

Minutes of the QCA Legal Expert Group

**QUOTED
COMPANIES
ALLIANCE**

Held on: Tuesday 11 September 2018

Venue: Clyde & Co LLP, St Botolph Building, 138 Houndsditch, London, EC3R 7AR

Present:

Mark Taylor (Chair)	Dorsey & Whitney	MT
Stephen Hamilton (Co-Deputy Chair)	Mills & Reeve LLP	SH
Danette Antao	Hogan Lovells International LLP	DA
Andrew Chadwick	Clyde & Co LLP	AC
Francine Godrich	Focusrite PLC	FG
David Hicks	Charles Russell Speechlys LLP	DH
Julie Keefe	Norton Rose Fulbright LLP	JK
Jonathan King	Osborne Clarke	JKi
Nicola Mallett	Lewis Silkin	NM
Nicholas McVeigh	Mishcon De Reya	NMc
Jaspal Sekhon	Hill Dickinson LLP	JS
Donald Stewart	Kepstorn LLP	DS
Jane Wang	Fasken LLP	JW
Anthony Robinson	Quoted Companies Alliance	AR
Callum Anderson (minutes)	Quoted Companies Alliance	CA

In attendance:

Naomi Bellingham	Practical Law Company Limited	NB
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1. APOLOGIES

Apologies were received from Daniel Bellau, Philippa Chatterton, Paul Cliff, Simon Cox, Murdoch Currie, Sarah Hassan, Nicholas Jennings, Martin Kay, Maegen Morrison, Catherine Moss, Nicholas Narraway, Daniel Okusaga, Gary Thorpe and Tim Ward.

2. MINUTES OF LAST MEETING (17 July 2018)

The minutes were approved.

3. ISSUES FOR DISCUSSION

	ITEM	ACTION
a)	ESMA consultation – Guidelines on risk factors under the Prospectus Regulation MT explained that the submission deadline for ESMA’s consultation on its guidelines on risk factors under the Prospectus Regulation was 5 October 2018.	CA to circulate draft response to the Expert Group. ALL to send comments to draft response.

	<p>The Expert Group discussed numerous aspects of the draft guidelines, with particularly attention being dedicated to the guidelines on specificity and materiality.</p> <p>In particular, there was agreement that the guidelines regarding quantitative assessments of risks had attempted to effectively re-write the Level 1 of the Prospectus Regulation which was unhelpful.</p> <p>There was a consensus that in these regards, the proposed guidelines would make drawing up a prospectus more challenging for smaller issuers.</p>	
b)	<p>ESMA consultation – Draft technical advice on minimum information content for prospectus exemption</p> <p>MT briefly outlined the content of the draft technical advice on minimum information content for prospectus exemption.</p> <p>The Expert Group agreed that the draft technical advice had essentially created a further disclosure regime which, clearly, contradicted the purpose of a prospectus exemption. That said, there was acceptance that little could be done to change ESMA’s overall direction of travel on this, although the points should be made in a response.</p>	<p>CA to circulate draft response to the Expert Group.</p> <p>ALL to send comments to draft response.</p>
c)	<p>London Stock Exchange issues disciplinary notices for breaches of AIM Rules 10, 11 and 31</p> <p>The Expert Group noted the London Stock Exchange disciplinary notices for breaches of AIM Rules 10, 11 and 31, which were published during the summer.</p>	
d)	<p>Brexit</p> <p>There was a brief discussion on the ongoing negotiations between the UK and the European Union.</p> <p>Views were exchanged as to the potential final settlement that will be reached and its impact on small and mid-size quoted companies, as well as the UK economy as a whole.</p>	None.

4. COMMUNICATIONS AND FUTURE MEETINGS

	ITEM	ACTION
a)	<p>AIM Rule changes regarding corporate governance come into force from 28 September 2018</p> <p>AR noted that informal intelligence indicated that approximately 80% of AIM companies were adopting the QCA Corporate Governance Code ahead of the AIM Rule changes.</p> <p>AR added that the QCA would be running a workshop on Thursday 13 September for quoted company directors.</p> <p>MT noted that he had had recent experience advising AIM companies on their disclosure obligations under AIM Rule 26 and the application of the QCA Code generally. The three recurring issues that had required most discussion were: (i) independence of directors and whether to re-elect independent NEDs annually after 9 years; (ii) board evaluations; and (iii) whether to have a senior independent director as part of the make-up of the board.</p> <p>Regarding (i), the Expert Group noted that emerging market practice at the top end of the mid-sized quoted companies segment appeared to favour annual elections of all board members, although this was certainly not a universal approach.</p>	None.
b)	<p>Policy Update (August 2018)</p> <p>This was tabled for information only and was not discussed.</p>	
c)	<p>Guest invitations to future meetings</p> <p>The Expert Group suggested a range of potential guest speakers at future meetings. These included a second presentation from Charles Marquand of 4 Stone Buildings to discuss Brexit; the FCA to discuss their view of the future capital market landscape post-Brexit (for example, with a focus on the durability of standard listing); the Pre-Emption Group; and NEX Exchange.</p>	CA to invite guests to meetings.

5. ANY OTHER BUSINESS

The Expert Group noted the submission of the response to London Stock Exchange's proposed changes to the AIM Disciplinary and Appeals Procedures Handbook. MT expressed his satisfaction in the quality to the consultation and thanked Richard Evans, Chair of the QCA Primary Markets Expert Group, for leading the drafting of the response.

6. NEXT MEETING

Tuesday 27 November 2018, 9.00am – 10.30am (Venue: Charles Russell Speechlys LLP, 5 Fleet Place, London, EC4M 7RD).