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NAPF corporate governance policy for AIM-listed companies

The National Association of Pension Funds has recently published a Corporate Governance Policy and Voting Guidelines for AIM listed companies.

In the Guidelines, the NAPF explains that AIM is attracting greater interest among institutional investors, including pension funds. These investors look to bodies, such as the NAPF, to provide voting guidelines. The NAPF has tried to ensure the Guidelines are consistent with the guidelines of the Quoted Companies Alliance.

The main points of interest in the NAPF's approach are as follows:

- **Combined Code** - An AIM company should seek to apply the Combined Code in a way which is appropriate to its circumstances and its size. The NAPF expects AIM companies at the top end of the market capitalisation range to comply with the Combined Code (or to explain non-compliance).

- **Disclosure standards** - AIM companies should disclose (ideally in their annual report and, in any event, on their website) their corporate governance policies, including biographical details of directors, details of board committees and, where necessary, the reasons why they consider non-executive directors to be independent.

- **Chairman/CEO** - AIM companies should clearly distinguish between the roles of Chairman and Chief Executive and the same person should not perform both roles. The NAPF recognises that a pragmatic approach is justified if a vote against the director combining these roles might be considered detrimental to the company. A CEO should not go on to become Chairman. If this happens, the company must disclose in its annual report the reasons for the appointment and an explanation of the selection process.

- **Senior Independent Director** - Where an AIM company combines the role of Chairman and CEO, it should appoint a Senior Independent Director. In other circumstances a Senior Independent Director is to be encouraged but is not required.

- **Board balance** - The Combined Code states that a smaller company should have at least two independent non-executive directors on its board, excluding the Chairman. The NAPF encourages compliance with this for larger boards of AIM companies. For smaller boards (defined as those with no more than four directors), there should be at least two independent non-executive directors, one of whom may be the Chairman.

- **Board committees** - The NAPF would like AIM companies to follow the Combined Code's principles on Audit, Remuneration and Nomination Committees. However, a lack of independent directors and an insufficient number of non-executives can make this difficult. Ideally, Audit, Remuneration and Nomination Committees would comprise solely independent non-executive directors but, at the least, there should be a majority of independent directors on all committees. The Chairman may be a member of (but not chair) the Committees provided that, other than his chairmanship, he fulfils the test of independence (see below).

- **Remuneration arrangements** - A significant component of senior management's remuneration should be linked to performance and there should be disclosure of performance conditions attaching to any bonuses or long-term incentive plans. Companies are strongly encouraged to put their remuneration report to a vote at the AGM.

- **Independence** - The ability of directors of AIM companies to comply with the Combined Code's test of independence is likely to be made more difficult by directors' shareholdings, option grants and tenure. Independence may be compromised if a director has a beneficial or non-beneficial shareholding of more than 3% of the company's issued share capital. One-off historical grants of options may be disregarded from the assessment of independence if the quantum is not considered to be material. AIM companies are encouraged to use fully-paid shares rather than granting options as part of the remuneration for non-executive directors so as not to prejudice their independence. As regards the length of service criteria, tenure of between nine and twelve years will not automatically affect a director's independence in the absence of other factors. The process for board evaluation and succession planning should be disclosed in the company's annual report.

- **Pre-emption** - AIM companies should seek to comply with the 2006 Statement of Principles on pre-emption published by the Pre-emption Group. If they intend to seek authority to issue shares above the 5% annual limit, they should provide full justification for this and should account for its usage in their annual reports.

The Guidelines in full are available at: http://www.napf.co.uk.

For further information on the points covered in this note, please contact Alasdair Steele or Aaron Stocks on 020 7295 3000 or your usual contact at the firm.

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