuer, describes the services the depositary and issuer will provide, and sets out the rights of GDR holders and the fees they must pay the depositary bank. While some terms are standard, deposit agreement provisions may vary from programme to programme, depending on the legal requirements of the foreign issuer's home market and the objectives of the issuer.

The deposit agreement includes provisions relating to the following:

- deposit of the issuer's shares
- execution and delivery of the GDRs
- issuance of additional shares by the issuer in compliance with applicable securities laws
- transfer and surrender of the GDRs
- setting of record dates by the depositary bank
- voting of the foreign issuer's underlying shares (ie the shares evidenced by the GDRs)
- obligations and rights of the depositary bank and holders of the GDRs
- distribution by the depositary bank of cash dividends, stock dividends, rights to acquire additional shares of the issuer and other distributions made by the issuer
- circumstances in which reports and proxies are to be made available to GDR holders
- tax obligations of depositary receipt holders
- fees and expenses to be incurred by the issuer, the depositary bank and GDR holders
- pre-release of GDRs
- protections for the depositary bank and the issuer (ie limitations on liabilities).

Admission to listing on the London Stock Exchange

There are two London Stock Exchange markets which admit GDRs to trading:

- the Main Market
- the Professional Securities Market ('PSM').

When applying to the Exchange for admission, the company specifies the market on which it would like its GDRs to trade.

Main Market

Most GDR issuers choose to list on the Main Market. GDRs traded on the Main Market are obliged to follow the rules for EU-regulated markets, which are enshrined in the FSA's Prospectus Rules, Listing Rules and Disclosure and Transparency Rules. As in the case of any other issuer, the FSA requires full disclosure of all major risk factors in the prospectuses of GDR issuers. GDR issuers are also required to comply with the London Stock Exchange's Admission & Disclosure Standards. For full details of the prospectus contents requirements see 'Preparing to list depositary receipts' chapter on page 91.

Listing requirements for entry include:

(i) a prospectus prepared in accordance with the Prospectus Directive, including IFRS accounting (this applies to both a capital raising or listing by introduction)
(ii) three years of trading history (or such shorter period for which the issuer has been in operation)
(iii) a minimum GDR market capitalisation of £700,000; and
(iv) a minimum of 25 per cent of floated DRs in public hands.

By listing on the Main Market the company is agreeing to abide by the relevant continuing obligations. These include:

- publishing an annual financial report, within four months of its fiscal year-end. The annual financial report must include audited financial statements, a management report and responsibility statements and must remain publicly available for at least five years
- publication of inside or price-sensitive information via a Regulated Information Service ('RIS'). By keeping the market informed in a timely manner through press releases and other announcements, the issuer allows all investors on all its markets to trade in a knowledgeable manner and on an equal footing. Further, if the issuer believes information has been leaked regarding a confidential or price-sensitive corporate matter, it is required to communicate with the market to remove uncertainty regarding the stock.

It should also be noted that American Depositary Receipts ('ADRs') can also be listed on the Exchange. For example, several Russian ADRs have been listed by way of an introduction on the London Stock Exchange.

The Professional Securities Market

The Professional Securities Market is operated by the Exchange within the scope of its status as a Recognised Investment Exchange.

The PSM is only accessible by 'wholesale' investors and, as such, the FSA is able to exercise flexibility in the application of European directives. Issuers wishing to list on the PSM must meet the following criteria:

(ii) latest three years of audited accounts (or such shorter period for which the issuer has been operating)
(iii) minimum GDR market capitalisation of £700,000; and
(iv) national GAAP may be used in the preparation of the prospectus.

Flexibility with respect to accounting requirements may be a cost saving for many companies as reconciling to IFRS, or providing additional disclosure as required by the Prospectus Directive, could be very expensive. However, issuers may need to provide a description of the key differences between their local accounting standards and IFRS.

Issuers choosing the PSM will have their listing particulars approved by the UK Listing Authority (the 'UKLA', a division of the FSA). Although IFRS does not apply, disclosure obligations for listed companies do apply to companies represented on the PSM.

Issuers admitted to trading on the PSM must meet certain continuing obligations, including:

- disclosing price-sensitive information and trading matters to the market as soon as possible
- publishing an annual report and financial accounts within six months of the year-end; and
- preparing and maintaining a list of persons considered 'insiders'.

Notable examples of celebrated GDR listings on the Exchange include Tata Steel's US$500m capital raising in July 2009 on the PSM and Rosneft's US$10.6bn offering on the Main Market in July 2006.

Trading in GDRs

GDRs, on both the Exchange's EU-regulated Main Market and the PSM, are traded on separate segments of the Exchange's International Order Book ('IOB').

The IOB trading matches and executes incoming electronic orders in DRs from over 46 countries ranging from Central and Eastern Europe, Asia and the Middle East. Central Counterparty ('CCP') is provided for over 70 of the most liquid DRs mitigating counterparty risk and ensuring both pre- and post-trade anonymity. Firms wishing to advertise their presence on the book can choose to identify themselves by using Named Orders. An optional netting service is available on the IOB, provided by LCH.Clearnet, which enables firms to net same-day, same-security trades at the CCP level for trades in cleared securities. Trades in DRs executed on the Exchange's Cleared IOB service settle within Euroclear.

GDRs (including those that are constituents of the Main Market and the PSM) can be traded in parallel on alternative platforms – quotation platforms of other exchanges as well as multilateral trading facilities (MTFs) such as Turquoise.

Parties involved in establishing a GDR programme

Establishing a GDR programme requires close coordination between the issuer, its chosen depositary bank and each firm's legal advisers. When raising capital, the issuer also relies on accountants, investment bankers and investor relations firms. The table 'Key roles and responsibilities of parties to a GDR programme' on page 112 summarises the roles and responsibilities of each programme partner.

GDR certificate

GDR certificates are typically not issued to investors holding GDRs or those holding 144A DRs. A master certificate is issued either directly to a securities depositary, such as the Depositary Trust Company, or to a Common Depositary which will hold the master certificate on behalf of settlement systems such as Euroclear and Clearstream, investors and the depositary bank. As GDRs are issued and cancelled, the number of GDRs represented by the master GDR is adjusted up and down accordingly.

Euroclear and Clearstream are the two central depositaries in Europe, through which the trading and settlement of GDRs is documented electronically. These two entities work under the

Key roles and responsibilities of parties to a GDR programme

Depositary bank

- provides advice/perspective on type of programme, exchange or market on which to list or quote
- advises on ratio of depositary shares to ordinary shares
- appoints custodian
- coordinates with all parties to complete programme implementation steps on schedule
- coordinates with legal counsel on Deposit Agreement and securities law matters
- announces GDR programme to market (brokers, traders, media, institutional investors via news releases and internet)
- works with issuer to maintain active GDR programme
- coordinates with issuer to announce and process corporate actions such as dividends and shareholders' meetings

Custodian

- receives local shares in issuer's home country
- confirms deposit of underlying shares
- holds shares in custody for the account of depositary in the home market

Issuer

- provides depositary and custodian with notices of dividends, rights offerings and annual and special shareholder meetings
- interacts with listing authority and responds to all questions
- IR/PR targeted programme
- adheres to stock exchange regulations and accepted corporate governance standards, including reporting and transparency

Legal adviser (for the depositary and for the issuer)

- reviews draft deposit agreement received from depositary bank
- submits requisite documents to local regulatory authorities and exchanges
- manages compliance with securities laws, rules and regulations and perfects any securities law exemptions
- provides corporate action support, as appropriate

Accountant

- prepares company's accounts for insertion into prospectus
- reviews prospectus and interacts with authorities
- annual audit and prepares accounts in accordance with accepted standards such as IFRS

Investor relations adviser

- develops long-term plan to raise awareness of issuer's programme in the markets in which GDRs will trade
- develops communications plan and information materials for launch activities (roadshow and presentations to investors, meetings with financial media)
- coordinates with issuer's advertising and public relations teams on specific programme plans to support and develop company image

Investment banks/Underwriters

- advise on size, pricing, marketing of offering, type of programme and selection of exchange or market, and ratio of DRs to ordinary shares
- act as placement agent or underwriter in offering
- conduct roadshows with management/introduce issuer to institutional and other investors
- lines up dealers and co-underwriters
- cover issuer through research reports/promote DRs to investors
- advise on roadshows, investor meetings, investors to target

Issuance and cancellation of GDRs	
Issuances	**Cancellations**
1. Investor calls broker with an order to buy 100 GDRs in an issuer.	1. Investor calls broker with an order to sell 100 GDRs in an issuer. At settlement (usually T+3), the investor will deliver the GDRs to the broker.
2. Broker can fill order by either buying GDRs on the international exchange on which they trade, or purchasing ordinary shares in the local market and having them converted into GDRs.	2. Broker completes the sell order by either selling GDRs on the international exchange on which they trade, or converting the GDRs to ordinary shares and selling such underlying shares in the local market.
3. If the broker chooses to buy in the local market, they will conduct their trade via a local broker. The broker will then notify the depositary bank to expect the delivery of shares at the local custodian.	3. If the broker sells in the local market, they will conduct their trade via a local broker. If the broker converts the GDRs to ordinary shares, the broker will deliver the GDRs to the depositary bank for cancellation and provide the necessary delivery instructions for the ordinary shares.
4.The custodian notifies the depositary bank when the shares are credited to its account and instructs it to deliver the GDRs to an account specified by the broker.	4. The depositary bank instructs custodian to deliver local shares to account provided by broker, subject to seller's payment of GDR cancellation fees and any other applicable charges.
5.The depositary bank delivers GDRs to the investor's broker, subject to the buyer's payment of GDR issuance fees.	5. Custodian delivers shares as instructed.
6. Broker delivers GDRs to investor.	6. Local broker receives shares.

rules of 'client confidentiality and non-disclosure' and consequently neither the issuer nor the depositary is able to obtain and confirm information regarding the identity of beneficial holders of GDRs. Specialist vendors may assist with shareholder identification using proprietary databases of custodian accounts and regulatory methods of engagement with institutional investors.

Corporate actions and dividends

With respect to corporate actions, the depositary bank acts as a bridge between the issuer and GDR holders outside its home market. To the extent possible, the depositary provides GDR holders with benefits comparable to those received by the issuer's domestic shareholders.

If dividends are to be paid on the underlying securities, the depositary bank provides for dividends to be converted and net proceeds, after deduction of any taxes and fees, to be paid out in the currency of the GDR, (typically US dollars). The GDR investor carries the foreign currency risk, as the amount of the dividend will be affected by any movement of the US dollar against the investor's home market currency.

When the dividend record date and payment date for the domestic shares have been established by the issuer, the dates are given immediately to the depositary so that it can:

- set the record and payment dates for the GDR based on the agreed-upon calendar and market requirements, and then communicate these dates to the markets. For example, the Exchange expects at least three business days' notice of any record date. This allows it to notify the market and properly announce the ex-date
- announce preliminary (estimated) dividend payment amounts based upon the exchange rate between the issuer's domestic currency and US dollars on the date of the announcement
- arrange for the dividend, received from the issuer directly or via the depositary's custodian, to be converted from the domestic currency into US dollars. The final rate per GDR will be announced once the dividend has been converted and the actual rate per GDR has been calculated
- distribute to GDR holders the dividend, net of any required tax withholding and/or any fees.

Where possible the depositary bank will also facilitate dividend tax reclaim or relief at source to allow GDR investors to benefit from favourable tax rates under double taxation treaties.

For more complex corporate actions, such as rights issues and corporate restructurings, the depositary is typically made a party to the transaction so that it can work with the issuer and its advisers to devise the appropriate structure and distribution channel for the GDR investors.

Shareholder meetings

The deposit agreement outlines the issuer's responsibilities, if any, to GDR holders with respect to shareholder meetings. For good corporate governance purposes, issuers typically give their GDR holders the right to vote at the shareholder meeting. The issuer's depositary bank provides guidance as to the timing and mechanics for distributing information and voting cards to GDR investors.

The issuer provides the depositary bank with the necessary information as far in advance as possible of a shareholder's meeting. Six to eight weeks' notice is optimal. This timeframe enables the depositary bank to prepare the voting instruction card, distribute it through the clearing systems to the GDR holders, receive voting instructions from them and arrange to have the underlying shares voted at the meeting in accordance with those instructions.

The depositary bank also assists the issuer with preparation and review of the documentation required to comply with general GDR market practices. This includes coordination with the local custodian and regulators to prepare authorisations and documentation to comply with local market regulations and procedures for GDRs.

Some issuers are keen to get a high level of participation from their overseas holders. In this case, issuers may contact their GDR investors directly using proxy solicitation vendors to discuss any questions they have regarding the resolutions and to encourage them to submit their vote.

Investor relations ('IR')

As a company transitions to a publicly-listed entity, it must provide the investment community with increased transparency into the organisation, comply with regulations and communicate goals, market opportunities and growth strategies. In practice, this requires the issuer to develop its readiness for IR in the pre-IPO phase and sustain clear and consistent communications after the GDRs begin trading.

Driving sufficient demand for a company's GDRs, over time, requires a comprehensive IR strategy aimed at continually raising the company's visibility among GDR investors and effectively communicating its investment story. It is important that the depositary bank is well placed to provide IR advisory services in support of the issuer's GDR programme.

A depositary bank can help enable the issuer to make the best first impression in the capital markets, immediately begin building trust with GDR investors and set the stage for optimal valuation over the long term. The services provided by a depositary bank's IR advisory team include:

- IR strategy and calendar – assistance in the development and execution of an IR action plan aimed at achieving specific goals
- investor targeting, with a focus on GDR-specific investors (analysis to identify investors for roadshows)
- best practice advice on investor communications, including performance guidance and disclosure
- internal IR reporting procedures.

Sample timetable for establishing a GDR programme

	Issuer	UKLA	LSE	Broker	Sponsor	Depo	A	L	IR
12-24 weeks before admission									
Establish/organise transaction team	✓			✓	✓	✓	✓	✓	✓
Detailed timetable and responsibilities agreed	✓	✓	✓	✓	✓	✓	✓	✓	✓
6-12 weeks before admission									
Draft preliminary offering circular (Note: depositary bank provides 'description of GDRs' for offering circular)	✓			✓	✓	✓	✓	✓	
Initial review of pricing issues	✓			✓	✓				
Begin planning US and European roadshow and ongoing investor relations: create communications materials and target institutional investors	✓			✓		✓			✓
Select GDR/ordinary share ratio	✓			✓		✓			✓
3-6 weeks before roadshow									
Due diligence on prospectus	✓			✓	✓		✓	✓	
Roadshow meetings	✓			✓	✓	✓			✓
Formally submit and agree all documents with UKLA		✓		✓					
Print pathfinder prospectus for Regulation S component if required		✓			✓			✓	
Negotiate Deposit Agreement	✓					✓		✓	
Translate Deposit Agreement, if applicable						✓		✓	
Specific to Russia-incorporated issuers:									
Prepare applications to FSFM and FAS, if applicable	✓				✓	✓		✓	
Apply and receive FSFM approval for GDR programme establishment and FAS clearances	✓				✓	✓		✓	
1 week before admission									
All documents completed and approved by UKLA	✓	✓			✓			✓	
Pricing and allocation meeting	✓			✓	✓		✓	✓	
Register prospectus		✓			✓			✓	
Admission week									
Formal application for London Stock Exchange listing and admission to trading		✓	✓	✓	✓				
Apply for PORTAL system eligibility (for Rule 144A programme in the US)	✓			✓		✓		✓	
Arrange Euroclear, Clearstream and DTC eligibility for book-entry settlement and delivery	✓			✓		✓		✓	
Closing: execute Deposit Agreement; placement agent delivers cash proceeds to issuer; depositary bank's custodian receives underlying shares; depositary delivers GDRs to lead placement agent through DTC, Clearstream and/or Euroclear	✓			✓		✓			
Where permitted, send announcement of programme to broker community	✓			✓		✓		✓	
Post-Closing									
40 days after the last closing of the Regulation S-only issuance, the issuer and depositary bank may file a Form F-6 with SEC to establish a Level I ADR programme	✓					✓		✓	

Timeframes are indicative. Regulator's involvement and issuer's programme specifics may vary and can materially affect timing. The UKLA's listing rules require that the minimum amount of time between the initital submission of documents and approval is 20 working days.

Key to parties involved: UKLA = UK Listing Authority, I = Issuer, Depo = Depositary Bank, A = Accountant, L = Legal adviser; IR=Investor relations. Other parties, specific to Russian-incorporated issuers: FSFM = Federal Service for Financial Markets, FAS: Federal Antimonopoly Service.

Useful contacts

London Stock Exchange
UK companies: + 44 (0)20 7797 3429
International companies: + 44 (0)20 7797 4208

Capita Registrars
Paul Etheridge, Head of Corporate Advisory
Email: petheridge@capitaregistrars.com
Phone: +44 (0)20 7954 9706

Phil Roberts, Deputy Head of Corporate Advisory
Email: proberts@capitaregistrars.com
Phone: +44 (0)20 7954 9703

Cleary Gottlieb Steen & Hamilton LLP
Raj S. Panasar, Partner
Email: rpanasar@cgsh.com
Phone: +44 (0)20 7614 2374

Stephen Glasper, Associate
Email: sglasper@cgsh.com
Phone: +44 (0)20 7614 2354

Fishburn Hedges
Andy Berry, Director
Email: andy.berry@fishburn-hedges.co.uk
Phone: +44 (0)20 7839 4321

Freshfields Bruckhaus Deringer LLP
Simon Witty, Partner
Email: simon.witty@freshfields.com
Phone: +44 (0)20 7832 7018

David Cotton, Senior Associate
Email: david.cotton@freshfields.com
Phone: +44 (0)20 7785 2686

J.P. Morgan
Depositary Receipts Group
Alex H. Hickson, Regional Head EMEA
Email: alex.h.hickson@jpmorgan.com
Phone: + 44 (0)20 7777 2805

Peter Russell, Investor Relations Advisory Services
Email: peter.russell@jpmchase.com
Phone: + 44 (0)20 7742 1480

UBS
UBS Investment Banking
John Woolland, Managing Director
Email: john.woolland@ubs.com
Phone: +44 (0)20 7568 2336

David Seal, Director
Email: david-l.seal@ubs.com
Phone: +44 (0)20 7568 2025

UBS Equity Capital Markets
Christopher Smith, Managing Director
Email: christopher-mp.smith@ubs.com
Phone: +44 (0)20 7568 4389

Alex Bloch, Associate Director
Email: alexander.bloch@ubs.com
Phone: +44 (0)20 7567 4597

Does your company need capital to fund further expansion?

We have a market for that…

Main Market

Main Market

Main Market

AIM

SFM

PSM

Whatever your company's size or sector, we can put you at the heart of one of the world's most sophisticated financial communities.

The **Main Market** is home to approximately **1,400** companies from over **60** countries, including some of the world's most successful and dynamic organisations. So far this year **£20.8** billion has been raised on the London Stock Exchange, of which **£17.9** billion has been raised on the **Main Market**.

Here at the London Stock Exchange we help companies to access the deepest pool of international capital. Premium Listed companies on the Main Market meet the highest listing standards helping to raise their corporate profile and increase their exposure to investors.

Learn more about the Main Market and why leading companies choose to list on the London Stock Exchange – www.londonstockexchange.com/mainmarket

London
Stock Exchange

Copyright November 2010 London Stock Exchange plc
London Stock Exchange, the coat of arms device and AIM are registered trademarks of the London Stock Exchange plc.

London Stock Exchange statistics as at end September 2010