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London capital markets: Legal perspectives

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- Introduction
- AIM - overview
- Pros and cons of listing
- Planning and pre-IPO process
- Lawyer's role
- Due diligence / corporate governance
- Dual listings

+6.04	+3.01	9	90.17
-1.35	-4.57	45	12.08
-7.02	-3.72	87	86.53
+9.03	+3.96	114	13.19
+14.28	+2.54	98	18.76
-11.32	-2.13	252	54.32
+9.45	+1.96	86	98.65
+8.35	+3.32	15	8.43
+6.29	+1.03	24	3.76
-13.84	-3.45	39	65.12
		54	17.6
		63	15.31

About Stephenson Harwood

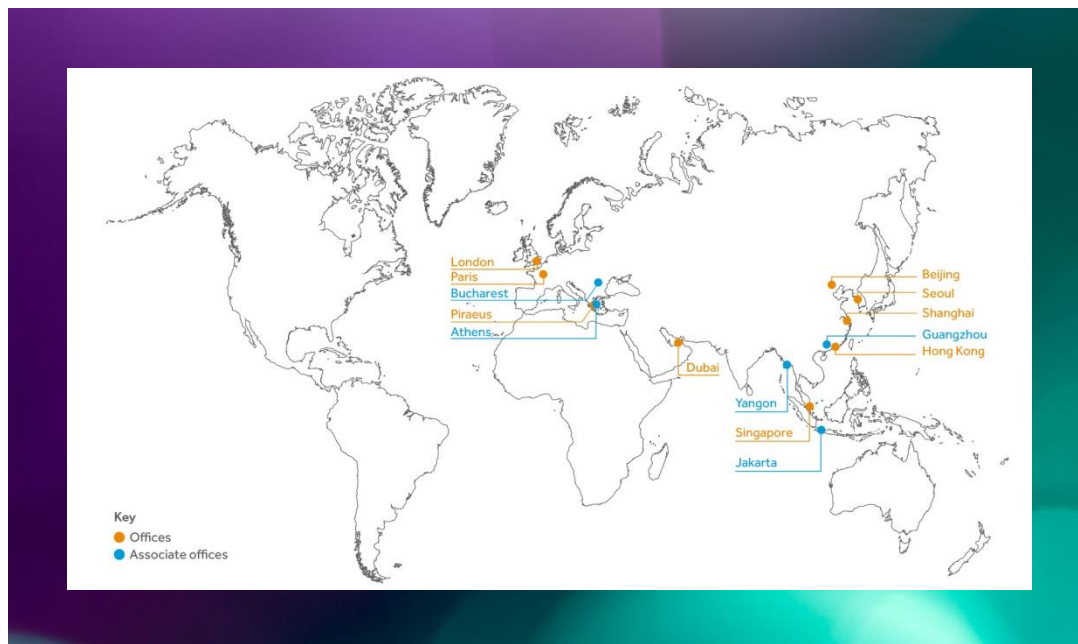
Stephenson Harwood is an international law firm headquartered in London with nine offices across Asia, Europe and the Middle East.

140 Partners and over 900 staff worldwide put their commitment and energy into achieving the goals of listed and private companies, institutions and individuals. With partners playing a central role, the highest calibre of legal talent is dedicated to overcoming your most complex issues.

With our focus on developing strong personal relationships at every level, you get the right advice from the right person at the right moment. A team of people as committed to your success as you are delivers clear advice that is set squarely in the real world.

A responsive and commercially aware group that understands its clients needs

Chambers Asia Pacific



Selected AIM listing experience




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.



Macquarie and Rockrose Energy plc

Advising Macquarie on the Main Market (standard segment) IPO and related placing for this oil and gas focused acquisition vehicle.



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.



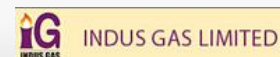
Goldenport Holdings Inc

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



Fusionex International

Advising Fusionex International, the largest technology company to list on AIM in 2012, on its fundraising and admission to AIM.



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 Southeast 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 Galasys, a global provider of integrated services and technical solutions for visitor attractions and events, in connection with its IPO and admission to AIM.



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

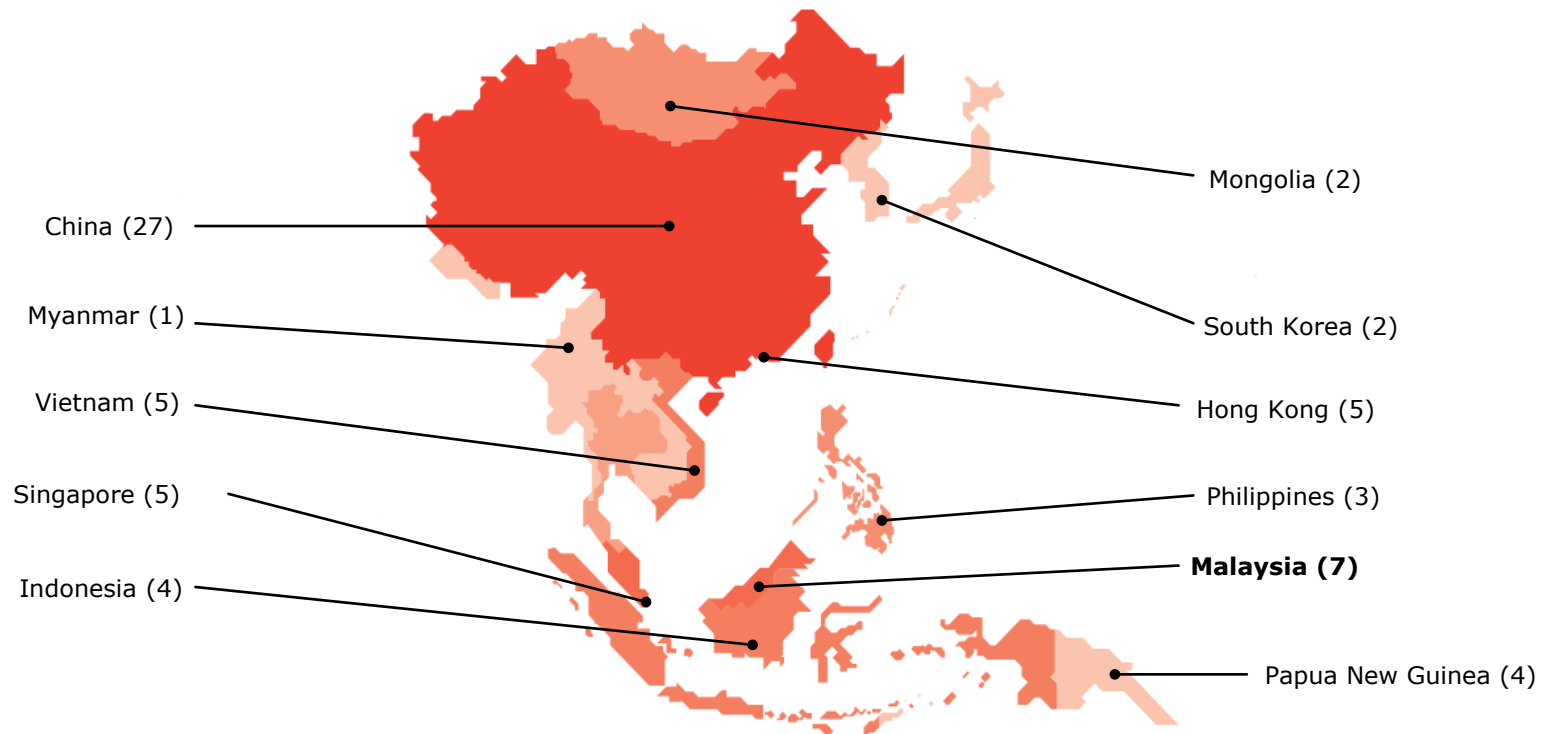
Advising Radiant Growth International on its IPO and admission to trading on AIM. Radiant Growth International is an investment company targeting investment in the Asian energy and resources sector.



CSE-Global Limited

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

Asian businesses on AIM - Location of main operations



- Of AIM's 1,033 constituents, 66 have their main operations in Asia
- Includes 17 IPO's in the last 3 years, 7 with operations in China, 3 in Hong Kong, 2 in Malaysia and 1 from each of Singapore, Vietnam, South Korea, Myanmar and Papua New Guinea

AIM

“The world’s most successful growth market”



- 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



Tailored for growing companies

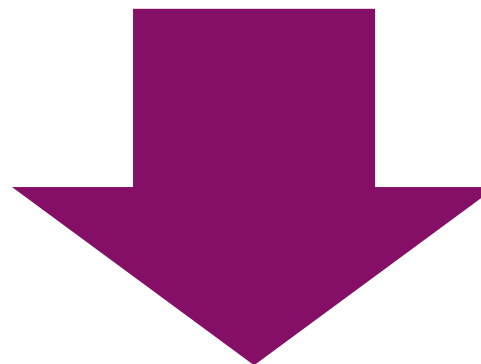
- Nominated adviser (“Nomad”) required at all times
- Admission document approved by Nomad and is not pre-vetted by the Stock Exchange or UK Listing Authority
- No minimum size requirement (GBP20 – 100 million)
- No minimum financial history required
- No formal requirement for shares to be held in public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

Pros and cons of listing



- 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

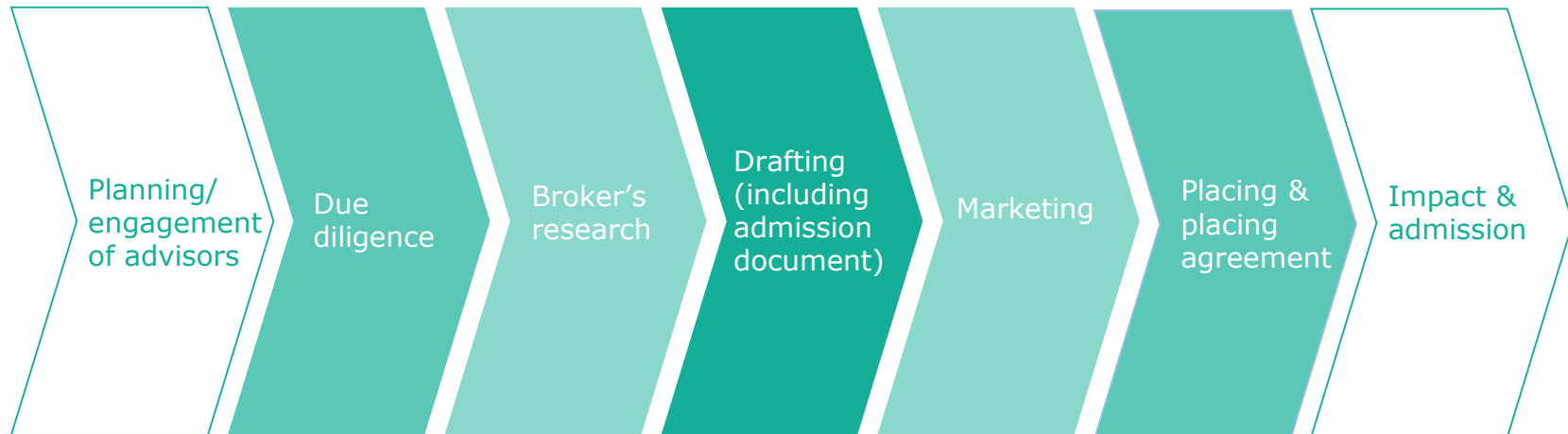


The IPO process

Overview



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



Planning and pre-IPO process



- 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:

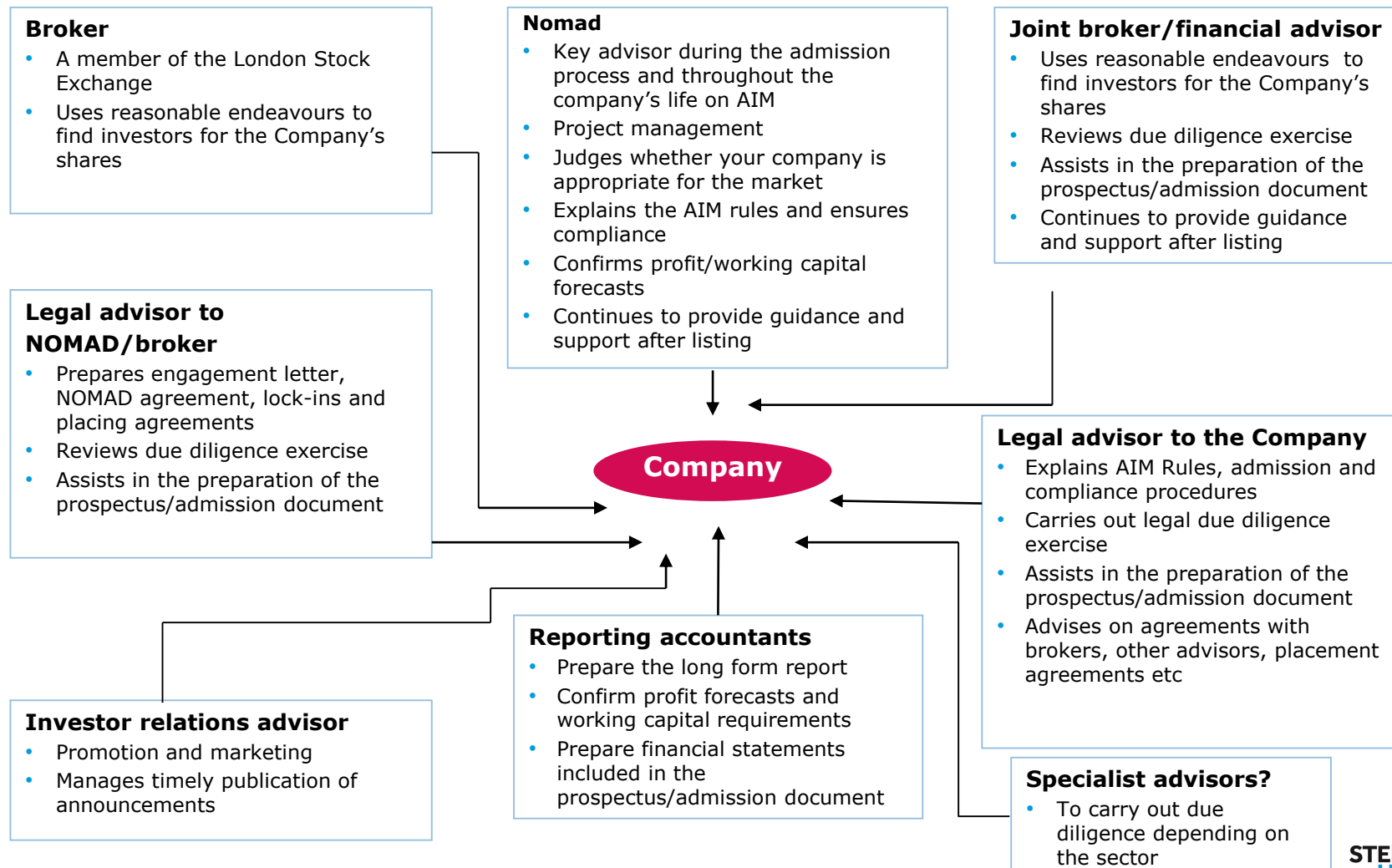
- The restructuring of certain of the group's activities
- The audit and re-statement of historic financial results
- The hiving out of certain non-core assets/group entities
- The curing of any defects in asset ownership
- The registration of any unregistered IP rights
- Ensure shares are freely transferable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

Lawyer's role



- 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

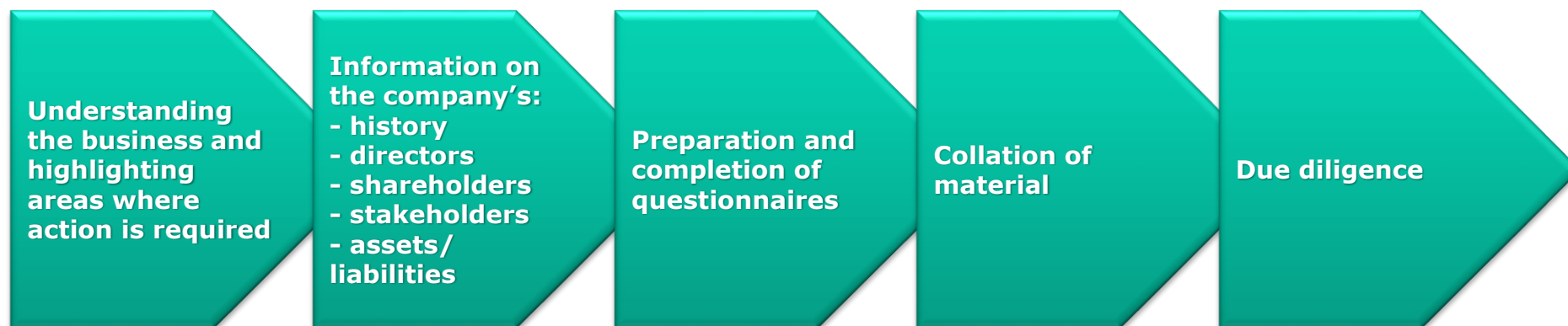


Due diligence

Why?



The Nomad is the person who has to give a written declaration to LSE 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



- 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 non-executive 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
- 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



- 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 Quoted 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

Dual listings



Advantages

- Access to a larger pool of potential investors (both retail and institutional)
- Increased liquidity derived from operating in more than one market
- Greater access to capital
- Ability to 'tap in to' different markets at different times, depending on macroeconomic conditions etc.
- More relevant peer and/or comparative market
- Increased opportunities for mergers and acquisitions
- Higher public profile

Challenges

- Initial listing costs associated with a second listing
- Ongoing costs associated with a second listing
- Increased liability given different regulatory requirements
- Increased demands on management – time commitment for marketing etc.
- Complications with different clearing systems, are shares fully fungible
- Practicalities of cross-market releases (different time zones)
- Requirement for additional advisers, overseas based directors

Conclusions



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

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