The AIM Rules: An Opportunity for Toronto Stock Exchange-Listed Companies

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London and Toronto are natural partners for resources and growth companies, and many Toronto Stock Exchange-listed ("TSX") mining, energy and technology issuers already have a London presence or investor base. The new AIM Rules have made AIM more attractive to growth companies generally, but several changes are particularly relevant to TSX issuers looking to broaden their investor base.

1. **Express Market: A Fast Track to London**

Who Can Use It

The Express Market route is designed for mature companies that already have a public track record on a recognised overseas exchange. To utilise the Express Market route, a company must have:

- Been listed on its home market for at least three years.
- Not fundamentally changed its business or board in the past 12 months.
- A market value (market capitalisation) of at least £20 million when it joins AIM.

For more on the Express Market route, see our previous article, AIM's Regulatory Reset: What the Final Rules Mean for Companies, Management and Advisers.

What the Company Must Publish

Instead of a full AIM listing Admission Document, an Express Market applicant publishes a short announcement containing a limited amount of information. It does not need to include a formal statement from the directors on whether the company has enough working capital for the next 12 months, nor does it need to add new information that is not already public. The issuer's Nominated Adviser ("Nomad") can reasonably rely on the fact that the company has been trading publicly and is subject to regulatory scrutiny.

What This Means for TSX Issuers

A TSX issuer that has filed its financial statements, management's discussion and analysis, annual information forms and material change reports for three years or more will already have a substantial public record on SEDAR+ for a Nomad to draw on. These filings are made under National Instrument 51-102, the main Canadian rule on ongoing disclosure. Many TSX issuers should also comfortably meet the £20 million threshold.

Companies should, however, still expect focused legal and financial checks. The Express Market announcement must confirm that, after careful enquiry, the company complies with the rules that apply to its home listing and discloses any material breaches.

The Resources Angle

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For Canada's large resources sector, a key advantage is that a resources company using the Express Market does not need to publish a Competent Person's Report — an independent expert report on its respective assets — to join AIM. The usual requirement for directors and major shareholders to agree not to sell their shares for a period after listing (a "lock-in") also does not apply.

2. **Dual-Market Admission: Listing in Toronto and London at the Same Time**

A company that is applying to list on an eligible overseas exchange, which includes the TSX, can list on AIM at the same time, using its overseas offering document with only minimal additions and without a separate AIM listing Admission Document. The only financial condition is that it must raise at least £6 million (or equivalent) when it lists.

This can be a cost-effective way to establish a London presence from day one. The Nomad must still confirm to AIM that the company is suitable for the market, so the Nomad will need to be closely involved in the checks carried out for the Canadian offering. The route works best for companies that plan a dual listing from the start and coordinate their Canadian and UK advisers accordingly. Any offer of shares to UK and other non-Canadian investors will need to fit within the relevant exemptions from prospectus requirements.

A company that does not use Dual-Market Admission when it lists on the TSX will need three years of trading history before it can use the Express Market route. Companies that see London as part of their medium-term strategy should therefore consider AIM when planning their IPO.

3. **Capital Access Windows: Coordinated Cross-Border Fundraisings**

A Capital Access Window is, in effect, a trading halt. A company that is raising equity or negotiating a corporate transaction can ask AIM to suspend trading in its shares temporarily while it does so. AIM considers each request individually. There is no fixed maximum length, but a window should last only as long as necessary and trading resumes once the company announces whether the fundraising or transaction has gone ahead or been abandoned. The company must continue to make any required announcements during the window.

This trading halt gives a company valuable protection during sensitive fundraising or transaction processes by reducing the risk arising from leaks or speculation, and avoids investors dealing in the company's shares on the basis of incomplete information.

4. **Reverse Takeovers: Room to Grow by Acquisition**

The new AIM Rules narrow the definition of a reverse takeover. An acquisition is now a reverse takeover only where it would fundamentally change the company's business, board or voting control (or, for an investing company, depart materially from its investing policy). An acquisition that exceeds 100 percent in the class tests but leaves the company's business, board and voting control fundamentally unchanged is instead a substantial transaction. It must be announced, and the company may be required to seek shareholder approval. As a result, companies can now pursue sizeable, non-transformative acquisitions under a more proportionate regime without having to publish an Admission Document.

5. **Special Voting Shares: A Natural Fit for Canadian Founder-Led Companies**

AIM permits "special voting shares", which allow founders and other key individuals to keep control of a company after it lists. A company may, when it joins AIM, have a separate class of special

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voting shares held by a director, employee or investor. These shares carry restrictions on transfer and cannot be voted on certain matters, including directors' pay, transactions involving the holder and removing the company from AIM.

Here, TSX issuers have an advantage over some international peers. The Australian Securities Exchange, for example, does not permit dual-class structures, so an Australian company's special voting shares would exist only for its AIM listing. The TSX, by contrast, has long allowed multiple voting and subordinate voting share structures, subject to protections for ordinary shareholders — such as "coattail" provisions, which ensure they can participate in any takeover offer — and enhanced disclosure. This puts a Canadian founder-led company in a strong position: its existing structure may well transfer to AIM with little or no change, provided it fits AIM's conditions.

6. **Governance and Working Capital: Proportionate Disclosure**

AIM companies must explain their approach to five areas of corporate governance: how the board is made up, the role and responsibilities of each director, how directors are paid, how the company manages risk and internal controls, and how it engages with shareholders. TSX issuers already describe their governance practices under National Instrument 58-101 and the related guidance in National Policy 58-201, covering board make-up and independence, board and committee responsibilities, pay, and many also address risk oversight and shareholder engagement. Existing Canadian governance disclosure should therefore map closely onto AIM's five areas and add little to a TSX issuer's workload.

7. **Practical Considerations for TSX Issuers**

Ongoing Obligations in Two Markets

AIM's ongoing requirements will sit alongside NI 51-102, Canadian timely disclosure rules and TSX requirements. Announcements must be released at the same time in both markets and disclosure policies should be reviewed accordingly.

Offering and Trading Rules

UK rules on market abuse and insider dealing will apply, in addition to Canadian insider trading and reporting requirements. Any offer of shares to UK and Canadian investors must be structured within the relevant prospectus exemptions.

Advisers and Timetable

A Nomad and a broker must be appointed. Early engagement with AIM is encouraged, particularly while market practice on the Express Market and Dual-Market Admission routes continues to develop.

Looking Ahead

For TSX-listed companies, the current AIM Rules offer a fast and cost-effective route to London for established issuers, a flexible framework for acquisitive and founder-led businesses, and a regime that sits comfortably alongside existing Canadian obligations.

Haynes Boone's London Capital Markets team advises international companies, Nomads and brokers on AIM admissions, dual listings and secondary fundraisings, and it works closely with Canadian counsel to coordinate the UK and Canadian workstreams from the outset. If you are a

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TSX-listed company considering a London listing, please get in touch with the firm's London Capital Markets team to discuss how the AIM Rules could work for your business.

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