



The JSE Limited Listings Requirements

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Dear Subscriber

Amendments to JSE Listing Requirements to make provision for the BEE Segment

In light of the pending launch of the BEE Segment to facilitate trading of BEE shares, the JSE in consultation with various stakeholders herein proposes to make provision for requirements pertaining to the BEE Segment.

The additions to the Listing Requirements under Section 4 and the definition section are as follows:

Section 4

BEE Segment

- 4.32 An applicant issuer seeking a listing of its BEE Securities on the BEE Segment must satisfy the following criteria:
- (a) it must meet the basic listing criteria as set out in either section 4, 19, 20 or 21 of the Listings Requirements respectively and comply with all other relevant sections applicable to the aforementioned;
 - (b) trading in the BEE Securities must be restricted only to BEE Compliant Persons;
 - (c) it must indemnify the JSE against all and any legal costs incurred (including attorney and own client costs) to the extent that as a result of a BEE Contract not having been signed as required in terms of the JSE Equities Rules and Directives, the JSE takes any legal action and is not able to recover its costs from the parties to the legal action pursuant to a costs order awarded in the legal action;
 - (d) (i) if the applicant issuer elects, by reason of the breach of a particular BEE Contract to enforce the BEE Contract against the beneficial owner of BEE Securities and, if applicable, other parties to the BEE Contract by either the applicant issuer repurchasing or the applicant issuer nominating a third party to purchase, and such third party purchasing, the BEE Securities and;

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- (ii) it instructs the registered holder thereof in turn to instruct the relevant CSDP or its nominee to effect the necessary entries relating to such repurchase or purchase,
- and as a consequence litigation ensues and the registered holder and/or the CSDP or its nominee and/or any JSE member of the JSE is/are joined in such litigation, the applicant issuer indemnifies such registered holder and/or CSDP or its nominee and/or JSE member and their directors, employees, servants, agents or contractors or other persons for whom in law they may be liable against all and any costs (including attorney and own client costs) which may be awarded against any of them as a consequence of the litigation provided that –
- (1) the registered holder or CSDP or its nominee or JSE member, as the case may be, shall (unless it is the applicant issuer which joined them) notify the applicant issuer in writing of such joinder within a reasonable time of becoming aware thereof, to enable the applicant issuer to take steps to act on their behalf as contemplated in paragraph (2) below;
 - (2) if a party to the litigation, other than the applicant issuer joined them, the applicant issuer shall be entitled to contest (which shall include an appeal to a court of law) the litigation in the name of the registered holder or CSDP or its nominee or the JSE member, as the case may be, and shall be entitled to control the proceedings in regard thereto and the registered holder and the CSDP or its nominee or JSE member shall take no steps in the litigation which are not approved in writing by the applicant issuer;
 - (3) if the applicant issuer joined them, they shall merely abide by the decision of the court.
- (e) paragraph 4.32(d) constitutes a right for the benefit of the registered holder and the CSDP or its nominee and the JSE member and their directors, employees, servants, agents or contractors or other persons for whom in law they may be liable (*stipulatio alteri*), which they will be entitled to accept at any time by notifying the applicant issuer in writing of their acceptance;
 - (f) the indemnities contained in (c), (d) and (e) above must be contained in the application letter to the JSE and any other relevant listing documents;
 - (g) it must agree to become a party to and be bound by the provisions of the Issuers-Participants Contract, a copy of which will be available on the JSE website, with effect from the date on which the applicant issuer's BEE Securities are listed on the BEE Segment. The first issuer whose BEE Securities are listed on the BEE Segment will sign the Issuers-Participant Contract and every subsequent issuer whose BEE Securities are listed on the BEE Segment, will become a party to the Issuers-Participants Contract by signing an Issuer Deed of Adherence, the form of which is attached to the Issuers-Participants Contract. The Issuer Deed of Adherence duly signed must be included with the application letter to the JSE; and
 - (h) the salient terms of the BEE Securities must be contained in the articles of association under the heading "Additional Terms of the BEE Contract".

Definitions

- BEE Act – means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)
- BEE Codes – means the Broad-Based Black Economic Empowerment Codes of Good Practice gazetted from time to time under the BEE Act in terms of Code 100. The Measurement of the Ownership Element of Broad-Based Black Economic Empowerment
- BEE compliant persons – means as interpreted by the courts, from time to time –
- (a) as regards a natural person, one who falls within the ambit of the definition of “black people” in the BEE Codes;
 - (b) as regards a juristic person having a shareholding or similar JSE member’s interests, one who falls within the ambit of the definitions of BEE controlled company or BEE owned company, using the flow-through principle contemplated in the BEE Codes;
 - (c) as regards any other entity, any entity similar to a BEE controlled company or BEE owned company using the flow-through principle contemplated in the BEE Codes which would enable the issuer of securities owned or controlled by such entity to claim points attributable to the entity’s ownership of the securities pursuant to the BEE Codes
- BEE contract – means the prescribed contract which the proposed beneficial owner of BEE Securities and, if the beneficial owner is not to be the registered owner, the proposed registered owner of BEE Securities must conclude, in terms of which, *inter alia* –
- (a) the beneficial owner warrants that he is a BEE Compliant Person;
 - (b) the necessary restrictions, limitations and requirements are imposed by the applicant issuer on the proposed beneficial owner in order to achieve the continued ownership of BEE Securities by BEE Compliant Persons;
 - (c) the BEE contract is made up of generic terms applicable to all applicant issuers and by incorporation additional specific terms relevant to a particular applicant issuer’s BEE Securities which are contained in the applicant issuer’s constitution; and
 - (d) the beneficial owner indemnifies the registered owner against any claim made against the registered owner in the event that, in terms of the BEE contract –
 - (i) the registered owner is obliged to dispose of the BEE Securities; or
 - (ii) the issuer of the BEE Securities exercises its right to repurchase or its right to nominate its nominee to purchase the BEE Securities from the registered owner thereof

BEE controlled company –	has the same meaning as defined in the BEE Codes
BEE owned company –	has the same meaning as defined in the BEE Codes
BEE securities –	means the securities in respect of which the applicant issuer requires that the beneficial owners are BEE Compliant Persons
BEE segment –	means a segment of the JSE's main board where an issuer may list its BEE Securities and where trading in the securities is restricted to BEE Compliant Persons
JSE equity rules and directives	means the rules and directives pertaining to the JSE's equity market, created in accordance with the SSA, as amended from time to time by the JSE

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