CLIENT UPDATE

LONDON STOCK EXCHANGE INTRODUCES NEW HIGH GROWTH SEGMENT

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On February 12, 2013, the London Stock Exchange ("LSE") announced its intention to launch a new niche market for fast-growing companies to be called the High Growth Segment. The High Growth Segment will allow medium-sized growth companies to access public capital with as little as 10% of their shares being sold or distributed to the public, as compared to the 25% free float requirement on the main market.

The High Growth Segment, which has been developed in consultation with the British government, offers admission to trading on the LSE principally for high growth, commercial companies that intend to seek admission to the Official List in the future but that may not yet meet the applicable eligibility criteria. The High Growth Segment will be a segment of an EU regulated market, which means that issuers with securities admitted to, or applying for admission to, the segment must comply with EU Listing directive standards, as well as the applicable parts of the Disclosure and Transparency Rules and the Prospectus Rules. Securities admitted to the High Growth Segment will not be admitted to the UKLA's Official List and therefore the continuing obligations under the Listing Rules will not apply to issuers who have their securities admitted to trading on the High Growth Segment.

The High Growth Segment has been billed as a “stepping stone” to a premium listing, filling the gap between the LSE's main market and its junior Alternative Investment Market (AIM). It may also be a response to the moves made in the US with the adoption of the JOBS Act in 2012, which loosened somewhat some of the offering requirements and continuing obligations for “emerging growth companies” – those companies with less than $1 billion in revenues.

In order to be eligible for admission to the High Growth Segment, applicants will need to satisfy certain criteria, including:

- at least 10% of the securities to be admitted must be in public hands at the time of admission;
- the value of the securities in public hands must be at least £30 million, the majority of which must be raised at admission by the issue of new securities or sale of existing securities of the same class;
- the applicant must be able to demonstrate compound annual growth in revenue of at least 20% over the prior three financial years;
- the applicant must be public company incorporated or otherwise duly established in an EEA State; and
- a non-binding statement must be included in the admission prospectus that the applicant intends to apply for admission to the Official List in the future.

To gain admission to the High Growth Segment, issuers will be required to confirm that at least 10% of the shares of the class being listed are in public hands. The LSE’s draft rulebook uses the same test as currently contained in the Listing Rules to determine whether shares are to be considered as being held in public hands. This means that treasury shares, as well as shares held by directors, persons connected with directors, trustees of employee share schemes or pension funds, and persons having a right to nominate directors, will not count towards the 10% free float.

In order to ensure that there is sufficient liquidity for securities listed on the High Growth Segment, the LSE has proposed that the value of the securities in public hands must be at least £30 million. Whilst this may not prove to be a difficult threshold to surmount for issuers with a high percentage of shares in public hands, it means that issuers wishing to comply with the minimum 10% free float will need to have a market capitalisation of at least £300 million.

Unlike the Official List, the High Growth Segment will not be open to all issuers. Issuers seeking to apply for listing of their securities on the High Growth Segment will need to be public companies (or have similar EEA corporate structures) incorporated in the EEA. In addition, issuers will need to demonstrate revenue growth of at least 20% over the past three financial years on a compound annual growth rate basis.

Issuers will also be required to engage a "key adviser" in relation to the admission of their shares to the High Growth Segment. The role of the key adviser is expected to be similar to that of a sponsor on an admission to the premium segment of the Official List. Following admission, the issuer would have to obtain guidance from its key adviser in relation to, among other things, any proposed reverse takeover, related party transaction, significant transaction or share issuance.

An issuer applying for admission of its securities to the High Growth Segment will need to publish an approved prospectus in accordance with the Prospectus Rules and will need to include a non-binding statement of its intention to apply in the future for admission of its securities to the Official List. It is unclear what specific or continuing obligations an issuer will have regarding its intention to apply for a premium listing of its securities in the future. The draft rulebook published by the LSE does not specify any continuing obligations to disclose in its annual report steps taken by an issuer to attain a premium listing of its securities in the future, nor does the rulebook impose any obligation to disclose a specific strategy as to how this objective can be attained in an issuer's listing prospectus. It remains to be seen what the LSE's expectations with respect to this requirement will be.

The LSE's consultation on its draft rulebook for the High Growth Segment closes on 8 March 2013. The LSE will confirm the final rules as soon as reasonably practical following the end of the consultation period with the High Growth Segment expected to launch later this coming Spring.

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Please feel free to contact us with any questions you may have about the proposed new High Growth Segment.

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