

**AQUIS PRACTICE NOTE**

**DUE DILIGENCE BY AQUIS CORPORATE  
ADVISERS**

JULY 2024

## **OVERVIEW**

The Aquis Corporate Adviser (the “Corporate Adviser”) has a duty to maintain and uphold the reputation and integrity of the Aquis market. Corporate Advisers play a crucial role in maintaining the quality of the market and, in particular, are responsible for critically assessing the suitability for admission to the market of an issuer, its directors and founding shareholders.

It is recognised that the process for determining an applicant’s suitability will vary in terms of its content and approach, depending on the stage of development, nature and risk profile of the prospective applicant’s business.

## **DUE DILIGENCE ON ADMISSION**

The Corporate Adviser has ultimate responsibility for overseeing the due diligence process. They must ensure that both financial and legal due diligence is undertaken by appropriate professional firms and that this is tailored to the specific risks posed. The due diligence undertaken should enable the adviser to understand the issuer, its business and operations, including any specialist technical information. Given that a Corporate Adviser cannot be an expert in every technical discipline or subject area, it is normal to draw on a wide range of expertise and experience when performing its role.

An Aquis Corporate Adviser must review and assess the scope of due diligence, consider any issues that may arise and satisfy itself that appropriate action has been taken to remedy any issues.

Further, a Corporate Adviser must satisfy itself that key statements set out in an applicant’s prospectus or admission document have been legally verified by appropriate professional advisers as accurate, complete, relevant and fairly presented.

For issuers operating in specialist areas or disciplines this may include consideration of whether sufficient, appropriate evidence has been obtained to support key technical statements in the admission document and whether independent sources of evidence or assurance are required, such as a surveyor’s property valuation report or mineral expert’s report.

Where independent reports are commissioned, the Corporate Adviser should be actively involved in scoping such reports and should review and challenge the information provided. The Corporate Advisers remain responsible for the suitability declaration made to Aquis Stock Exchange even where it may rely on professional or expert advisers to give comfort.

A Corporate Adviser must also be satisfied that appropriate review of the working capital and financial reporting systems and controls of an applicant has been undertaken by appropriate professional advisers. The Corporate Adviser must have reviewed and critically assessed the accountants’ reports and adviser comfort letters.

## **DUE DILIGENCE ON FAST TRACK APPLICANTS**

It is recognised that for a fast-track applicant the Corporate Adviser may consider limited due diligence

is sufficient given the applicant is already trading on a market assessed as having standards and disclosures at least analogous to that of the Aquis Growth Market.

## **DUE DILIGENCE ON DIRECTORS**

It is vital that a Corporate Adviser conducts rigorous due diligence on directors and substantial shareholders or individuals able to exert significant influence or control involved in the business of a prospective applicant.

Due diligence on directors should be applied as part of the admission process (including a fast-track admission), the take-on of an existing Aquis admitted company from another Corporate Adviser and the appointment of a new director to an existing issuer.

Due diligence on directors should be based on the Corporate Adviser's reasonable judgement as to what information it requires in order to make an informed decision on an individual's suitability and experience to be a director of an Aquis company.

In assessing the suitability of directors, proposed directors and composition of the board, a Corporate Adviser should consider the efficacy of the board as a whole in light of the applicant's specific requirements and the fact that the company is or will be admitted to a UK-based, English-language public market.

Corporate Advisers are expected to utilise a broad range of sources to properly assess suitability when undertaking due diligence and to conduct investigations and enquiries to mitigate (if possible) any concerns before assessing whether the applicant is appropriate for admission to Aquis.

The Corporate Adviser should evaluate this information and consider whether it is appropriate to undertake further investigative enquiries and due diligence from independent, third party sources, particularly in respect of overseas directors. This may include commissioning a detailed investigative third- party report (e.g. from firms specialising in screening and background checks). Aquis would normally expect a Corporate Adviser to undertake such third-party checks.

The Corporate Adviser should extend these investigations and considerations as appropriate to key managers and personnel who are named in the prospectus or admission document.

A Corporate Adviser should be concerned to identify whether an applicant's directors, proposed directors, and substantial shareholders (being a shareholder holding 10% or more of the voting rights) (together "Relevant Individuals") have been the subject of disciplinary action by government, regulatory or other public bodies or have any previous criminal convictions. In the event of such circumstances, Corporate Advisers are advised to carefully weigh up the seriousness of any offence (e.g. a criminal conviction for fraud is likely to be more relevant than a sanction by a professional body) and when the offence was committed. Details of any offences must be disclosed to the Aquis Regulation Team, regardless of a Corporate Adviser's view as to their impact on an applicant's suitability. The applicant will not be suitable if any of its Relevant Individuals are the subject of an active criminal investigation into serious and relevant matters.

In the case where there is speculation, intelligence or allegations rather than conviction, sanction or disciplinary action, whether spent or pending, the judgement of the Corporate Adviser should take

into account the reliability of the source of information, whether a public conviction or other public action is likely (e.g. is this merely a suspicion or allegation of misconduct?) and the relevance of the allegation (e.g. does the allegation, if it is true, represent a serious risk to investors).

An applicant's directors or proposed directors are unlikely to be suitable where they have been the subject of multiple bankruptcies or involved in a number of companies that have been declared insolvent in circumstances that suggest recklessness, negligence, incompetence or other misconduct on their part.

#### **RECORD KEEPING**

Corporate Advisers must be able to demonstrate through contemporaneous record-keeping how they have exercised their judgement in undertaking due diligence, particularly when relying on third party reports.

This might include keeping copies of engagement letters, key correspondence, discussions relating to the choice of third-party provider and the scope of its work, draft and final reports and notes of meetings or calls in which the Corporate Adviser has questioned or discussed the reports, whether with the issuer or the third-party provider.