

General organizational requirements – company control functions (nominated adviser)

Introduction

These guidance notes lay down general principles concerning the organization of entities not subject to Consob/Bank of Italy regulation (hereinafter “non-banks”) that apply for nominated adviser status; in particular, they identify the aims and main tasks of the compliance and risk management function.

The notes apply to non-bank nominated advisers only with reference to their activity as nominated advisers on AIM Italia.

The objective of these guidance notes is to achieve a balance between the need to ensure adequate safeguards for the internal functions of compliance and risk management of nominated advisers not characterized by general controls by the supervisory authorities and the need to adapt them to structures of a small size.

Applicant non-bank nominated advisers must produce suitable documentation concerning alignment with the guidance notes listed below and update it periodically.

1. Non-bank nominated advisers are required to set up and maintain a permanent, effective and independent internal function devoted to safeguarding and checking compliance and risk management

In order to ensure the effectiveness and independence of the internal compliance and risk management function, it is necessary that:

- ◆ such function have the authority, resources and skills needed for the performance of its tasks;
- ◆ the persons responsible for the function not be hierarchically below the persons responsible for the functions subject to control;
- ◆ the persons engaged in such function not participate in the provision of the services on AIM Italia that they are called upon to control and not be members of decision-making bodies/committees.

2. The compliance function: main activities

The main tasks that the compliance function is required to perform are:

- ◆ the regular control and verification of the adequacy and effectiveness of the procedures adopted, with a view to avoiding violations of the AIM Italia Rules and the legislative provisions from time to time applicable, with special reference to the management of conflicts of interest and transparency vis-à-vis the market;

- ◆ the identification on a continuing basis of the legislative provisions applicable to the nominated adviser and the assessment of their impact on company processes and procedures;
- ◆ proposals for organizational and procedural changes designed to ensure adequate safeguards against risks of non-compliance that have been identified;
- ◆ verification of the effectiveness of the organizational adjustments (to structures, processes and procedures, both operational and commercial) suggested to prevent the risk of non-compliance;
- ◆ the handling of conflicts of interest and independence on a continuing basis (rules 18 and 19 of the Rules for Nominated Advisers);
- ◆ the periodic assessment of the adequacy of the number of key executives and other employees engaged in corporate finance, with reference to the number and characteristics of the AIM Italia companies for which the nominated adviser acts.

3. The risk management function: main activities

The company's risk management function is taken to mean the activities of identifying the risks and operational limits assigned to the company's functions and the function of controlling their consistency with the company's activity.

For example, in the case of non-bank nominated advisers, the risk management function:

- ◆ identifies the risks to which the non-bank nominated adviser is exposed in view of the business model and organizational structures adopted and updates its assessment in light of the evolution of the level and type of activity performed;
- ◆ supports the strategic choices of the company's nominated adviser and underscores the risks deriving from new activities, processes and systems;
- ◆ assesses – on the basis of what is performed by the units involved in the exercise of the activity of nominated adviser – the adequacy of the activity of providing assistance and guidance to AIM Italia companies on an ongoing basis, with special reference to the press releases issued and the related checks carried out.

4. Other company control functions

Applicants for non-bank nominated adviser status are required to assess – considering their size characteristics (turnover, number of employees, etc.) and operational features – the creation of an independent internal audit function. The decision not to create such a function must be adequately explained in the periodic reports that the head of the compliance and risk management function is required to prepare.

In particular, the internal audit function evaluates:

- ◆ the adequacy and effectiveness of the company's information systems, management processes, and control procedures and mechanisms;
- ◆ the effectiveness of the controls carried out on outsourced activities.

5. Communications with Borsa Italiana

The head of the compliance and risk management function is required to prepare and keep available to Borsa Italiana a report (to be retained pursuant to rule 22 of the Rules for Nominated Advisers) containing a description of: the checks carried out by the function he/she heads, in relation to compliance by the units involved in the exercise of the activity of nominated adviser with what is provided for by the AIM Italia Rules and the nominated adviser's corporate finance compliance manual, the results achieved; the remedial measures planned and those actually adopted. This report must be produced:

- ◆ when the nominated adviser sends Borsa Italiana the declaration of appropriateness for each issuer that applies for admission;
- ◆ where, during the last calendar year, the case referred to in the previous indent has not occurred and the non-bank nominated adviser is assisting at least one AIM Italia issuer, by January of each year.

In each report a section must be devoted to the activities carried out by the internal audit function or – in accordance with the principle of comply or explain – to the reasons for the decision not to create such a function.