



March 2016

Quoted Company Update

This update looks at the key changes since our [October 2015 Update](#) and at future developments relevant to Official List and AIM companies.

Looking back...

LISTING RULES AND AIM RULES

AIM Rules – changes for investing companies/cash shells

With effect from **1 January 2016**, there were changes to the [AIM Rules for Companies](#) and the [AIM Guidance Note for Investing Companies](#). The fundraising requirement for an investing company has doubled to £6 million and a company which becomes a cash shell following a fundamental disposal now must, within six months, undertake a reverse takeover or become an investing company.

Amendments to Listing Rules and DTRs

On **29 January 2016**, two minor [amendments](#) to the Listing Rules and the DTRs came into effect:

- The FCA has deleted the carve-out from the requirement for independent shareholder consent to a delisting in connection with a takeover where the bidder has acquired or agreed to acquire shares carrying over 80% of a company's voting rights; and
- The DTRs have been amended in line with the Accounting Directive and now provide that the management report must give an indication of any important events that have occurred since the end of the financial year unless those events are reflected in the issuer's profit and loss account or balance sheet, or disclosed in the notes to the issuer's audited financial statements.

Amendments to Prospectus Rules

The FCA has published the [Prospectus Rules Sourcebook \(Omnibus 2 Directive Regulatory Technical Standards\) Instrument 2016](#). The instrument follows FCA consultations in September 2015 and December 2015 and amends the Prospectus Rules to align them with regulatory technical standards ("RTS") on the Prospectus Directive, arising from the Omnibus II Directive, in the Commission Delegated Regulation. The changes, which take effect on **24 March 2016**, relate to:

- approval of prospectuses;
- publication of prospectuses; and
- advertisements.

TAKEOVERS

Takeover Appeal Board Ruling – PUSU deadlines for competing bidders

In **January 2016**, the Takeover Appeal Board published a [statement](#) setting out its reasons for dismissing an appeal by Computer Sciences Corporation ("CSC") against the Hearings Committee's ruling on the interpretation of Rule 2.6(d) (which sets out what needs to happen when a bidder has announced a firm intention to make an offer and there is a potential competing offeror) in relation to CSC's offer, and Ebix, Inc.'s potential competing offer, for Xchanging plc. The issue was whether the "put up or shut up" deadline for Ebix, the potential competing offeror, should be set by reference to the offer timetable established by (i) the publication of CSC's offer document or (ii) the publication by the first offeror (Capita plc) of its offer document. The Appeal Board noted that the point of the rule is that shareholders should not be deprived of the opportunity to receive an improved offer and should be able to reach a properly informed decision on an offer. Where there are two or more offerors, the rule applies to the offeror whose document has established the offer timetable (in this case, CSC) and not the offeror which first published an offer document.

CORPORATE GOVERNANCE

Investment Association Principles of Remuneration 2015

In **November 2015**, the Investment Association ("IA") published its [2015 Principles of Remuneration](#), which replace the 2014 Investment Management Association Principles. (The IMA was renamed the IA last year.) The only substantive change is a statement that IA members expect long term incentive plan awards to have a total performance and holding period of at least five years. The [introductory letter](#) to remuneration committee chairmen emphasises current points of concern relating to salary increases, bonus disclosure, service contracts, pensions, recruitment and leaving arrangements.

ISS UKI Proxy voting guidelines

In **November 2015**, Institutional Shareholder Services ("ISS") published an update to its [benchmark voting policy](#). The new guidelines are effective for meetings occurring on or after 1 February 2016.

PLSA Corporate Governance Policy

In **December 2015**, the Pensions and Lifetime Savings Association ("PLSA") published its [2015/16 Corporate Governance Policy and Voting Guidelines](#). The PLSA was rebranded from the National Association of Pensions Funds ("NAPF") in October 2015.

PIRC Shareholder Voting Guidelines

In **March 2016**, the Pensions Investment Research Consultants ("PIRC") published their 2016 Shareholder Voting Guidelines – these are available, for a fee, from the PIRC website: <http://www.pirc.co.uk>.

ACCOUNTS AND AUDIT

FRC letters of advice

In **November 2015**, the Financial Reporting Council published a [letter of advice](#) to smaller listed and AIM companies on how to improve annual reports, setting out what companies need to include in order to address the key concerns and expectations of investors.

In **December 2015**, the FRC published a [letter of advice](#) to audit committee chairs of larger listed companies, setting out suggestions for improving corporate reporting.

In **March 2016**, the FRC published [letter of advice](#) to audit committee chairs in response to requests for guidance on how matters such as volatile asset prices and uncertainty over interest rates in certain jurisdictions should be dealt with in a company's annual reports and accounts.

Looking forward...

COMPANY LAW

Small Business, Enterprise and Employment Act 2015 – PSC update

As you will be aware, from **6 April 2016**, every non-listed UK company and LLP will be required to maintain a register of its persons with significant control, known as a "PSC register". Although Official List and AIM companies are exempt from this requirement, the new rules will affect unlisted UK entities within your group – either because they will need a PSC register or because they may have to make disclosures to other UK entities outside the group in which they have a significant interest (e.g. joint ventures).

BIS has now published:

- [draft statutory guidance](#) for companies on the meaning of "significant influence or control";
- [draft statutory guidance](#) for limited liability partnerships on the meaning of "significant influence or control";
- [non-statutory guidance](#) on what companies must do to identify and register their PSCs (this has been amended several times, the latest version being published on 4 March 2016);
- a [summary guide](#) for companies;
- the [Register of People with Significant Control Regulations 2016](#); and
- the [Limited Liability Partnership \(Register of People with Significant Control\) Regulations 2016](#)

Travers Smith has produced a client guide to the PSC regime, as well as a pack of documents including sample PSC registers and notices. If you would like any advice on the new regime and how it is likely to impact your group (including help completing PSC registers for your group companies), please get in touch with your usual contact at the firm.

LISTING RULES AND AIM RULES

Market Abuse Regulation update

The EU regulation on market abuse ("**MAR**") will take effect across Europe on **3 July 2016**, introducing a new market abuse regime. MAR will be directly applicable in the UK which means that there is no need for implementing rules. This will mean various changes for both Official List and AIM companies (which will fall

within the scope of the new regime), including changes to share dealing codes, insider lists and notification requirements for directors and senior managers. For further details, please see our [client briefing](#) on this topic which outlines the key changes for Official List and AIM companies and the steps the need to take. In relation to asset managers, please see our client notes: [EU Market Abuse Regulation and Asset Managers – six months to go](#) and [EU Market Abuse Regulation and Asset Managers – guidelines for persons receiving market soundings](#).

FCA consultation on delaying disclosure of inside information

In **November 2015**, the FCA [proposed](#) amending its guidance on delaying the disclosure of inside information. In early **February 2016**, ESMA produced its own draft guidelines as to "legitimate interests" and when delaying disclosure may mislead the public. For further details, please see our client [briefing](#) on this topic.

Revised Admission and Disclosure Standards and High Growth Segment Rulebook

In **March 2016**, the LSE published revised versions of its [Admission and Disclosure Standards](#) and High Growth Segment Rulebook (which is now included as a Schedule to the Standards). Most of the changes relate to the format of the Standards, which have been restructured to provide detail on the admission process and criteria for the different markets and segments. The new Standards (other than proposed [further amendments](#) which have been proposed on the rules on depository receipts) will come into effect on **4 April 2016**.

Proposal for new Prospectus Regulation

In **November 2015**, the European Commission adopted a legislative [proposal](#) for a new Prospectus Regulation which will repeal and replace the current Prospectus Directive. The Regulation will take effect 12 months after it is published in the Official Journal, which is likely to be in the coming months. The proposed changes include:

- a higher threshold for the exemption – offers with a total consideration of up to EUR 10 million will be exempt;
- a "lighter" prospectus for SMEs;
- a simplified prospectus for companies with securities that are already listed;
- raising to 20% the current 10% exemption (where a company with securities already admitted to trading on the LSE's main market is issuing further shares representing, over a period of 12 months, less than 10% of the number of shares already admitted to trading);
- changes to the format of the summary; and
- the introduction of an annual "universal registration document", which will contain key information on the issuer and serve as an optional "shelf document", enabling a "fast track" admission process.

Please let us know if you would like any further information on the proposals at this stage.

TAKEOVERS

Consultation on changes to the Takeover Code relating to communication and distribution of information

In **February 2016**, the Takeover Panel published a [consultation paper](#) setting out proposed amendments to the Takeover Code with regard to communication and distribution of information during an offer period. The

changes, which will affect Rules 19 and 20 of the Code, include new rules relating to media communications and communications by video or social media. The proposals include:

- providing that, where material new information or significant new opinions relating to an offer or a party to an offer are published or provided to any shareholder or provided to the media, that information or opinion should be published in an RIS announcement. There will be provisions for delaying publication until the date of the announcement of a firm or revised offer; and
- introducing new safeguards in relation to meetings between representatives of an offeror/offeree or their advisers, shareholders, analysts brokers and others.

ACCOUNTS AND AUDIT

Improving business tax compliance – new measures proposed

In **December 2015**, the government published a [summary of responses](#) to its draft legislation on improving business tax compliance. It is proposing two changes for "large" businesses: firstly, a requirement to publish an annual tax strategy and, secondly, a "special measures" regime. A "large" business will include UK companies and UK partnerships that have either a balance sheet exceeding £2billion or turnover exceeding £200million, and UK groups and sub-groups where the group turnover or balance sheet exceeds these thresholds. The obligation to publish a tax strategy will apply to financial years commencing on or after Royal Assent to the Finance Act 2016 (usually mid-July). The tax strategy, which can be either be a stand-alone publication or included as part of another document, will have to be published on the internet and be available to the public for a year. It will cover:

- the approach to risk management and governance arrangements;
- the attitude towards UK tax planning;
- the level of risk in relation to UK tax that the group / sub-group / entity is prepared to accept; and
- the approach of the group towards its dealings with HMRC.

Failure to comply with the new rules will result in a fixed penalty of £7,500 and further penalties for continued failure to comply.

The "special measures" regime will be introduced for large businesses (broadly, as set out above) with an ongoing history of aggressive tax planning and/or refusing to engage with the HMRC. Where the regime is triggered, HMRC may impose sanctions such as removing the defence of "reasonable care" in relation to errors in tax returns, or naming a company as being in special measures.

Statutory audit update

In **November and December 2015**, BIS published updates to its [consultation paper](#) (mentioned in our October 2015 Update) on the government's proposals to implement the EU Directive amending the statutory Audit Directive. This includes changes to the Companies Act 2006 provisions on audit. The Directive must be implemented by **17 June 2016**.

Non-financial information

In **January 2016**, the European Commission published a [consultation document](#) on non-binding guidelines for the reporting of non-financial information by companies, as required by the EU Directive amending the Accounting Directive on the disclosure of non-financial and diversity information. This Directive will require large EU listed companies to publish an annual non-financial statement relating to environmental, social and employee related matters, respect for human rights, anti-corruption and bribery matters. The Commission is

seeking views on the content of such guidelines. The consultation closes on 15 April 2016 and the guidelines will be published by 6 December 2016.

In **February 2016**, BIS published a [consultation paper](#) asking for views on the best approach to implementing the requirements of this Directive into UK Law. The Directive must be implemented in to national law by 6 December 2016 and will apply to financial years starting on or after **1 January 2017**. The enhanced reporting requirements apply to large undertakings which are public interest entities ("**PIEs**") with over 500 employees. PIEs include listed companies.

CORPORATE GOVERNANCE

Gender pay gap reporting

In **February 2015**, the government published its [response](#) to the consultation paper on implementing the mandatory gender pay gap reporting duty and the draft [Equality Act 2010 \(Gender Pay Gap Information\) Regulations 2016](#). The Regulations, which will come into force in **October 2016**, will require employees to publish figures on the gender pay gap within their organisation. For further details, please see our [client alert](#) on this topic.