

Briefing Note
Version 4 of the JSE Debt Listings Requirements
15 January 2020

We refer to the Briefing Note dated September 2019 and based on the public comments received to date, we wish to draw your attention to the following noteworthy amendments to the JSE Debt Listings Requirements (Version 4) to facilitate your review:

Definitions

- The definition of “*structured products*” was amended to include asset-backed securities and securitisations as specific types of structured products based on the fact that the payment of interest is linked to the performance of the underlying or reference asset. Also see the amendment to the definition of “*debt securities*”.

Section 3: Conditions of Listing

- The JSE clarified the approach in the minimum criteria for the listing of debt securities as it relates to the requirement dealing with historical financial history and adverse findings. This requirement will only apply to applicant issuers registering a programme memorandum for the first time. Adverse findings in the historical financial information in respect of an existing debt issuer and the registration of a new programme memorandum will be treated in accordance with the provisions dealing with Continuing Obligations pursuant to Section 6 of the Debt Listings Requirements.

Section 4: Listings Particulars

- The individual integrity information of directors and the debt officer pursuant to paragraph 4.10(b) are required to be included in the placing document (“**Individual Integrity Information**”). A portion of paragraph 4.10(b)(vi) was removed dealing with the disclosure of details in connection with any public criticisms of a director or debt officer by statutory or regulatory authorities, including recognised professional bodies, because of the subjective nature thereof.
- The Individual Integrity Information pursuant to paragraphs 4.10(b) (ii) – (ix) must further be applied equally to the corresponding events and laws in foreign jurisdictions, when applied to foreign directors.
- Paragraph 4.10(g) - Material Risk: Disclosure of material risk has been amended to be applied to the debt issuer alone and not to the debt securities as well. The relevance of material risk lies with the applicant issuer.

Section 6: Continuing Obligations

- Paragraphs 6.36 and 6.38 - Repurchase of Debt Securities: The repurchase of debt securities exclude market making activities where the applicant issuer provides liquidity or serves as an intermediary to facilitate transactions between buyers and sellers of debt securities (“**market making activities**”).
 - The approach has been clarified that no announcements are required for any repurchases of debt securities forming part of market making activities.

- Confirmation must further be provided in a repurchase announcement whether repurchased debt securities will be cancelled and the listing removed.
- Paragraph 6.41 - Individual Integrity Information: Any director and/or debt officer who is aware of any change to the Individual Integrity Information is required to disclose such information to the applicant issuer without delay and, in any event, by no later than three business days after becoming aware of such change. Any amendments to the Individual Integrity Information must be (i) notified to the JSE in writing and (ii) announced by the applicant issuer through SENS, within one business day after it has been received from the director and/or debt officer.
- Paragraph 6.74 - Demand to call a meeting:
 - The limitation that the purpose of the meeting must affect their rights as holders of debt securities has been removed.
 - The applicant issuer is not required to announce the purpose of the meeting, but merely announce that the applicant issuer has received a demand to call a meeting from holders of debt securities pursuant to the provisions of the Debt Listings Requirements and specifying the date and time of the meeting.
 - At the meeting, holders of debt securities will exercise their voting through polling and not by the show of hands.
 - The meeting will elect a chair as voted by holders of debt securities.
- Debt Officer
 - Paragraph 6.78(a) and (b) - Commenting Process. The commenting process has been removed. The JSE obtained legal advice that confirmed that it would be outside of the ambit of the JSE's powers to adopt listings requirements that attempt to regulate commercial market making processes which are subject to commercial negotiations, whether it being prior to or post listing. In addition hereto, the legal opinion confirmed that the JSE would not have been able to comply with its statutory obligation to enforce these requirements which, in itself, is a compelling and definitive consideration against the adoption of these requirements. The JSE is of the view that any discussions about the circulation of comments by debt issuers are, and should be, the subject of commercial negotiation between investors and debt issuers. It would not be competent nor appropriate for the JSE to address these issues in its Debt Listings Requirements and the JSE would, in any event, not be able to enforce these requirements.

Section 7: Corporate Governance

- An applicant issuer is not required to appoint a financial director if its holding company (of which the applicant issuer is a wholly-owned subsidiary) has a financial director and irrevocably, and unconditionally guarantees the obligations of the applicant issuer.
- In the event that the request for a part-time director is granted by the JSE, the applicant issuer must announce the appointment of a part-time director through SENS.
- Governance policies and registers must be current as applied to:
 - Nomination of Directors;
 - Domestic Prominent Influential Person;
 - Procurement; and
 - General: Loans and Procurement.

- Corporate governance provisions applicable to asset-backed securities and securitisations have been amended due to the ring-fenced nature and limited purpose of the debt securities.