



European Primary Markets Division

Dubai International Financial Exchange Ltd (DIFX)
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Dubai International Financial Centre
P.O. Box 53536
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United Arab Emirates

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Dear Sirs

Proposed Changes to the DIFX Listing Rules

The European Primary Markets Division (the "EPMD"), a division of the Securities Industry and Financial Markets Association ("SIFMA"), is grateful for this opportunity to submit comments to the Dubai International Financial Exchange ("DIFX") on the proposed changes to the DIFX listing rules published on 28 September 2008 (the "Proposals").

SIFMA brings together the shared interest of 650 securities firms, banks, investors and asset managers worldwide and is intended to promote policies and practices that work to expand and perfect markets, foster new products and services, and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA has offices in London, New York, Washington, D.C. and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong. SIFMA largely operates through separate divisions focused on particular markets such as fixed income, leveraged credit, and equity.¹

The EPMD, based in London, is focused on the primary equity markets. The EPMD provides a forum for industry professionals to explore areas of common interest and to facilitate best practice. The EPMD also engages with regulators and other government bodies on behalf of our members. Members include ABN AMRO (Royal Bank of Scotland), Citigroup, Credit Suisse, Deutsche Bank AG, Goldman Sachs, J.P. Morgan, Merrill Lynch, Morgan Stanley, and UBS.²

Our members (or their subsidiaries, affiliates, or branches) have been actively engaged in DIFX listings and offerings since operations began in 2005. We are pleased that DIFX is considering updating its rules to reflect the experience gained over that period. We also applaud your efforts to make DIFX more attractive to regional retail investors, which we believe will be key to the market's future success.

Our comments below are confined to Part 1 (General – Rules Relating to All Issuers and All Securities) and Part 2 (Rules Relating to Equity Securities). The topics reflect our organisation's focus on equity capital markets, and give effect to our members' extensive experience throughout Europe, the Middle East, and Africa. The comments are the product of extensive discussion with our members and reflect their shared views. We have also, as is customary, encouraged our members to submit separate comments on behalf of their individual institutions. We expect those submissions will provide you with additional detail, expanding on and augmenting the discussion below, which we hope will prove helpful in refining the Proposals.

¹ Additional information about SIFMA is available at www.sifma.org.

² Additional information about the EPMD is available at <http://europe.sifma.org/epmd>.

Proposals – Timing of Final Rules

We share your objective that the DIFX be an important and active financial market and believe that an improved set of listing rules will advance that objective. The Proposals successfully address many of the issues that have arisen since September 2005. However, the Proposals also represent substantial changes to the way the DIFX market operates, and present complex issues relating to the interests of issuers, investors, and advisers.

Because regulatory stability underpins a successful financial market, we recommend that DIFX consider an additional opportunity to comment on amended Listing Rules that incorporate the comments received on the Proposals. We would expect that a second thirty-day comment period before final rules are adopted would afford market participants sufficient opportunity to provide DIFX with valuable feedback. Thorough consultation between DIFX and key stakeholders will help ensure that DIFX promulgates an optimal set of Listing Rules, which should not require additional amendments or modification for a significant period.

300 Shareholders (Part 2; Rule 2.1.2)

We are concerned that the Proposals contemplate a mandatory listing requirement of at least 300 shareholders, with each holding at least 100 securities. We support the objective of developing the DIFX market so that it features a mix of retail and institutional investors. In our view, however, this requirement could, at least in the immediate term, undermine that objective by discouraging new issuers from listing on DIFX. We believe that DIFX should instead afford issuers (especially the smaller issuers which this Proposal would largely disqualify) flexibility in developing an optimal investor base that includes institutional and retail investors in a proportion that is appropriate to that issuer. We therefore strongly urge that Proposed Rule 2.1.2 be withdrawn.

Though we believe it would be highly undesirable, should DIFX conclude as a policy matter that every future listing and offering must have a substantial retail component, we would recommend that the mandatory threshold be reduced to the minimum possible but in any event no greater than 50. In addition, we recommend that the minimum number of securities for each holder be dropped entirely. This recommendation is based principally on our experience with DIFX offerings, but also on our global market experience. The lower threshold we propose intends to ensure retail is included in each offering, where appropriate and as possible. In general, we are mindful to afford some flexibility to smaller issuers or those for whom a larger retail investor base is less suitable. DIFX might wish to consider stating an objective (instead of a hard listing condition rule) of relatively broad distribution to no fewer than 50 investors where appropriate and possible.

Lead Manager Regime (Part 1; Rule 20.1)

We are pleased that DIFX has revised the existing sponsor regime, replacing the current approach with a combination of "Lead Manager" and, in some cases, a "Compliance Adviser". Nevertheless, we are concerned that the revised rules would operate to discourage issuers from listing on DIFX and our members from acting as a Lead Manager in a DIFX offering. Of particular concern are the scope of liability and the due diligence obligations that accompany this role.

We believe that these Proposals would be highly counter-productive. The Proposals are also unnecessary given the tools otherwise available to achieve the same level of investor protection. The Proposal under Rule 20.1 goes substantially beyond what other regulators require in the jurisdictions in which we operate, especially in respect of due diligence (20.1.7) and responsibility for the prospectus (20.1.8). We note that many regulatory regimes (*e.g.*, the US) do not have a sponsor regime at all. If DIFX believes as a policy matter that the role of Lead Manager should include a sponsor role, we would strongly recommend that it consider adopting representations more closely aligned to those required by the UK Financial Services Authority (a set of rules that are themselves under review).

We are concerned that the Lead Manager's Declaration (set out in Form 1, Appendix A) contains very broad representations. In particular, the one for conflicts of interest is unacceptable. In our experience, the Lead Manager's core business competency obliges them to mitigate conflicts of interest with sufficient internal controls.

Market Maker Requirement (Part 2; Rule 2.1.1)

The Proposals require that there be two market makers for equity securities. We note that the role (and responsibility) for market makers significantly varies from market to market around the globe. For the Deutsche Börse, for example, the requirement is limited to one market maker for a 12-month period following the IPO. In other markets, market makers always maintain an inventory of stock and have detailed responsibilities tied to a precise definition of market making. These responsibilities often involve a substantial expense (and risk) for the market maker. We would recommend that this provision be reduced to require one market maker for a minimum six month period following an initial public offering. An elaboration by DIFX of the objectives underlying this proposed requirement would facilitate a more considered industry response, which we would hope to develop during the additional comment period suggested above.

Inspection of Material Documents (Part 1; Rules 17.1(g) and 17.2(e))

We believe that investors should have access to information about material contracts and agreements of the issuer. This information is crucial to assist investors in making an informed investment decision, but can understandably be commercially sensitive for an issuer. Several solutions are available. In the US, material contracts are filed as a part of the SEC Registration Statement and are publicly available, but there are complex, and frequently time consuming (and expensive) processes in place for redaction of commercially sensitive documents. In our view, the European solution under the Prospectus Directive has worked well; the UK has actually done away with "Documents on Display" to adopt the European solution: relevant summaries of material contracts are included in the prospectus.

Rights Offerings (Part 1; Rule 7.7 and 7.3)

Rule 7.7 under the Proposal requires that a rights offering remain open for at least 30 days. Rights offerings have recently assumed a prominent place in the reform agenda of the UK government. The consultation has arisen because of the real or perceived abuses during the long rights offering period in the UK, and the consensus is that the rules in the UK should be modernised by shortening the offer period from 21 to 14 days to align with global market standards. We strongly recommend that the period, determined by the corporate law governing the issuer, not be extended beyond 14 days.

Proposed Rule 7.3 require that regulatory clearances be obtained from *all* regulatory authorities in *all* relevant jurisdictions before the rights offering commences. As a practical matter, based on our experience, these regulatory clearances are frequently not obtained by the time of the offering. Moreover, as drafted, it is unclear which regulatory authorities might believe they have jurisdiction. Finally, there are jurisdictions (*e.g.*, the U.S.) where regulatory clearance would be costly and burdensome and is frequently not obtained. We therefore recommend that the Proposal be revised to allow the rights offering to commence upon securing any *required* approval from the regulatory authority of the jurisdiction of issuer's incorporation.

We thank you again for this opportunity to contribute to the discussion on the structure of the DIFX Listing Regime. Due to timing constraints, we have attempted to confine our comments to headline issues of particular concern to our members. Nevertheless, we would be very happy to meet with you to discuss this response or engage in more comprehensive discussion of the issues raised by the Proposals, if that would be helpful to you.

Yours sincerely,



Lorraine Charlton
EPMD

Working Group

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