London Capital Markets: Legal Perspectives

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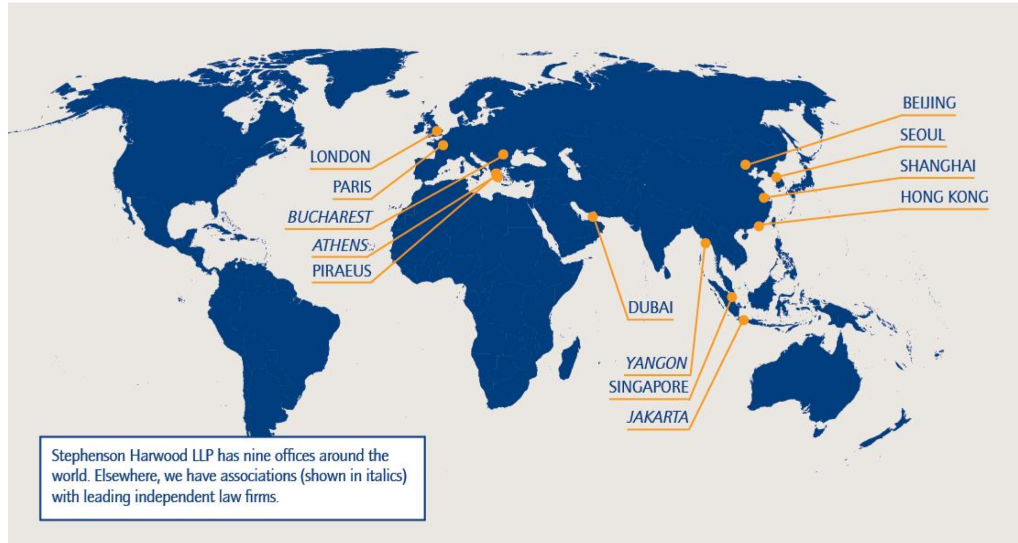
About Stephenson Harwood (Singapore) Alliance

STEPHENSON HARWOOD (SINGAPORE) ALLIANCE

The Stephenson Harwood (Singapore) Alliance offers clients an integrated service in multi-jurisdictional matters involving permitted areas of Singapore law.

The Stephenson Harwood (Singapore) Alliance is part of the Stephenson Harwood network that has nine offices across Asia, Europe and the Middle East: Beijing, Dubai, Hong Kong, London, Paris, Piraeus, Seoul, Shanghai and Singapore, and associated offices in Athens, Bucharest, Jakarta and Yangon.

Stephenson Harwood is a full service international law firm, with over 120 partners and 700 staff worldwide. The firm acts for a wide range of listed and private companies, institutions and individuals.



A responsive and commercially aware group that understands its clients needs

Chambers Asia Pacific

Selected AIM listing experience

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easyHotel plc
Advising on the £30 million placing and admission to AIM for a developer and operator of 'super budget' branded hotels.

iEnergizer
Advising one of India's largest business process outsourcing companies, on its admission to AIM, market capitalisation on admission was £174 million.

Global Market Group
Advising on the £127 million AIM IPO of this Chinese e-commerce provider.

Liberum Capital Ltd and Cenkos Securities plc
Advising on the £58 million IPO of this business process outsourcing solutions company.

Kalibrate Technologies Plc
Advising on the £26 million AIM IPO and related £13 million placing for this fuel pricing technology company.

CSE-Global Limited
Advising on the £122 million disposal and simultaneous Main Market IPO of Servelec Group Plc.

Eland Oil & Gas plc
Advising Eland Oil & Gas on the £118 million AIM IPO and two rounds of pre-IPO financing which raised £105 million.

KSK Power Ventur
Advising KSK on the US$260 million AIM listing as the first company to obtain a standard listing on the Main Market.

Goldenport Holdings Inc
Advising Goldenport Holdings on London Main Market listing and subsequent placing and open offer to raise US$35 million to fund vessel acquisitions.

FinnCap and TPO
Advising FinnCap on the £100 million AIM IPO and £20 million placing for this mobile virtual network operator.

Indus Gas Ltd
Advising on the £300 million AIM listing of this Northern India based oil and gas exploration company now valued at over £1.3 billion.

Hummingbird Resources
Advising Hummingbird Resources on admission to AIM and related £25 million placing.

Selected AIM listing experience in Asia

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Fusionex International

Advising Fusionex International, a Malaysian premier IT group, in connection with its IPO and admission to trading on AIM. This was the largest technology company to float on AIM in 2012.

CSF Group

Advising CSF Group, a Malaysia-based data centre specialist on its initial public offering and admission to trading on AIM.

Auhua Clean Energy

Advising Auhua Clean Energy, a Shandong-based environmental technology group, on its initial public offering and admission to trading on AIM.

Aseana Properties

Advising Aseana Properties, a South East Asian property fund, on its standard listing on the Main Market of the London Stock Exchange and related fundraising.

Geong International

Advising Geong International, a Beijing-based provider of enterprise content management solutions, in relation to its IPO and admission to trading on AIM.

China New Energy

Advising China New Energy, a Guangdong-based producer of industrial ethanol, on its IPO and admission to trading on AIM.

Galasys

Advising on the IPO and admission to AIM of this leading provider of ticketing management systems solutions and services.

RedHot Media International

Advising RedHot Media International, a Malaysian advertising brokerage, on IPO and admission to trading on AIM.

Medilink Global

Advising Medilink Global, a Malaysia-based healthcare services company with operations in Malaysia and China, on its IPO and admission to trading on AIM.

Libertas Capital

Advising Libertas Capital in its capacity as nominated adviser and broker in relation to the proposed IPO and AIM admission of a Beijing-based manufacturer and operator of electronic payment kiosks.

Radiant Growth International

Advising Radiant Growth International on its IPO and admission to trading on AIM. Radiant Growth International is an investment company targeting investment in the Asian energy and resources sector.

Plant Offshore Group

Advising Plant Offshore Group, a Malaysian fabricator of components for oil rigs and other offshore installations, on its IPO and admission to trading on AIM.

AIM - “The world’s most successful growth market”

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- AIM is London Stock Exchange plc (“LSE”)’s international market for smaller, growing companies, launched in 1995
- A platform for companies to raise capital (at admission and through further fundraisings) within a tailored and balanced regulatory framework
- Provides an attractive exit route for earlier stage investors
- Provides a platform for increased profile and visibility with key stakeholders
- Internationally focussed professional investor base
- Entry criteria and continuing objections are not onerous
- “Lighter touch” regulatory regime does not mean “soft touch”
- Can provide an active secondary market – a “two-way street”

AIM – Entry criteria

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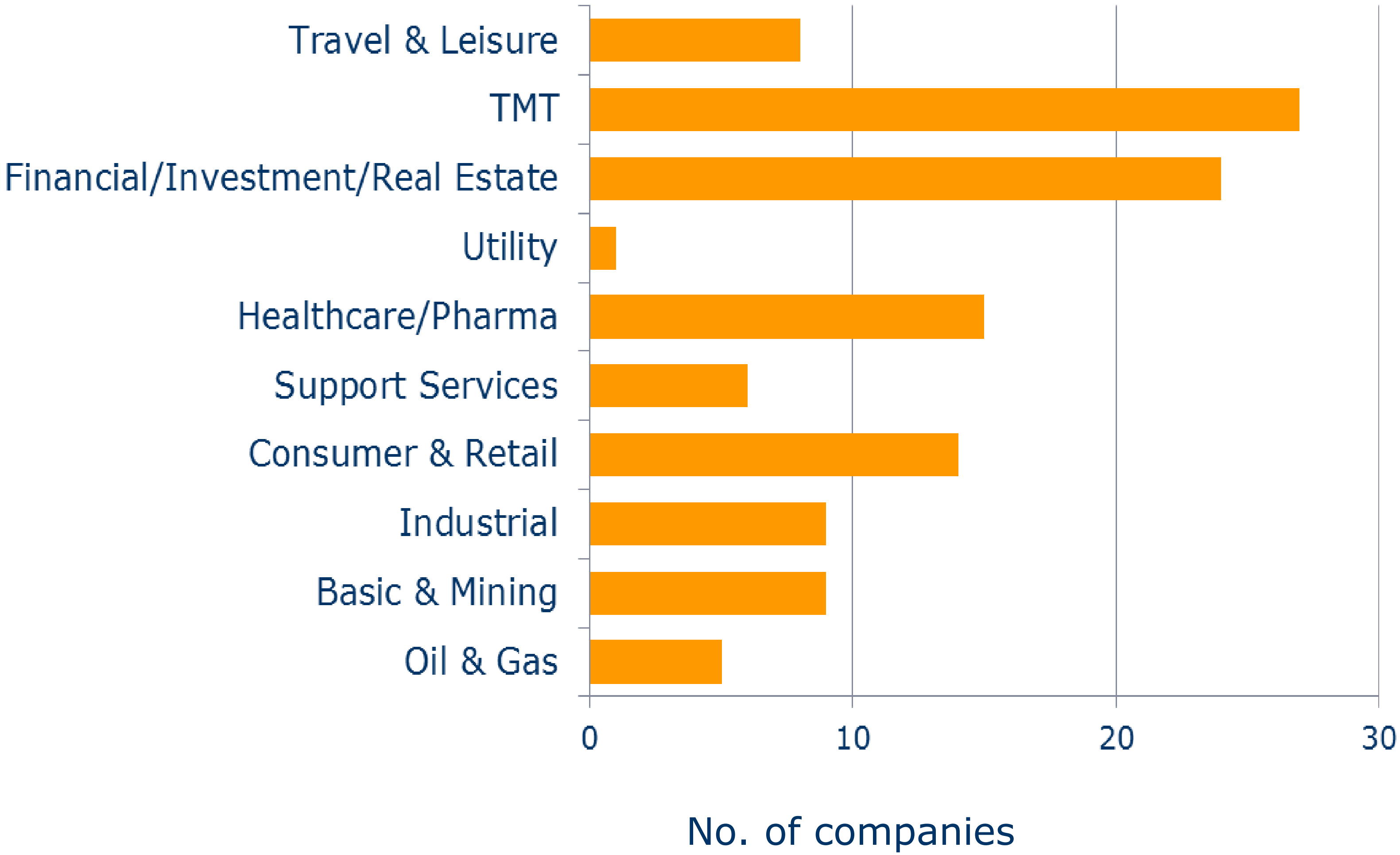
Tailored for growing companies

- Nominated adviser ("Nomad") required at all times
- Admission document approved by Nomad and is not pre-vetted by the Stock Exchange or UK Listing Authority
- No minimum size requirement (GBP20 – 100 million)
- No minimum financial history required
- No formal requirement for shares to be held in public hands (informal guide 15%)
- Shareholder approval required for reverse transactions
- Compliance with the AIM Rules for Companies

2014 AIM admissions



Asian businesses on AIM - Location of main operations

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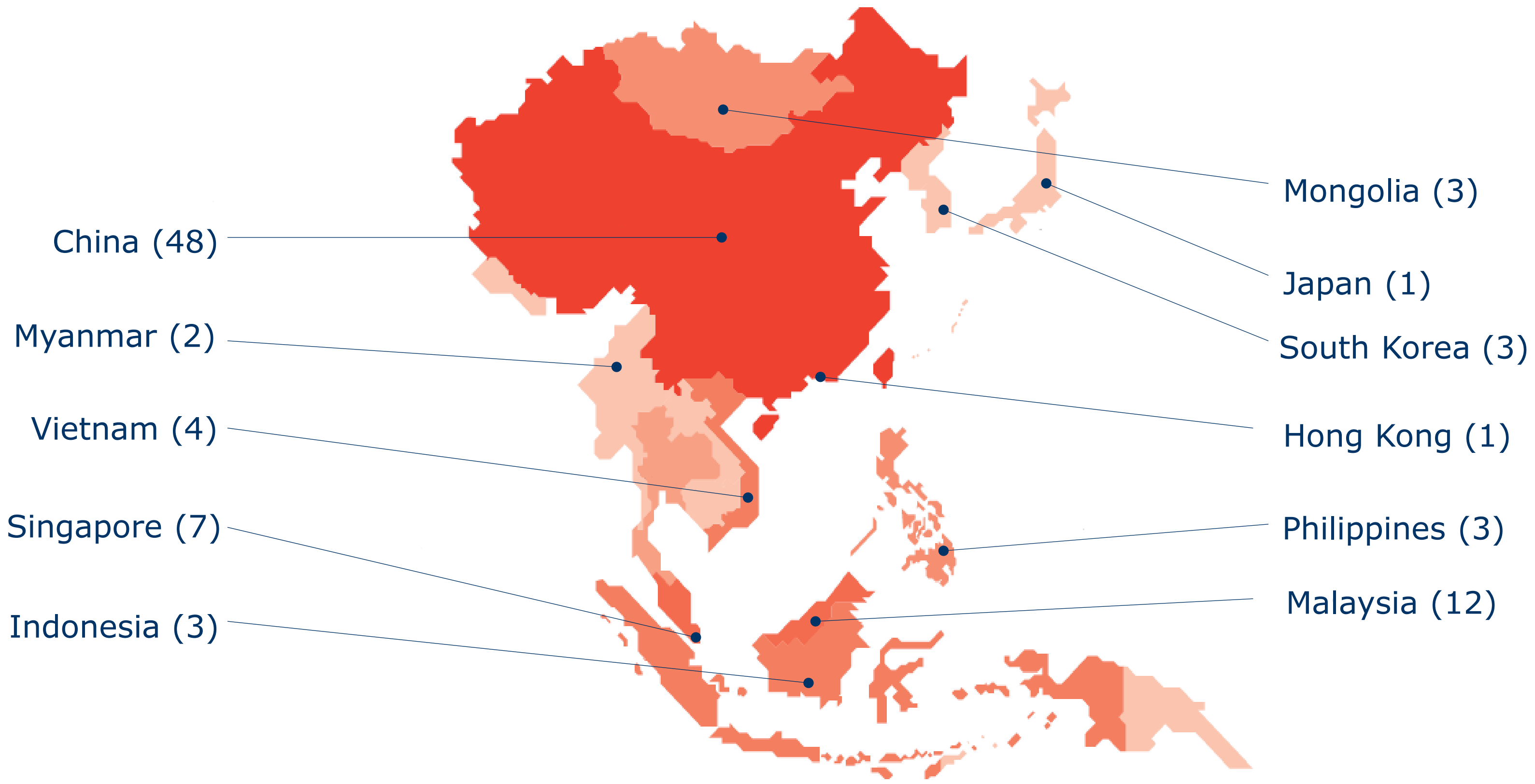

- Of AIM's 1,104 constituents, 87 have their main operations in Asia
- Includes 10 IPO's in 2014, 9 with operations in China and 1 from Singapore

Pros and cons of listing

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- Access to capital
- Profile/reputation
- Exit
- Motivation/incentive (ESOS)

- Loss of control
- Ongoing obligations
- Disclosure/accountability
- Costs
- Transparency
- Loss of privacy
- Management distraction
- Increased litigation risks

Choosing the right exchange for <u>your</u> business

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Consider:

- Type of business
  - Active/operating
  - Passive/investment holding
- Stage of development
  - Exploration/Development
  - Production
- Location
  - Assets
  - Customers
  - Management
  - Required speed/timing to market
  - Management/technical resources
  - Market conditions
  - Costs
- Market comparison

The IPO Process - Overview

The AIM IPO process can be broken down in to the following phases:

- Planning/ engagement of advisors
- Due diligence
- Broker's research
- Drafting (including admission document)
- Marketing
- Placing & placing agreement
- Impact & admission

Planning and pre-IPO process

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- The pre-IPO process can take 12-24 months
- Planning process is fundamental to the success or otherwise of the IPO

Stage 1 – Pre-IPO review

The following aspects of the business should be reviewed as part of pre-IPO review:

- Capital structure both as regards legal form and compliance and tax efficiency
- The Group's historical financial performance for the last three financial years
- The financing requirements of the business
- The existing management resources and any senior recruitment required
- The group's existing and planned financial reporting procedures and practices
- The need or otherwise to dispose of non-core activities
- Assessment of which capital market would be most appropriate for the group

Stage 2 – Pre-IPO planning

Action plan and timetable to implement any changes/enhancements following pre-IPO review:

- The restructuring of certain of the group's activities
- The audit and re-statement of historic financial results
- The hiving out of certain non-core assets/group entities
- The curing of any defects in asset ownership
- The registration of any unregistered IP rights
- Ensure shares are freely transferable and fully paid-up
- Revise any existing director service agreements

Lawyer’s role

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- Pre IPO structuring / fundraising
- Licences / regulatory approvals
- Reviewing engagement terms
- Admission document
- Due diligence / verification
- Placing documents
- Securities legislation
- Directors’ duties / corporate governance

Advisory team

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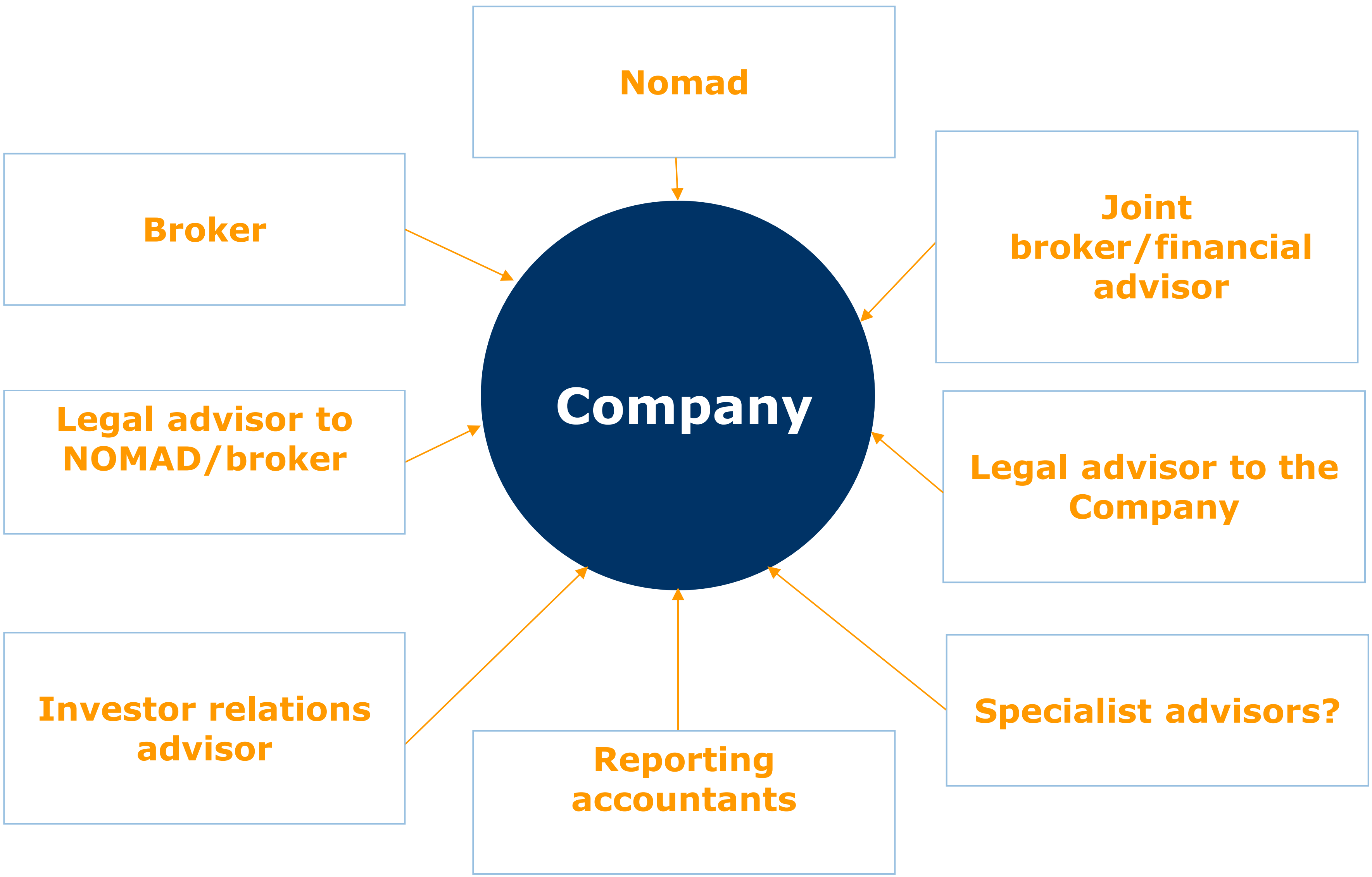

Due diligence – why?

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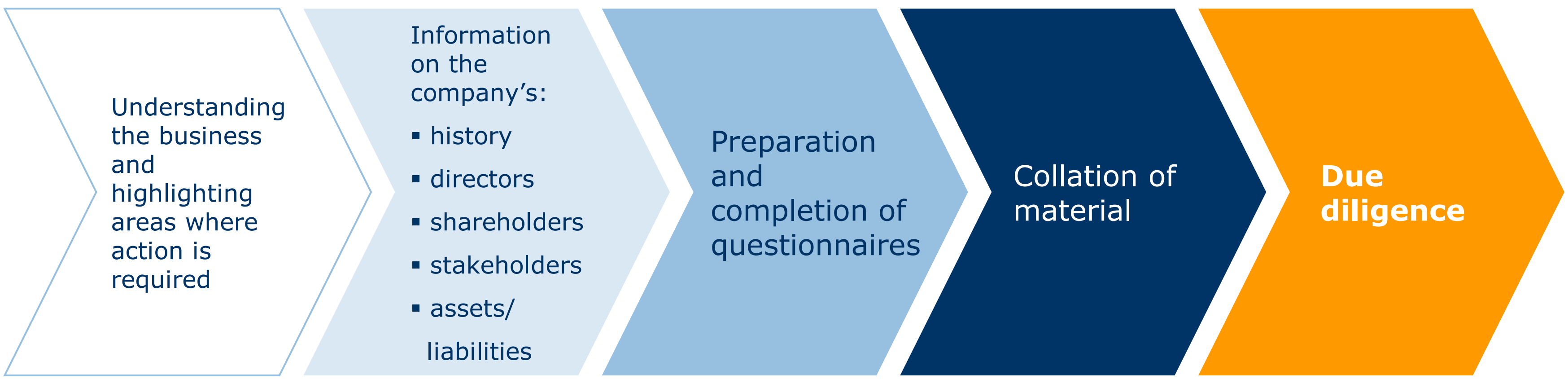
The Nomad is the person who has to give a written declaration to London Stock Exchange plc that the Company is suitable for listing. To this end, the Nomad will insist that a thorough due diligence exercise is conducted on the Company, its management and all the companies in its group.



Directors have a general obligation to ensure that admission document contains all information reasonably necessary to enable investors to form a full understanding of, *inter alia*, the assets and liabilities, financial position, profits and losses, and prospects of the AIM applicant and the rights attaching to the securities to be listed.

Due diligence – what's involved?

Identification and quantification of risk

Litigation

Long term or onerous contracts and commitments

Tax, environmental, pensions, regulatory considerations

Ownership of assets

Verification of title

Key contracts

Change of control/poison pills

IPR

Employment issues:

Service contracts

Incentive schemes

Structuring

Depository receipts/ underlying rights

Re-registration/share swap

Constitutional issues

Memorandum & articles – likely alterations

Dividend policy

Restrictions on the sale of shares

Tax

Corporate governance

Executive and non-executive board

Independent non-executive directors (NEDs)

Remuneration, audit, nomination and disclosure committees

- Process tends to be much more thorough than for a typical acquisition – directors subject to criminal sanctions
- Form of legal DD report generated is typically long-form
- Legal advisers prepare legal DD report, reporting accountants prepare long-form report on financials
- Nomad/broker carries out commercial DD

Corporate governance - Independence of the board

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- Board independence will be critical in the eyes of the company's Nomad
- NAPF Smaller Company Guidelines requires:
  - for larger boards, at least two independent directors, excluding the Chairman
  - for smaller boards (comprising no more than four directors), at least two independent non-executive directors to comprise not less than one-third of the board, one of whom may be the Chairman

Corporate governance - Independence of the board (contd.)

- A non-executive director is likely to be considered non-independent if he has a shareholding of 3% or more
- Chairman and Chief Executive roles should not be combined – only in exceptional circumstances
- Audit, remuneration, nomination and compliance committees to be established

Corporate governance - Disclosure

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- Foundation of good corporate governance is disclosure
- Critical to institutional shareholder investment
- AIM listed companies must comply with:
  - AIM Rules for Companies
  - Corporate Governance Guidelines for Small and Mid-size Quoted Companies published by the QCA
  - NAPF Corporate Governance and Voting Guidelines for Smaller Guoted Companies
  - ISS UKI Proxy Voting Guidelines 2015
  - QCA European Corporate Governance Guidelines
  - Local laws and corporate governance regime in country of incorporation
  - Financial Services and Markets Act
  - Financial Services Act
- Reporting and disclosure requirements on admission and ongoing compliance
- Shareholder dialogue is key

Conclusions

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- Timing /cost
- Business interruption and planning
- Choosing the right advisor, experience and relationships
- The Asian angle: perception and market sentiment

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