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Equity Capital Raising: Listing on the LSE

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Outline



Preparation: Listing in London

Market observations

**2,152 listed companies
in London**

LSE, as at November 2018

**£20.9 billion 2018 YTD
London equity issuance**

Deloitte, as at 14 November 2018

**£4.2 billion 2018 YTD
London premium listing IPOs**

Deloitte, as at 14 November 2018

**Listed mining company
developments**

Brexit

FCA consultation CP18/28



Preparation: Planning an IPO

Marketing, publicity and equity story	<ul style="list-style-type: none">• Start to think, act and operate like a public company• Manage public communications and forward looking statements with potential future IPO in mind• Create effective and consistent communications strategy
Due diligence	<ul style="list-style-type: none">• Anticipate what information will be subject to diligence• Identify and review material contracts, agreements and licenses• Assemble data room
Corporate reorganisation	<ul style="list-style-type: none">• Re-registration as a public company required? New holdco?• Re-domicile (consider market perception, inclusion in indices (e.g. FTSE), tax structuring)?• M&A? Other performance enhancements (to improve valuation)?
Changes to share capital/capital structure	<ul style="list-style-type: none">• Create a clear and simple share capital structure (e.g. ordinary shares of a single class?)• Unwind shareholder agreements?• Treatment of multiple share classes?
Internal systems and controls	<ul style="list-style-type: none">• Appoint a small team to handle the IPO and IPO readiness• Ensure verifiable systems in place for listed company obligations, e.g. anti-bribery and corruption, sanctions, etc• Consider whether additional internal resourcing required – investor relations, company secretary, legal, accounting, internal audit, IT and risk

Structuring: Key questions

Size and timing

- Consider size and scope
- Primary / secondary / dual listings?
- Are there any limitations on the listing “windows” during the year when an IPO may be launched?
- Reporting cycle of the business?
- Availability of investors? Consider cornerstone / anchor investors

Types of offer

- Public offering in home member state and EEA private placement exemption
- Retail or intermediary offering?
- Offering structure (passporting, Rule 144A, etc.)

Where to list?

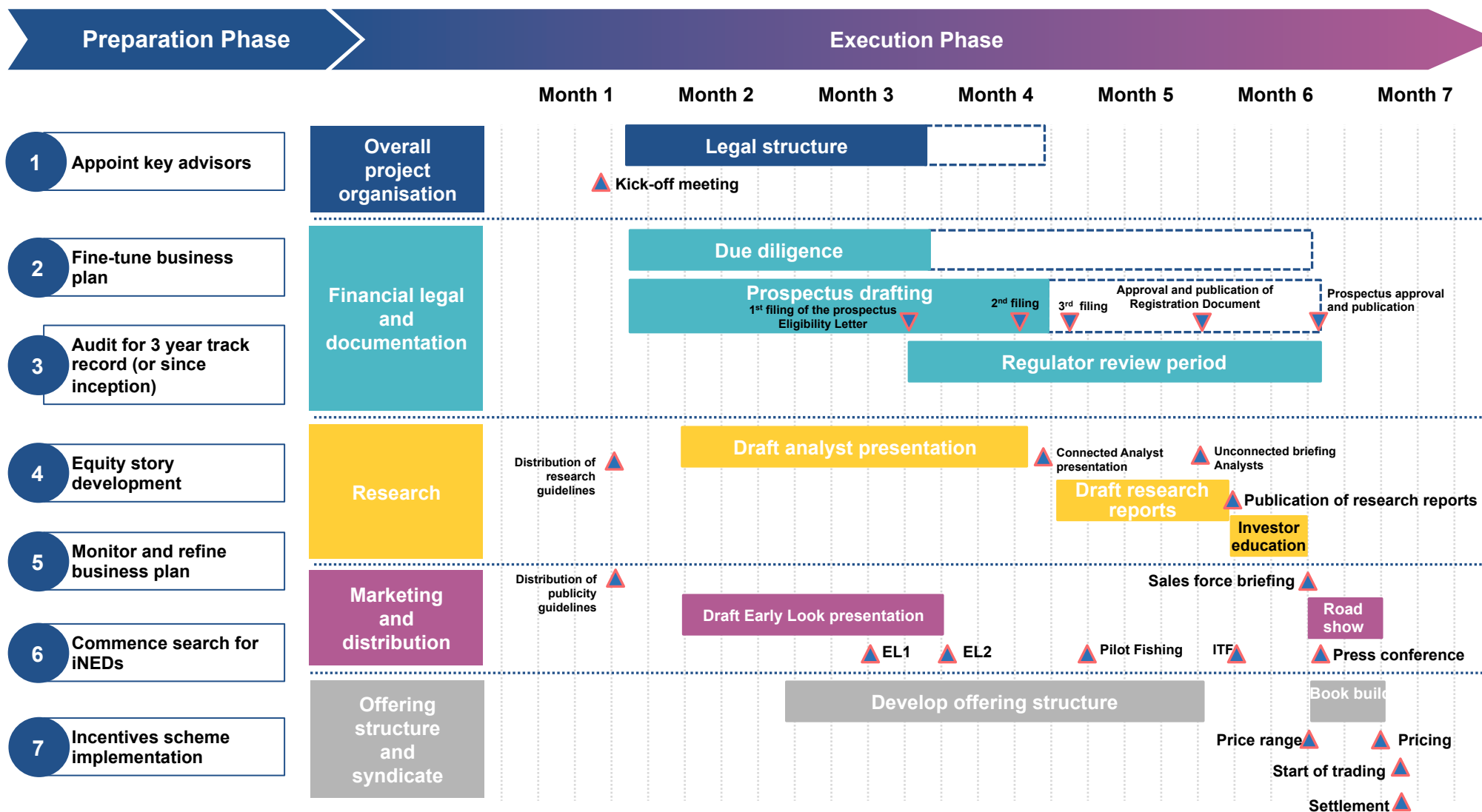
- Listing process / eligibility
- Securities category
- Index inclusion

Structuring: Which market

MARKET	MAIN MARKET		AIM
	PREMIUM LISTING	STANDARD LISTING	
Free float	25%	25%	No requirement
Market capitalisation	£700,000	£700,000	No minimum, but investing companies must raise at least £3 million
Track record	Three years' historical financial record (or period of operation if mineral company)*	No specific requirements	No specific requirements
Documents to be published on admission	Prospectus	Prospectus	AIM admission document (or prospectus if there is an offer to the public)
12 month working capital statement?	Yes. Must be clean.	Yes, as a disclosure matter rather than strictly as an eligibility requirement.	Yes. Must be clean.
Adviser required on admission	Sponsor	None	Nominated Adviser (NOMAD)
Adviser on an on-going basis	Sponsor required for certain transactions	None	NOMAD required at all times
Related party transactions	Shareholder approval (unless exempt)	No Listing Rule requirements	RIS announcement
Significant transactions	Shareholder approval if any class test is 25% or more	No Listing Rule requirements	RIS announcement if any class test is greater than 10%; shareholder approval if any class test greater than 75% on a disposal
Inside information	Must disclose under the EU Market Abuse Regulation (" MAR ")	Must disclose under MAR	Must disclose under MAR

* Requirement for revenue earning track record **does not apply to a mineral company** and if operating for less than 3 years is only required to include historical financial information for the period in which it has been operating

Execution: An IPO timetable



Execution: The prospectus

	Key Items	Indicative outline of prospectus
Financials	<ul style="list-style-type: none"> 3 years (or the period in which it has been operating if less), audited under IFRS 	Cover Placing restrictions etc. I. Summary II. Risk factors III. Information on the group IV. Directors, officers, and advisors V. Timetable VI. Global offering statistics VII. Use of proceeds VIII. Market overview IX. Information on the group X. Directors, senior management, and corporate governance XI. Selected financial information XII. Operating and financial review XIII. Capitalisation and indebtedness statement XIV. Historical financial information XV. Taxation XVI. The global offer XVII. Additional information XVIII. Definitions Appendix - Mineral Expert Report
OFR and KPIs	<ul style="list-style-type: none"> For the period covered by the financials Includes statement of capitalisation and indebtedness 	
Other*	<ul style="list-style-type: none"> Information on the company Dividend policy Risk factors Additional information <ul style="list-style-type: none"> Material contracts Litigation Legal structure Share schemes Directors and senior management Working capital Detailed review of capital and liquidity position 	
Mineral Expert Report / Competent Person Report	<ul style="list-style-type: none"> Required unless already listed and compliant report published for last 3 years No more than 6 months old at publication Mineral expert must be independent & meet the competency and content requirements under the permitted reporting standards 	

* There are additional US requirements, e.g. bank-specific statistical disclosures. US Securities lawyers would advise on this.

Execution: Key legal documents

Document	Key Terms	Co.	Banks	Co. C	Bank C	Auditors
Engagement letters	<ul style="list-style-type: none"> Formal appointment of all parties – confirmation of nature and scope of work 	✓	✓	✓	✓	✓
Underwriting agreement	<ul style="list-style-type: none"> Underwriting agreement between the Company, shareholders and syndicate banks 	✓	✓			
Legal opinions	<ul style="list-style-type: none"> Confirmation that all material company documents are valid and duly executed Confirmation that prospectus contains no false or misleading statements or omits material facts (10b-5 disclosure letter for US offering) 			✓	✓	
Comfort letters	<ul style="list-style-type: none"> Comfort according to international standard (SAS-72) confirming that: No significant change since last audit; Audited financials to follow within 135 days; and Accuracy of financial information contained in prospectus 					✓
Directors & Officers questionnaire	<ul style="list-style-type: none"> Completed by all current and newly appointed directors; information used for disclosure in Prospectus Confirmation of current interests in Company (as well as spouses etc.), directorships held and other legal declarations 	✓				
Other documents	<ul style="list-style-type: none"> Relationship agreement with selling shareholders Stock lending agreement in relation to over-allotment Shareholder lock-ups if stake retained Research guidelines Publicity guidelines Letters of responsibility to the Company and banks from each Director accepting responsibility for the information in the Prospectus 	✓	✓	✓	✓	

Listed company: Continuing obligations



Changes to internal systems and processes

Dialogue with shareholders

Be prepared to meet expectations and increased disclosure obligations (e.g. roadshows, equity events etc.)

Additional internal resourcing

Investor relations, company secretary, legal, accounting

Control and disclosure of inside information

Procedures for identifying, escalating and possibly disclosing internal information

Policies and procedures

Anti-money laundering, sanctions and data protection

Listed company: Capital raisings

	Placing	Cashbox placing	Placing and open offer	Rights issue
Max. size of offering (without shareholder approval)*	Up to 5% (or 10% if connected acquisition) (PGG)	Less than 20% (so as not to require a prospectus)	Depends on existing authorities (generally one third of issued capital)	Depends on existing authorities (generally one third or two thirds of issued capital)
Max discount to market price (without approval)	5% (PGG) 10% (LR9.5)	5% (PGG) 10% (LR9.5)	7.5% (IA) 10% (LR 9.5)	No maximum
Disclosure document required	Announcement	Announcement	Prospectus - Accompanied by Mineral Expert Report unless MER was included in admission prospectus and up-to-date reserves information has been published	Prospectus (proportionate disclosure regime?) - Accompanied by Mineral Expert Report unless MER was included in admission prospectus and up-to-date reserves information has been published
Typical duration of offering post launch	One day	One day	10 business day offer period Notice period for general meeting (if required) runs concurrently with offer period	14 clear calendar days notice period for general meeting (if required) Subsequent offer period of 10 business days begins on first day rights issue is open for acceptance (14 calendar days if CA rights issue)

*Assumes that customary shareholder authorities sought at AGM and that they have not been used

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Thomas is an associate in the corporate division of global law firm Herbert Smith Freehills LLP. He has experience of advising companies and investment banks on equity capital markets transactions, including IPOs and secondary fundraisings, as well as on public and private M&A transactions. Thomas has advised clients on transactions across a range of sectors, including natural resources, financial institutions, consumer products, real estate and TMT.

Thomas's recent equity capital markets experience in the mining and energy sectors includes advising:

- **Elementis** on its approximately \$230 million rights issue (£176.4 million) to finance its \$500 million acquisition of Mondo Minerals (up to \$553 million)
- Citigroup, Morgan Stanley, Stifel, RBC and other managers on **Energiean Oil & Gas'** IPO and £695 million listing on the London Stock Exchange

Thomas' equity capital markets experience includes advising on IPOs and listings, including those by **Energiean Oil & Gas, Hostelworld, Just Eat** and **AO World**. His secondary offerings experience includes advising on rights issues by **Elementis** (for the acquisition of Mondo Minerals) and **Phoenix Group** (in 2018 for the acquisition of Standard Life Assurance, and in 2016 for the acquisition of Abbey Life), placings and open offers by **Kennedy Wilson Europe Real Estate** and **permanent tsb** and placings by **Total Produce, Unite Group, Imperial Innovations** and **Sky**.

Thomas spent nine months on secondment in 2017 at Bank of America Merrill Lynch in London, in the ECM legal team, and previously spent six months on secondment in 2013 at Credit Suisse in London, in the Investment Banking Division M&A legal team.

Disclaimer

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