

TRAVERS SMITH

Legal Considerations in IPO preparation

Richard Spedding
Andrew Gillen

June 2010

*Quality is the thread
runs throughout the*

Outline

- The Regulatory Environment
- Eligibility requirements for the different UK markets
- Continuing obligations
- IPO Preparation
- IPO Execution

DRAFT

The Regulatory Environment

- Main Market
 - Premium Listing (super-equivalent – equity shares only)
 - Standard Listing (EU minimum)
- AIM
- PLUS

Eligibility Requirements

	Premium Listing	Standard Listing	AIM
Regulated market?	Yes (Official List)	Yes (Official List)	No (multilateral trading facility)
Applicable indices	FTSE UK series, where eligible	N/A	FTSE AIM series, where eligible
Documentation	Prospectus (requires UKLA approval)	Prospectus (requires UKLA approval)	Admission document - admission of securities to AIM (no approval process) Prospectus - if offer to the public
Minimum free float?	Yes - 25%	Yes - 25%	No - Nomad assessment of suitability
Free transferability of shares	Yes Electronic Settlement required	Yes Electronic Settlement required	Lock-ins for new businesses Electronic Settlement required
Audited historical financial information	3 years	3 years or such shorter period as issuer has been in operation	3 years or such shorter period as issuer has been in operation
Three year revenue earning record	Yes (covering 75% of business)	No	No
Working capital statement?	Yes (must be unqualified)	Yes	Yes (must be unqualified)
Sponsor or Nomad required pre-admission?	Yes – sponsor required for IPO	No	Yes – Nomad required at all times

Continuing obligations

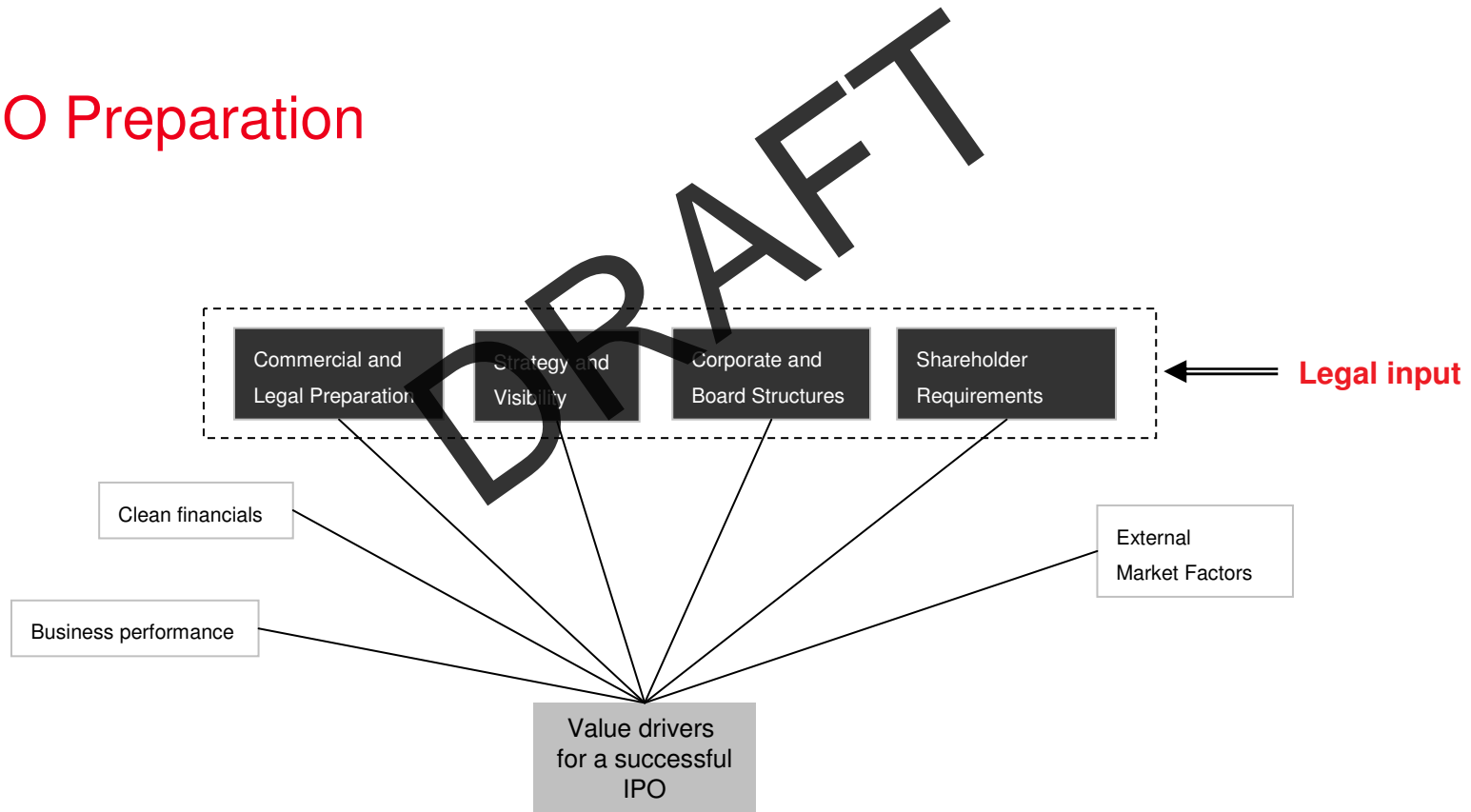
	Premium Listing	Standard Listing	AIM
Corporate governance requirements	'Comply or explain' against the UK Combined Code	Need only include a corporate governance statement in the directors' report	No mandatory requirements. In practice, some compliance with the Combined Code depending on size etc. of company
Share dealing rules	Model Code	No	Obligation not to deal in a close period (Model Code does not apply)
Significant transactions require shareholder approval	Yes	No	If a reverse takeover or fundamental disposals
Related party transaction rules apply	Yes	No	Disclosure obligation only
Major shareholder notification regime applies	Yes	Yes	Yes for UK companies; AIM Rules advise that constitution of overseas companies should replicate UK rules

Continuing obligations (cont.)

DRAFT

	Premium Listing	Standard Listing	AIM
Requirement to offer pre-emption rights	Yes (Transitional period for overseas companies with a premium listing on 6 April 2010)	Not under Listing Rules but company law may impose such a requirement	Not under AIM Rules but company law may impose such a requirement
Prospectus for further issues?	Yes – if more than 10% shares of same class admitted to trading	Yes – if more than 10% shares of same class admitted to trading	Only if constitutes offer to the public under Prospectus Directive or in event of a reverse takeover
Does Takeover Code apply?	Yes (if registered office in UK, Channel Islands or Isle of Man)	Yes (if registered office in UK, Channel Islands or Isle of Man)	Only if UK registered <u>and</u> place of central management and control in the UK, Channel Islands or the Isle of Man)
Shareholder approval required for delisting?	Yes – 75% shareholder approval	No - notification only	Yes – 75% shareholder approval

IPO Preparation



IPO Preparation (cont'd)

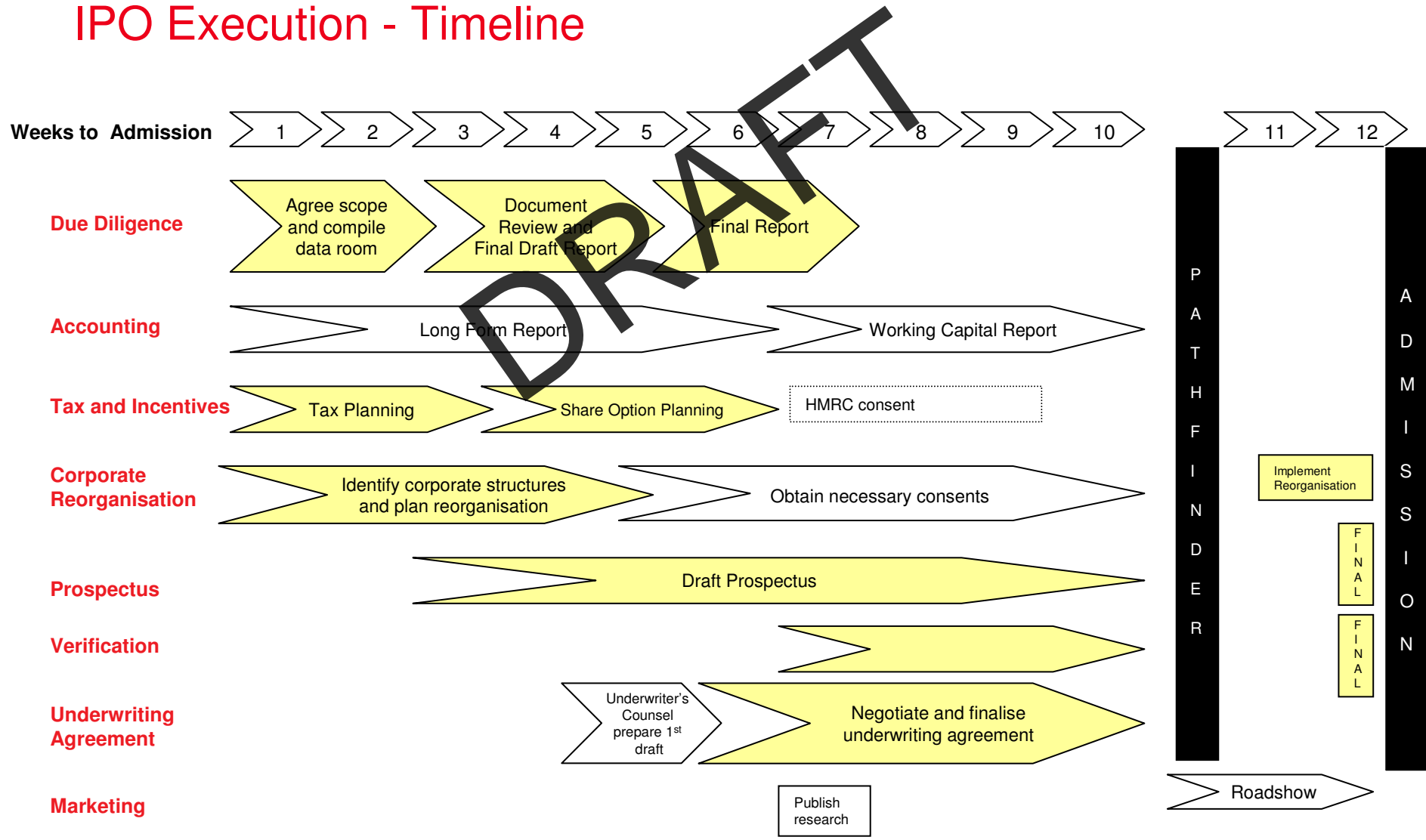
DRAFT

	Legal Input
Commercial and Legal Preparation	<ul style="list-style-type: none"> ▶ Identification and management of key issues, including: litigation, change of control issues, IP certainty and regulatory compliance ▶ Mitigation or elimination of legal issues that would otherwise have to be disclosed to investors as a risk factor ▶ Establishing protocols to put in place to ensure key legal documents are easily accessible in the run up to an eventual transaction
Strategy and Visibility	<ul style="list-style-type: none"> ▶ Key contract review for term and termination rights ▶ Planning and structuring employee incentivisation plans to underpin your long-term strategy
Corporate and Board Structures	<ul style="list-style-type: none"> ▶ Corporate Governance: listed companies obviously need the correct checks and balances. ▶ Structuring and advising on pre-transaction reorganisations driven by tax efficiencies or to meet other corporate objectives (e.g. net asset or dividend blocks)
Shareholder Requirements	<ul style="list-style-type: none"> ▶ Anticipation of the requirements of incoming and existing shareholders alike. This may involve capital reorganisations or structured changes to best position the company for the next phase. We approach these matters with an eye to the content requirements of any future prospectus

IPO Execution – The Lawyer’s Role

- Advice on IPO process
- Directors’ responsibilities
- Drafting prospectus/admission document
- Negotiating underwriting agreement
- Legal due diligence
- Corporate governance compliance
- Share dealing rules
- Directors’ service agreements
- Incentive schemes
- Drafting/negotiating supporting documents : engagement letters, lock-ins, etc.

IPO Execution - Timeline



IPO Execution – Key Documents

- Prospectus/Admission Document
 - Risk Factors
 - Information on the Company
 - Operating Financial Review
 - “Short Form” financials
 - Competent Person’s Report?
 - Additional Information
 - Summary of Danish Law
- Supplementary Prospectus?

DRAFT

IPO Execution – Key Documents (2)

- Underwriting Agreement
 - Placing mechanics and conditions
 - Underwriting obligations
 - Indemnity
 - Warranties
 - Directors' liability
- Sponsor/Nomad Agreement?

DRAFT

IPO Execution – Legal Due Diligence

- Purpose
- Key issues
 - litigation
 - material contracts
 - disclosure

DRAFT

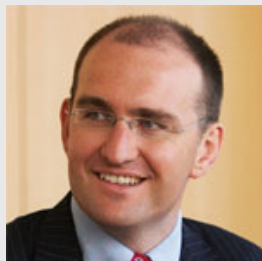
Travers Smith contact details



Richard Spedding - Partner

richard.spedding@traverssmith.com

+44 (0) 20 7295 3284



Andrew Gillen - Partner

andrew.gillen@traverssmith.com

+44 (0) 20 7295 3369

Travers Smith LLP

10 Snow Hill

London EC1A 2AL

www.traverssmith.com