



The Quoted
Companies Alliance

QCA Legal Committee

Minutes of the meeting held on: Thursday 7 July 2011 at 8:45am

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

Present:	Tom Shaw (in the Chair)	TS
	Maegan Morrison	MM
	Richard Beavan	RB
	Julie Keefe	JK
	Kate Jalbert	KJ
	Tim Ward	TW
	Martin Kay	MK
	Leon Miller	LM
	Ross Bryson	RBr
	Mark Taylor	MT
	Naomi Johnson	NJ
	Chris Owen	CO
	Donald Stewart	DS
	June Paddock	JP
In attendance:	Jaspal Sekhon (Minutes)	JS
	Paul Arathoon	PA
	David Hicks	DH

ACTIONS

1. Apologies and welcome to new members

Apologies were received from Susan Hollingdale, Mebs Dossa, Richard Beavan, Madeleine Cordes, Jonathan Deverill, Stephen Hamilton, Philip Lamb, Jai Bal, Jeanette Gregson, Rebecca Ferguson, Carol Kilgore, Gary Thorpe and Chris Barrett.

2. Approve the minutes of the previous meeting (26 May 2011)

The minutes of the last meeting were approved.

3. Prospectus Directive

ESMA's technical advice on possible delegated acts concerning the Prospectus Directive as amended by the Directive 2010/73/EU (RD: 15 July 2011)

KJ recapped the position that ESMA have adopted, namely, that they are supportive of a proportionate disclosure regime for rights issues but opposed to a reduced regime for SMEs and issuers with reduced market capitalisation.

In relation to the ESMA consultation, KJ noted that responding to the questions relating to rights issues was straightforward. However, responding to the questions relating to smaller companies was a more difficult issue.

ESMA has stated that it does not want reduced disclosure for any issuers on regulated markets. ESMA's view is that regulated markets should adopt a consistent approach whereby all types of issuers are subject to the same rules. As an alternative if issuers want to be subject to reduced disclosure they should be traded on an MTF rather than a regulated market. TS said he could see the reasoning and it could be a significant help to AIM.

ESMA also raises the question about creating a separate reduced disclosure regime under the revised MiFID as opposed to the amended Prospectus Directive. ESMA has also requested detailed data about the costs for drawing up a full prospectus and to set out exactly what costs savings will result from a proportionate disclosure regime. DS estimated that the indebtedness statement alone must cost about £10,000 to produce. MT noted that the OFR is also very costly especially in terms of management time and verification costs. KJ said she would talk to some accountants to get some cost estimates.

KJ

TS said that, despite ESMA's opposition to a reduced disclosure regime for smaller companies, it was important nevertheless for the QCA to lobby ESMA on this point. TW commented on the political importance of doing so given that the European Commission has 'bought in' to the principle of reduced disclosure and has urged the QCA to press ESMA on this. DS noted that Michel Barnier is determined to introduce a reduced disclosure regime for SMEs, despite the objections of ESMA.

TS said that the QCA should make the point that ESMA is not doing what the Commission and the directive itself has asked them to do.

TW thought we should say in the response that the directive should be reviewed in two years' time to see if it is working properly.

MM has been involved with the response to the ESMA consultation being prepared by the Company Law Committees of the Law Society and the City of London Law Society. MM highlighted the proposed format for the summary section as a particular issue. Paragraph 99 of the Consultation Paper states that a summary needs to be a "fresh assessment" and not simply copied from, or a summary of, the main body of the prospectus. This is completely unworkable and would effectively mean that the summary would be a mini-prospectus on top of a full prospectus. MM will provide comments on the draft QCA response and take the lead on drafting the response in relation to the proposed changes to the summary section.

MM

4. Consultation update

HM Treasury: A new approach to financial regulation; the blueprint for reform (RD: 8 September 2011)

This was circulated ahead of the meeting. It was agreed that this should be tabled at the next meeting to decide if the Committee needs to submit a response.

KJ

Institutional Investor Committee (ABI/IMA/NAPF): Best Practice Guidance for Issuers when Raising Equity Capital (for information only)

This was circulated ahead of the meeting for information only.

Takeover Panel: Review of Certain Aspects of the Regulation of Takeover Bids – Guidance regarding the publication and implementation of Code amendments

KJ reported that Takeover Panel is aiming to publish the draft regulations by the end of July.

5. Current Issues/Communications

Bribery Act

Review of Event for QCA Corporate Members (21 June 2011)

The event was a success and was very well received by those who attended. KJ conducted a straw poll of attendees to ask whether or not they felt ready for the Bribery Act and, interestingly, only one said that they were.

Bribery Act Survey

KJ reported that the survey had been sent out.

Guidance

KJ reported that on 1 July, Transparency International UK published a consultation on anti-bribery guidance for transactions. The guidance is intended to provide a practical tool for companies wishing to undertake anti-bribery due diligence in the course of mergers, acquisitions and investments.

Report of meeting with Alexander Justham / Marc Teasdale, FSA

TW reported that it was a wide ranging discussion. They discussed the competent authority peer review exercise. It appears that other competent authorities are doing more due diligence on issuers. They also talked about ESMA and the Prospective Directive consultation.

Guest invitations

At the next meeting on 28 July, Marcus Stuttard, Head of AIM, London Stock Exchange will be in attendance. Marcus has asked that Committee members should feel free to ask him about any “tricky” or important issues. To that end, Committee members should email any questions to KJ ahead of the next meeting.

All

Markets & Regulations Committee – 13 July 2011 with HM Treasury in attendance

All Committee members are invited to attend this event. Chris Stapeley to circulate invites.

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

MM still needed to compile the statistics on the nationality/domicile of issuers on the Warsaw Stock Exchange.

MM

7. Any other business

None

8. Information for noting

The following consultation responses were submitted:

- Takeover Panel: Review of Certain Aspects of the Regulation of Takeover Bids – Proposed Amendments to the Takeover Code (RD: 27 May 2011) (+ Markets and Regulations and Corporate Finance Advisors Committee).

- HM Treasury: Consultation on early implementation of amendments to the Prospectus Directive (RD: 9 June 2011).

9. Date of next meeting(s)

Thursday 28 July 2011 at 08:45 (venue: Speechly Bircham LLP) (with Marcus Stuttard, Head of AIM, London Stock Exchange in attendance).

No meeting in August

Thursday 29 September 2011 at 08:45 (venue: Speechly Bircham LLP).

10. Actions

Action	Person	Timing
Talk to some accountants to get some cost estimates for producing a prospectus	KJ	15/07/2011
Provide comments on the draft QCA response and take the lead on drafting the response in relation to the proposed change to the summary section	MM	15/07/2011
Table HM Treasury consultation on "a new approach to financial regulations" at the next meeting	KJ	Before next meeting
Committee members to email any questions for Marcus Stuttard to KJ	All	Before next meeting
Compile statistics on the nationality/domicile of issuers on the Warsaw Stock Exchange	MM	Before next meeting