QUOTED COMPANIES ALLIANCE

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Dear Sirs,

ICAP Securities & Derivatives Exchange - Consultation on proposed amendments to the ISDX Rules for Issuers, the Corporate Adviser Handbook & draft Rulebooks

Introduction

We are the Quoted Companies Alliance, the independent membership organisation that champions the interests of small to mid-size quoted companies. Their individual market capitalisations tend to be below £500m.

The Quoted Companies Alliance is a founder member of European**Issuers**, which represents over 9,000 quoted companies in fourteen European countries.

The Quoted Companies Alliance Legal, Corporate Finance Advisors and Corporate Governance Expert Groups have examined your proposals and advised on this response. A list of members of the Expert Groups is at Appendix A.

Response

We welcome the opportunity to respond to your questions as follows:

Qi. Do you have any comments as regards the conclusions of ISDX's review of the ISDX Growth Market? Please provide a detailed explanation for any response.

We broadly welcome and support the desire to provide greater clarity as regards suitability for admission and to make greater provision for investor protection so as to build investor confidence in the market. Creating a clearer structure to assess eligibility is a positive step as it makes it easier for advisers to explain the process to their clients and also for companies to have a more realistic view on the prospects of achieving a successful listing before embarking on the process. This could have the benefit of reducing the likelihood of companies incurring irrecoverable costs (although this needs to be weighed against the increased costs arising from the additional disclosure requirements) and also potentially enhancing the relationship with advisers, as it should reduce any perception that a corporate adviser carries out an admission process to obtain upfront fees without a high probability of also brokering access to new capital.

However, the corollary of introducing higher listing standards - in particular increased disclosures in the admission document and a more prescriptive approach to due diligence - is that this will inevitably increase the costs quite significantly for companies seeking to list on ISDX. This could be problematic for, and potentially deter, fledgling businesses that are looking to access the market.

Therefore, we note that ISDX could "over-adjust" in these changes. More generally, there is a risk that the prescriptive requirements on companies and advisors may not achieve the desired outcome as the minimum requirement may, in practice, become the only "box-ticking" requirement and a proper risk-assessment approach ignored.

Qii. Guidance Note to Rule 3: Is the proposed guidance on suitable arrangements for allotting shares on a non pre-emptive basis helpful?

We believe that guidance in this area could be helpful as investor protection guidelines are often inappropriate for early stage growth companies.

Qiii. Rule 4: Do you have any comments on the free float requirement? Do you agree that investment vehicles should be excluded from the free float requirement?

We recognise the desire to address investor concerns about companies with small free floats and maintain sufficient market liquidity. The proposed 10% free float requirement may be attractive to companies wishing to limit the amount of equity that they are required to issue or sell in an IPO. Investors should be able to state their preference at the time of float.

We also consider that it would be appropriate to make a minimum free float an on-going eligibility requirement rather than just a requirement as at admission (see also our response to Qiv below about on-going eligibility requirements generally).

Finally, the exemption of investment vehicles from this requirement does not seem logical or consistent to us. As currently proposed, an investment vehicle is not required to undertake a reverse takeover (which would imply a re-admission of a trading entity that must satisfy the minimum free float requirement), but it can nevertheless fulfil its investment strategy without any further capital raisings and, therefore, could never have much free float at all.

Qiv. Rule 5: ISDX intends to prescribe additional requirements and standards for issuers applying for the admission of equity securities where issuers will be required to demonstrate compliance with certain standards based on issuer free float, revenue, EBITDA, an issuer's track record of generating revenue and balance sheet assets (excluding intangible assets). ISDX would be grateful for feedback. Are there any perceived issues on legal certainty arising from (new) Rule 5? Please provide a detailed explanation for any response.

The proposed suitability matrix is a novel approach and helps to differentiate ISDX from other exchanges. However, we are concerned that it would be difficult for start-up companies, particularly high growth technology businesses, to meet the proposed standards.

The tests around trading history and gross assets would make it almost impossible for a young or start-up business to achieve 20 points. The gross assets test is likely to be very difficult for technology companies to satisfy because the definition of "gross assets" excludes intangible property. Given that one of the key

objectives of the revised rules is to attract high growth technology businesses to the market, we would suggest that the admission criteria be relaxed or carved out for those businesses.

Furthermore, it is interesting to note that there are no on-going compliance requirements with reference to the suitability matrix. While we can understand why ISDX would be reluctant to monitor each issuer for compliance on an on-going basis, the onus could instead be put on companies to disclose their compliance with the tests on a comply or explain basis. For example, companies could be required to declare whether or not they meet the criteria on a periodic basis or after a period of, say, two years following admission. This would give investors greater visibility over companies and enhance the credibility of the exchange.

Qv. Rule 6: Is the requirement for investment vehicles to raise a minimum of £500,000 upon, or immediately preceding admission pitched at the right level to achieve ISDX's stated objectives (as set out in the Introduction)?

We do not have any comments on this question.

Qvi. Rule 5 and 6: ISDX would be grateful for feedback concerning our intention to conduct an assessment of existing issuers 18 months from the date of the implementation of the Rules with a view to withdrawing issuers which cannot meet the additional requirements for equity securities. Please provide an explanation for any response.

We can understand why this would be in the interests of the exchange given its stated aim to focus on attracting good quality companies and market participants. However, this would clearly have a major impact on shareholders of those companies currently admitted to trading on ISDX which are unlikely to satisfy the proposed tests within 18 months. Shareholders of companies that have their shares withdrawn from the exchange are likely to find it extremely difficult to trade their shares and opportunities for realising their shareholding in the future will be uncertain. In such circumstances, shareholders will have the new Stamp Duty exemption and availability to place shares in ISAs also withdrawn.

We suggest that on implementing this rule change that ISDX liaises directly with these companies and ensures that each company keeps its shareholders fully informed.

Qvii. Rule 7: Do you have any comments relating to the additional requirement for mineral exploration companies? Please provide a detailed explanation for any response.

We broadly agree with the additional requirements for mineral exploration companies and indeed their exemption from the general eligibility criteria.

We believe it would be better to create a separate market segment for mineral resources companies in order to differentiate this sector from the rest of ISDX. We understand that one of the main sectors that ISDX is seeking to attract are growth technology companies which would be something of a unique selling point in the SME market place. Including mineral exploration companies in the same category will dilute that message.

Qviii. Is there support for a carve-out for early stage technology companies from the requirement of Rule 5 along the lines of the carve-out for mineral exploration companies (per Rule 7)? If so, what requirements are appropriate for early stage technology businesses?

Please see our response to Qiv. We would support a carve out for early stage technology companies from the requirements in Rule 5.

Qix. Rules 53 and 54: In effect ISDX proposes to introduce a maximum "shelf life" for investment vehicles (2 years) and cash shells (6 months) that have not undertaken a transaction amounting to a reverse takeover or substantially implemented the investment strategy. Do you consider this proposal to be a reasonable period of time?

Yes, we consider the timescale for investment vehicles appropriate. However, we believe that 6 months is not a sufficient amount of time for a cash shell to implement a transaction. If a cash shell is floated with the intention to look for a deal, it would most likely at least 12 months to find one.

Qx. Rule 56: Do you have any comments concerning disclosure of related party transactions?

No.

Qxi. Rule 62: Do you agree that issuers allotting shares at a significant discount to the price available on the market is a material issue on ISDX and public markets generally? Do you consider the proposed Rule 65 to be workable and if not, is there an alternative? Please provide a detailed explanation for any response.

We believe there are risks in adopting a prescriptive approach in this sensitive area where companies and their brokers may not necessarily agree.

Qxii. Rule 71: ISDX intends to introduce provisions limiting the number of directorships held by directors at the same time to ensure that an issuer's directors are enabled to dedicate sufficient time to their duties and to progress an issuer's business. Please provide feedback on these proposed restrictions and the transitional period of 6 months for existing issuers to comply with this rule.

As regards corporate governance generally, we note that the proposed rules only make reference to the UK Corporate Governance Code, and not the QCA Corporate Governance Code for Small and Mid-Size Quoted Companies (**QCA Code**). The QCA Code is widely recognised as an industry standard for those growing companies for which the UK Corporate Governance Code is not applicable. The QCA Code adopts key elements of the UK Corporate Governance Code, current policy initiatives and other relevant guidance and then applies these to the needs and particular circumstances of small and mid-size quoted companies on a public market. Accordingly, companies admitted to trading on ISDX should be able to use and make reference to the QCA Code, which is considered a stepping stone to the full UK Corporate Governance Code.

As regards the proposed limitations on the number of directorships in Rule 71, we recognise the importance of ensuring that directors - and particularly NEDs - devote sufficient time to their companies. However, we are concerned that adopting an overly prescriptive approach may lead to unintended consequences, for example, driving experienced talent away from ISDX-quoted companies which would otherwise benefit greatly from that experience and stewardship.

It is generally accepted that directorships of smaller companies should require less time resource. Some smaller companies may have part time executive positions, for example, as finance director or executive chairman. Therefore, we believe that a director could have at least two part time executive directorships, if

appropriate for the companies they work for, as long as they are not taking on a commitment of more than five days per week.

Qxiii. Rule 77: Do you agree that issuers should be expected to make available minimum categories of information for the benefit of investors on websites?

Yes.

Qxiv. Rule 83: Please provide feedback on ISDX's intention to require issuers to consult shareholders concerning proposals to withdraw from the ISDX Growth Market.

We agree with the proposals.

Qxv. Handbook, paragraph 33: Do you have any comments on ISDX permissioning ISDX Corporate Adviser's activities? Please provide a detailed explanation for any response.

The proposed rules do not address corporate advisers with clients on other exchanges. Will ISDX include clients listed on other exchanges when assessing whether there is an appropriate level of staffing? We understand that a significant number of corporate advisers also act as AIM Nomads. Greater clarity would no doubt be welcome to corporate advisers.

Qxvi. Handbook, paragraph 35 and Appdx. B: Do you have any comments on ISDX's intention to introduce a more standardised approach to the determination by ISDX Corporate Advisers of issuer suitability?

As regards the mandatory due diligence to be undertaken on directors - in particular under Appendix B.1 (f) and (g) and Appendix B.8 - we would be interested to know if ISDX envisages that these costs should be borne by corporate advisers or issuers, as it will add significant cost to the process.

Qxvii. Paragraph 36 and Appdx. C: Please provide feedback on ISDX's proposal to provide ISDX Corporate Advisers with responsibility to oversee the due diligence process and ensure that an appropriate scope of legal and financial due diligence is performed by appropriate professional advisers acting on the issuer's behalf.

We do not have specific comments on Appendix C. However, please see our comments in response to Qxix.

Qxviii. Appendices B and C: Do you have any comments or suggestions concerning the prescribed minimum checks to be conducted by an ISDX Corporate Adviser or indeed, the prescribed minimum categories of legal and financial due diligence? Please provide a detailed explanation for any response.

It is of course clear that many of the changes to the corporate advisers handbook have the result of aligning advisers' responsibilities more closely with those of an AIM Nomad, as does ISDX stepping back from admission review. While the specificity given on due diligence for admission is useful in this context, there will be, as noted above, costs implications on issuers given the increased burden on corporate advisers. We are concerned that this could potentially deter companies from seeking admission if the costs of doing so escalate significantly.

Although the list of due diligence categories is stated to be non-exhaustive, corporate advisers have expressed to us that they could be put under pressure where the circumstances of a particular issuer justify undertaking additional due diligence outside the scope of the listed categories. Experience suggests that overseas issuers in particular tend to view rule books in a much more literal way and, ironically, adopting a more prescriptive approach could make it harder to persuade issuers to extend the scope of due diligence beyond those categories set out in the handbook.

Qxix. Appendix D: Please provide feedback on the form of the Declaration by ISDX Corporate Advisers set out at Appendix D of the Corporate Adviser Handbook.

While we support ISDX Corporate Advisers taking responsibility for the companies they are acting for, we believe that there is a risk that the declaration could make the role of an ISDX Growth Market Corporate Adviser more onerous and pregnant with risk than acting as an AIM NOMAD or even a Premium Listing Sponsor and therefore potentially reduce the number of advisers prepared to accept the role.

We note that the Corporate Adviser is required to give an explicit opinion on the sufficiency of the issuer's directors' experience, which leaves them potentially exposed to responsibility to ISDX for any subsequent management shortcoming to the extent that they could face disciplinary action.

We also note that the Corporate Adviser is required to confirm explicitly its Anti-Money Laundering compliance, potentially giving ISDX jurisdiction over matters that are more likely the prerogative of the FCA and UK law more generally.

There are also several confirmations required concerning obligations elsewhere in the Corporate Advisers Handbook that are unnecessarily explicit given that they could be subsumed within a general confirmation that the Corporate Adviser has carried out its duties with due skill and care and in accordance with the requirements of that handbook.

Qxx. Do you have any other comments or suggestions for rule amendments? Please provide a detailed explanation for any response.

We have no additional comments.

If you would like to discuss any of our responses in more detail, we would be happy to attend a meeting.

Yours faithfully,

Tim Ward
Chief Executive

APPENDIX A

Quoted Companies Alliance Corporate Finance Advisors Expert Group

Samantha Harrison (Chairman)	RFC Ambrian Limited
Richard Evans (Deputy Chairman)	Strand Hanson Limited
Neil Baldwin/Mark Brady	Spark Advisory Partners
Azhic Basirov	Smith & Williamson Limited
David Bennett	Marriott Harrison
Tim Bird/Amerjit Kalirai	Field Fisher Waterhouse
Mark Brady	Spark Advisory Partners
Simon Charles	Marriott Harrison
Richard Crawley	Espirito Santo Investment Bank
Matthew Doughty	Dorsey & Whitney
David Foreman/Rick Thompson/ Mark Percy	Cantor Fitzgerald Europe
Sean Geraghty	Dechert
James Green	K & L Gates LLP
Lesley Gregory	Memery Crystal LLP
Tom Griffiths	Westhouse Securities
Chris Hardie	Arden Partners PLC
Jonathan Hardy	RBC Capital Markets
Daniel Harris	Peel Hunt plc
Dalia Joseph	Oriel Securities Limited
Amerjit Kalirai/Tim Bird	Field Fisher Waterhouse
Jonathan King	Osborne Clarke
Jonathan Morris	Bates Wells & Braithwaite LLP
Nicholas Narraway	Moorhead James
Nick Naylor	Allenby Capital Ltd
Claire Noyce/Deepak Reddy	Hybridan LLP
Simon O'Brien	PricewaterhouseCoopers LLP
Philip Secrett	Grant Thornton UK LLP
Charles Simpson	Saffery Champness
Ray Zimmerman/Marc Cramsie	ZAI Corporate Finance Ltd

Quoted Companies Alliance Corporate Governance Expert Group

Edward Craft (Chairman)	Wedlake Bell LLP
Victoria Barron	Hermes Equity Ownership Services
Edward Beale	Western Selection Plc
Dan Burns	McguireWoods
Anthony Carey	Mazars LLP
Louis Cooper	Crowe Clark Whitehill LLP
Victoria Dalby	Capita Registrars Ltd
Kate Elsdon	PricewaterhouseCoopers LLP
David Firth	Penna Consulting PLC
Peter Fitzwilliam	Mission Marketing Group PLC
David Fuller	CLS Holdings PLC
Clive Garston	DAC Beachcroft LLP
Nick Graves	Burges Salmon
Andrew Hobbs	Ernst & Young LLP
Alexandra Hockenhull	Xchanging plc
David Isherwood	BDO LLP
Nick Janmohamed	Speechly Bircham LLP

Colin Jones	UHY Hacker Young
Dalia Joseph	Oriel Securities Limited
Doris Ko	Aviva Investors
Claire Noyce/Deepak Reddy	Hybridan LLP
James Parkes	CMS Cameron McKenna LLP
Julie Stanbrook	Hogan Lovells International LLP
Peter Swabey	Equiniti
Eugenia Unanyants-Jackson	F&C Investments
Melanie Wadsworth	Faegre Baker Daniels LLP
Cliff Weight	MM & K Limited

Quoted Companies Alliance Legal Expert Group

Tom Shaw (Chairman)	Speechly Bircham LLP
Gary Thorpe (Deputy Chairman)	Clyde & Co LLP
Chris Barrett	Bird & Bird LLP
Richard Beavan	Boodle Hatfield LLP
Ian Binnie	Nabarro LLP
Ross Bryson	Mishcon De Reya
David Davies	Bates Wells & Braithwaite LLP
Mebs Dossa	McguireWoods
Stephen Hamilton	Mills & Reeve LLP
Susan Hollingdale/Hilary Owens	Practical Law Company Limited
Martin Kay	Blake Lapthorn
Julie Keefe/Simon Cox	Norton Rose LLP
Philip Lamb	Lewis Silkin
Maegen Morrison	Hogan Lovells International LLP
June Paddock	Fasken Martineau LLP
Donald Stewart	Faegre Baker Daniels LLP
Mark Taylor	Dorsey & Whitney
Anthony Turner	Farrer & Co