Legal Expert Group Meeting

Minutes of the meeting held on: Thursday 28 February 2013 at 8:45am

Speechly Bircham LLP, 6 New Street Square, London EC4A 3LX

Present:	Tom Shaw (in the Chair)	TS
	Tim Ward	TW
	Kate Jalbert	KJ
	Donald Stewart	DS
	Martin Kay	MK
	Simon FT Cox	SC
	Ross Bryson	RB
	June Paddock	JP
	Gary Thorpe	GT
	Hilary Owens	HO
	David Davies	DD
	Anthony Turner	AT
	Ian Binnie	IB
	Tim Wass	TW
	Danette Antao	DA
In attendance:	Jaspal Sekhon (Minutes)	JS
	David Hicks	DH
	Paul Arathoon	PA

ACTIONS

1. Apologies

Apologies were received from Maegan Morrison, Christian Lowis, Mebs Dossa, Phillip Lamb, Susan Hollingdale, Richard Beavan, Madeleine Cords and Stephen Hamilton.

2. Meetings

a) Report of meeting that took place at Winterflood Securities (24 January 2013)

TW updated the expert group on the trip last month to Winterflood Securities. The turnout amongst expert group members was disappointing; however, those that attended found it to be an interesting and useful opportunity to see how stocks are actually traded and to gain an insight into market making. One of the key points to emerge from the meeting was the difference between quote-driven (i.e. SEAQ) and order-driven trading (i.e. SETSqx). The traders were keen to emphasise that the choice of trading system can be key to market liquidity and they would like much greater flexibility in the relevant rules (e.g. MiFID) to allow quote-driven trading where necessary.

TW noted that market making is a feature that is almost unique to the London equity markets, particularly when compared with the rest of the EU. Therefore, we need to be very mindful of this when reviewing and considering proposed EU directives and regulations to ensure that we secure suitable exemptions for market making otherwise this very important feature of the London markets could disappear entirely and the markets will lose liquidity.

TW will try to suggest to Winterflood that they set up another meeting open to all expert group members.
TW

b) Approve the minutes of the previous meeting (29 November 2012)

The minutes of the last meeting were approved.

3. Current consultations and issues

a) **Model Relationship Agreements**

KJ had not received any examples of model relationship agreements. DS, JP, MK, GT, SC and TS volunteered to provide examples to KJ.

DS, JP, MK, GT, SC and TS

b) **Business Growth Fund**

TW thinks we should have another go at trying to meet the BGF to encourage investment in small cap companies despite the previous level of disinterest expressed by them. A better angle might be to approach the Chief Executive and deal executives rather than go through the legal department.

TW has also raised the issue with the CBI (who are close to the BGF) in the context of a project that the CBI are working on which is geared towards mid cap companies (both public and private) and this may be a useful angle to explore.

TW will organise a meeting with the Chief Executive or someone else if he is not available.

TW

TS noted that Speechlys have recently acted on a deal involving an investment from the BGF. RB has also acted recently on a BGF deal.

c) **LSE High Growth Segment - Draft Rulebook (Response Date: 8 March 2013)**

PA briefed the committee on the LSE's new High Growth Segment (**HGS**). The key points are as follows:

- The HGS is aimed at high growth companies which can demonstrate recent fast revenue growth. The companies will be ones which are valued at between £300m and £600m, but which cannot yet meet the eligibility requirements for the Main Market (or do not want to at their particular development stage) and are perhaps seen as too large or unsuited for AIM.

- The HGS is only open to UK and EU incorporated entities.

- Applicants need to demonstrate high rates of growth (20% over a 3 year period) which may limit the number of companies able to meet this requirement.

- The HGS is explicitly designed to be a stepping stone to the Premium list and companies have to set out their strategy in the prospectus for moving up to the Main Market.

- There is a requirement of a minimum 10% free float with a £30m valuation. This is an important difference from the Main Market, which requires a 25% minimum free float and is likely to be attractive to founders and early stage investors who will be able to keep a greater hold on the control of the company whilst being able to access the public markets for funding.

- PA has looked at the proposed HGS rulebook and it broadly looks fine. It relies heavily on the Listing Rules.

- There is no need to appoint a sponsor but companies do need an "advisor" which must be a sponsor and, therefore, there is not much change to current practice.

- The securities of an HGS company will be subject to the Prospectus Rules and so the company will need to issue a prospectus to list. The DTRs will also apply in full.

- Companies on the HGS must maintain a website containing certain information, the requirements for which are very similar to AIM Rule 26.

- Significant and related-party transactions will be notifiable by RNS only so there is a lighter regulatory requirement than on the Main Market.

- Reverse takeovers are subject to shareholder consent.

TW noted that he feels that there is a limited expectation for the HGS's appeal.

MK had looked at the HGS as a potentially useful stepping stone for AIM companies but ultimately did not see it as being that useful. The big question mark is whether investors will be happy with a 10% free float requirement.

TW noted that the background to introducing the HGS is because of the introduction of the JOBS Act in the USA and UK investment bankers have been arguing that it is much easier to get IPOs away on NASDAQ and, therefore, London needs to introduce some something similar.

KJ noted that the response to the consultation on the draft rulebook will be due on 8 March 2013. KJ will send around a draft response for comments. **KJ**

TS suggested that it may be useful to add in our consultation response that a key issue will be how the LSE will measure the success of the new market.

DS did not necessarily see why tweaking the exchange rules would make London more attractive to technology companies when the key issue is that those companies can often achieve much higher valuations in the USA (particularly on NASDAQ) due to a much broader broker and analyst community.

d) FSA consultation on amendments to Enforcement Guide (corporate aspects) - CP 13/6

KJ had circulated the consultation ahead of the meeting for information as it discusses how the FCA will use its powers (which the expert group had looked at previously). KJ is not sure if it is worth responding to the consultation, although MM was looking at this previously.

4. Communications

a) Terms of Reference

TS and GT agreed to review the Terms of Reference. If anyone else has comments, they should pass those to TS.

TS, GT, All

b) QCA/BDO Small and Mid-cap Sentiment Index Results

TW highlighted the results from latest Small and Mid-cap Sentiment Index Results which was published the previous week. The results indicated that companies are more optimistic about their prospects and that of the UK economy more generally. Advisors also gave positive responses. The main issue is the poor sentiment about fundraising prospects and access to capital to fund growth. TW thought this could serve as a call to arms and to argue for measures that could really boost the market. One key measure would be a reduction or abolition of stamp duty for AIM stocks. Interestingly, TW had a number of conversations with the London Stock Exchange and they were becoming more confident that this may happen in the forthcoming budget.

SC had seen a lot more interest in retail bonds and asked whether this was something of interest to committee members. TW noted that one of the major credit rating agencies is about to launch a new ratings regime for mid-cap companies which would be very useful for retail bonds and provide much more information for debt issuance generally. It will cost in the region of US$50,000 to have a credit report prepared. Canaccord Genuity and Numis Securities both have teams doing this type of work. IB had advised Primary Health Properties on a retail bond issue and has been talking to brokers, nomads and others in the corporate finance community who are looking at this development closely. This is a new area and because of the fact it relies purely on a prospectus, they tend to be lawyer-driven deals. This is a small market and there is a feeling that there is a small window of opportunity.

It was suggested that it may be useful to invite someone from the corporate finance community who is familiar with retail bonds (e.g. Canaccord or Numis) to attend a committee meeting to talk about this area.

c) Guest invitations

Committee members discussed potential guest invitations (in addition to any mentioned above) including the following:

- Paul Haddock from ISDX. ISDX are publishing a consultation next month on the new ISDX market rules. The consultation will outline a new approach to listing rules whereby companies would be given an overall score on various criteria. It is not necessary for companies to meet all of the criteria so long as they meet a minimum score across all categories. Companies would have 18 months to meet the criteria in full. The consultation would also discuss retail bonds which could be interesting.

- Somebody from the Department of Business, Innovation and Skills (BIS). BIS are currently undertaking a survey or IPO markets which the QCA is providing data for which will show that the markets are underperforming. The QCA is also meeting with Vince Cable in 7 weeks' time.

5. Review of actions from the last meeting (to the extent not already covered)

N/A

6. Any other business

KJ had circulated the Primary Market Bulletin before the meeting. The FSA are planning to do an eligibility review for an applicant at the same time as the prospectus review in order to streamline the listing process and have the same team at the FSA looking at both sets of issues. This will probably be a good thing which would avoid unnecessary duplication. The response date for the consultation is 8 April 2013 and if any committee members have major comments, they should let KJ know.

All

TW noted that DG Enterprise and Industry has recently launched a new website to promote stock market listings in Europe which has relied on the QCA's "Are You Ready?" guide quite heavily.

Information for noting

- Consultation Update – Responses submitted:
    - FSA Consultation CP12/2 - Listing Rules - consultation on proposed amendments and feedback on CP12/2 (CP 12/25) (RD: 2 January 2013) - joint working group with the Legal and Corporate Finance Experts Groups.

- Next meeting(s): 8.45am Thursday 28 March 2013 (Venue: Speechly Bircham LLP)

7. Actions

Action	Person	Timing
Provide examples of model relationship agreements to KJ or HO	DS, JP, MK, GT, SC and TS	Before next meeting
Ask Winterfloods to set up a market event open to all expert group members	TW	
Suggest a meeting with the Chief Executive of the BGF or another suitable individual	TW	
Circulate draft response on the High Growth Segment for comments	KJ	
Provide any major comments to KJ on the consultation on the FSA Primary Market Bulletin	All	Before 08/04/13
TS and GT to review Terms of Reference. If anyone else has any major comments please provide them to TS	TS, GT, All	