

# JSE Limited Listings Requirements

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## **Introduction**

### **Objectives**

The JSE is a licensed exchange in terms of the FMA. Subject to the objects of the FMA, its regulatory duties, powers and functions are circumscribed by the peremptory provisions of the FMA. In accordance with the FMA, the JSE is obliged to make listings requirements and enforce them. It is an integral function of the JSE to provide infrastructure for the trading of securities listed on the JSE.

The Requirements contain the rules and procedures governing new applications, corporate actions and continuing obligations applicable to applicant issuers and/or listed securities. They are furthermore aimed at ensuring that the business of the JSE is carried on with due regard to the public interest.

The Requirements and any other conditions of listing are binding on applicant issuers, their directors, officers, employees and agents.

### **Competent authority**

A company wishing to have its securities dealt on the JSE must apply for a listing and must be in compliance with the requirements of the JSE before being granted such listing. The Board of the JSE is the competent authority responsible for:

- the list of the securities which may be dealt on the JSE;
- applications by applicant issuers for the listing of securities on the JSE; and
- the annual revision of the List.

The Board of the JSE has delegated its authority in relation to the Requirements to the Director: Issuer Regulation (or his/her deputy). When a listings matter is considered by the JSE, representatives of the issuer and other advisers may accompany the relevant sponsor, any of whom may, subject to the JSE's consent, address the meeting. The JSE reserves the right to limit the number of persons attending such meetings.

## Definitions

Throughout these Requirements, unless otherwise stated or the context requires otherwise, the following terms will have the meanings set out below:

<b>Term</b>	<b>Meaning</b>
acquisition issue	an issue of securities as consideration for an acquisition of assets, excluding issues for cash
the Act	the Companies Act No.71 of 2008, as amended
acting in concert	co-operation for a common purpose by two or more persons in terms of an agreement, arrangement or understanding, whether formal or informal, between them, and associates shall be deemed to be so co-operating unless proven otherwise
admission or admitted	admission of securities to listing on the JSE
ALT <sup>x</sup>	the Alternative Exchange, a segment of the List
announce or announcement	an announcement of information on SENS in terms of the Requirements and the SENS Procedural Requirements as contained in the JSE Procedures Portal (available on the JSE website)
annual financial statements	audited financial statements complying with 11.36 and 11.37
annual general meeting	the meaning in terms of the Act
annual reports	annual financial statement and the disclosures complying with 11.38, which do not need to be presented in a single document
applicant	a new applicant, with no class of securities already listed on the JSE
applicant issuer or issuer	an issuer with securities listed on the JSE or an applicant
approved exchange	a foreign exchange approved by the JSE, in its discretion, for purposes of secondary listings on the JSE (main board and ALT <sup>x</sup> ), available on the JSE website
asset manager	the entity or individual providing management services by making recommendations regarding the strategy of the property entity including the structure of the property entity, further acquisitions and disposals and new property developments
associate	<p>A) “associate” in relation to an individual means:</p> <ol style="list-style-type: none"> <li>1 that individual’s immediate family; and/or</li> <li>2 any trust (acting through trustees or in its own capacity) or other vehicle or arrangement set up for similar purposes in which the individual or any of the individual’s immediate family is a beneficiary or may be a discretionary beneficiary or object (other than a trust that is either an occupational pension scheme, or employees’ share scheme for a wide scope of participants and the individual or the individual’s immediate family’s aggregate interests in the scheme are less than 10%); and/or</li> <li>3 any trust (acting through trustees or in its own capacity) or other vehicle or arrangement set up for similar purposes, in which the individual or any of the individual’s immediate family taken together: <ol style="list-style-type: none"> <li>(a) control 35 % or more of the votes of the trustees; or</li> <li>(b) can appoint or remove 35% or more of the trustees, or</li> <li>(c) can appoint or change 35 % or more of the beneficiaries of the trust; and/or</li> </ol> </li> </ol>

- 4 any company in whose equity securities the individual and/or any person and/or entity in A) 1 to 3 above (taken together) are directly or indirectly beneficially interested (or have a conditional or contingent entitlement to become beneficially interested) so that they are (or would on the fulfilment of the condition or the occurrence of the contingency be), able:
    - (a) to exercise or control the exercise of 35% or more of the votes able to be cast at general meetings or board meetings on all, or substantially all, matters; or
    - (b) to appoint or remove directors holding 35% or more of the voting rights at board meetings on all, or substantially all, matters; and/or
  - 5 any close corporation in which the individual and/or any member(s) in A) 1 above (taken together) are directly or indirectly interested (or have a conditional or contingent entitlement to become interested) so that they hold or control or would on the fulfilment of a condition or the occurrence of a contingency be able to hold or control:
    - (a) a voting member's interest of 35% or more in the close corporation; or
    - (b) at least 35% of the close corporation; and/or
  - 6 any partnership in which the individual and/or any person and/or entity in A) 1 to 4 above (taken together) are directly or indirectly interested (or have a conditional or contingent entitlement to become interested) so that they hold or control or would on the fulfilment of a condition or the occurrence of a contingency be able to hold or control:
    - (a) a voting interest of 35% or more in the partnership; or
    - (b) at least 35% of the partnership; and/or
  - 7 any company that is an associate of a company referred to in A) 4 above.  
 For A) 3 – 6 above, where more than one director of the same listed company is directly or indirectly beneficially interested in the relevant entity, then the interests of those directors and their associates will be aggregated when determining whether such an entity is an associate.
- B) "associate" in relation to a company means:
- 1 its subsidiary or holding company or fellow subsidiary of its holding company save that where an issuer has a holding company, the issuer's subsidiary will not be regarded as an associate of a material shareholder; and/or
  - 2 any company whose directors are accustomed to act in accordance with the company's directions or instructions; and/or
  - 3 any company in the capital of which the company, and any other company under B) 1 or 2 (taken together), is, (or would on the fulfilment of a condition or the occurrence of a contingency be), interested in the manner described in A.4 above; and/or
  - 4 any trust (acting through trustees or in its own capacity) or other vehicle or arrangement set up for similar purposes in which the company and/or any other company under B) 1 to 3 above (taken together) is a beneficiary or may be a discretionary beneficiary or object; and/or
  - 5 any trust (acting through trustees or in its own capacity) or

other vehicle or arrangement set up for similar purposes, in which the company and/or any other entity under B) 1 to 4 above (taken together) is interested in the manner described in A) 3. above.

audit firm	the partnership or incorporated company registered with the IRBA, a member of the International Forum of Independent Audit Regulators or a similar regulatory or professional body for auditors in another jurisdiction
Auditing Profession Act auditor	Auditing Profession Act No. 26 of 2005, as amended includes the audit firm and the individual auditor assigned and/or appointed to perform a statutory audit and/or review of an applicant issuer
BEE Act	the Broad-Based Black Economic Empowerment 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 person	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 relevant BEE ownership scheme; (b) as regards a juristic person having a shareholding or similar member’s interests, one who falls within the ambit of the definitions of BEE controlled company or BEE owned company, using the principles for determining control or ownership as contemplated in the BEE ownership scheme; (c) as regards any other entity, any entity similar to a BEE controlled company or BEE owned company using the principles for determining control or ownership as contemplated in the BEE ownership scheme which would enable the issuer of securities owned or controlled by such entity to claim points or obtain similar BEE recognition attributable to the entity’s ownership of the securities pursuant to the BEE Codes or applicable legislation which imposes a BEE obligation
BEE contract	the prescribed contract, comprising generic terms applicable to all applicant issuers, 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, and the proposed registered owner, if applicable, 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, and on the proposed registered owner, if applicable, in order to achieve the continued ownership of BEE securities by BEE compliant persons; (c) additional specific terms relevant to a particular applicant issuer’s BEE securities, and contained in the applicant issuer’s constitution, are reflected; 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	a juristic person, having shareholding or similar members interest, in which black participants enjoy a right to exercisable voting rights of an amount specified in the rules of the BEE ownership scheme
BEE owned company	a juristic person, having shareholding or similar members interest, that is BEE controlled, in which black participants enjoy a right to economic interest in an amount specified in the rules of the BEE ownership scheme
BEE ownership scheme	an issuer ownership scheme that (i) complies with the rules prescribed for broad-based ownership schemes as set out in Annexe 100 B of the BEE Codes and specifies the means of verification to be adopted in determining the eligibility of beneficial owners in respect of BEE securities or (ii) is governed by its own BEE scheme documents in accordance with applicable legislation which imposes a BEE obligation, to the satisfaction of the JSE
BEE SPV	a special purpose vehicle created with the specific objective of facilitating a black economic empowerment transaction
BEE verification	the verification of a BEE compliant person in respect of the applicant issuer, which verification must conclude, inter alia, that: <ul style="list-style-type: none"> <li>(a) the beneficial owner, and the proposed registered owner (if applicable) of securities is a BEE compliant person pursuant to a BEE ownership scheme of the applicant issuer;</li> <li>(b) the BEE compliant person has been advised on the necessary restrictions, limitations and requirements that are imposed by the applicant issuer on the proposed beneficial owner, and on the proposed registered owner (if applicable) in order to achieve the continued ownership of BEE securities by BEE compliant person, and</li> <li>(c) that the BEE compliant person has accepted the prevailing terms and conditions of the BEE ownership scheme</li> </ul>
BEE verification agent	an independent verification agency appointed by an applicant issuer to conduct the BEE verification
beneficial	has the meaning of the definition of beneficial interest in the Act, and the terms ‘beneficially interested’, ‘held beneficially’, ‘beneficial interest holder’, ‘beneficial shareholders’ and ‘beneficial owner’ must be interpreted in this context
business day	any day other than a Saturday, Sunday and public holiday
capitalisation issue	an issue of fully paid shares capitalised from an issuer’s share premium, capital redemption reserve fund or reserves, or from a combination thereof, to existing shareholders of the issuer in proportion to their shareholdings at a specific date
cash company	an issuer, other than an investment entity in terms of the Requirements, whose asset/s, to the satisfaction of the JSE, consist/s wholly or mainly of cash due to it having disposed of all or most of its business/es, or having otherwise ceased to have a business of sufficient substance to support its market capitalisation (generally the issuer will be expected to have cash of at least R5 million)
category 1 or 2 transaction	a transaction, principally an acquisition or disposal by an issuer, in terms of Section 8
central securities	has the same meaning as that contained in section 1 of the

depository	FMA. For the purposes of these Requirements, any reference to the "central securities depository" means a central securities depository as identified by the JSE in the JSE equities/interest rate directives
children	includes any child, step child, adopted child, who has not reached the age of 18 years, and any person under the guardianship of the individual
circular	a document issued to holders of listed securities by an issuer prepared in terms of the Requirements, including notices of meetings
CIS Registrar	the Financial Sector Conduct Authority, as the responsible entity
CISIP	a collective investment scheme in property
claw back offer	a pre-placed rights offer where securities are issued for cash by an applicant issuer, which are then offered to the applicant issuer's shareholders, <i>pro rata</i> their existing holdings, in the form of a right whereby shareholders can "claw back" their right to subscribe for such securities
completed	in relation to a SPAC, the completion of an acquisition of viable assets, meaning that the acquisition has become unconditional and the assets have transferred to the SPAC
closed period	<ul style="list-style-type: none"> <li>(a) the date from the financial year end up to the date of earliest publication of the condensed financial statements, summary financial statements or annual financial statements;</li> <li>(b) the date from the expiration of the first six month period of a financial year up to the date of publication of the interim results;</li> <li>(c) the date from the expiration of the second six month period of a financial year up to the date of publication of the second interim results, in cases where the financial period covers more than 12 months (refer to 6.45);</li> <li>(d) in the case of reporting on a quarterly basis, the date from the end of the quarter up to the date of the publication of the quarterly results; and</li> <li>(e) any period when an issuer is trading under a cautionary announcement</li> </ul>
closing price	the price determined and disseminated by the JSE, in the first instance, on the uncrossing price of the closing auction or, failing this, on the volume weighted average price of the last 10 minutes of trade prior to the closing auction or, failing this, on the last automated trade price
Commission	the Companies and Intellectual Property Commission established in terms of the Act
company	a juristic person, wherever incorporated or established, including any undertaking, association of persons or entities and any trust or similar structure, wherever established, that issues securities
company secretary	as provided in terms of the Act
condensed financial statements	reviewed financial statements for an issuer's annual reporting period complying with 11.32 and 11.34, prepared on the basis that the annual financial statements are not available
control or controlling shareholder	<p>any shareholder that, together with:</p> <ul style="list-style-type: none"> <li>1 his/her, or associates; or</li> <li>2 any other party with whom such shareholder has an agreement or arrangement or understanding, whether</li> </ul>

	formal or informal, relating to any voting rights attaching to securities of the relevant company,
	that can exercise, or cause to be exercised the specified percentage, as defined in the Regulations, or more of the voting rights at general/annual general meetings of the relevant company, or can appoint or remove, or cause to be appointed or removed, directors exercising the specified percentage or more of the voting rights at directors' meetings of the relevant company
convertible securities	securities that are convertible into or exchangeable for other equity securities or options to subscribe for or purchase other equity securities
corporate action	an action taken by an issuer or any other entity or third party which affects the holders of securities in terms of entitlements or notifications
corporate action timetables	the corporate action timetables of the JSE available on the JSE website
CP	in relation to exploration and mining, a competent person as defined in the SAMREC code
CPR	the public report prepared on mineral assets and projects by a CP in compliance with Section 14, the SAMREC code and the SAMVAL code
CSDP	Central Securities Depository Participant
CV	in relation to exploration and mining, a competent valuator as defined in the SAMVAL code
DA	a designated adviser required for ALT <sup>X</sup> applicant issuers
day(s)	any day of the week, being calendar days
depository	means a bank or entity acceptable to the JSE, that issues DRs representing the securities of an issuer or underlying reference entity that are held in trust or other acceptable vehicle, by the depository, in the issuer or underlying reference entity's local market. The depository may also act as a registrar, transfer agent and corporate actions agent and may cancel or issue the DRs for withdrawal or for deposit of the securities, all in accordance with a deposit agreement with the issuer for a sponsored program, or in accordance with unsponsored terms and conditions for an unsponsored program
depository receipt or DR	means an instrument representing an underlying entity's equity securities, where the instrument confers rights in respect of such equity securities
director	as defined in section 1 of the Act and in relation to an entity that is not a company, a person with corresponding powers and duties
dilutive scheme	means any share incentive scheme involving the issue of equity securities by the issuer
DR issuer	in relation to (i) sponsored DRs, means a company that has been admitted to listing, or which is the subject of an application for admission to listing, on an approved exchange and (ii) unsponsored DRs means the depository
DSS Requirements	the JSE Debt and Specialist Securities Listings Requirements, as amended
enhanced voting process	in relation to a weighted voting share structure, a voting process in a general meeting of the applicant issuer, where votes are cast on the basis that one weighted voting share is limited to one vote
escrow	in relation to a SPAC, escrow or similar custodial arrangement to the satisfaction of the JSE to safeguard the capital for the

	protection of investors as prescribed by the JSE
equity instruments	securities with restricted voting rights but which participate in the distribution of profits in a manner directly linked to the profitability of the company
equity securities	equity shares, securities convertible into equity shares and equity instruments
equity share capital	an issuer's share capital, excluding any convertible securities, equity instruments and any other securities which are regarded as debt instruments in terms of IFRS or the Act
equity shares	shares that comprise a company's equity share capital and which carry votes
exploration	the searching or prospecting for any mineral, excluding oil and gas activities and mining
extended family	the parents, siblings (including step and half siblings) and major children of the individual together with each such party's spouse (if applicable). Major child means a child of at least 18 years old;
failed the REIT tax test	where the issuer was granted REIT status by the JSE, but on assessment by the South African Revenue Service did not qualify for a tax deduction of distributions under section 25BB(2) of the Tax Act
gearing ratio	the total consolidated liabilities divided by total consolidated assets
FMA	the Financial Markets Act No.19 of 2012, as amended
fully covered	in relation to DRs, that the DRs must at all times represent the issuer's underlying securities held by the depository or its custodian, or any collateral held in terms of any pre-release arrangement
group	a holding company, not itself being a wholly owned subsidiary, together with all companies which are its subsidiaries, if any
headline earnings	as defined and calculated in accordance with the circular titled Headline Earnings issued by SAICA, as amended from time to time
hours	hours during the course of a business day
immediate family	an individual's spouse and children (including the spouse's children)
individual auditor	an individual registered with the IRBA or similar regulatory or professional body for auditors in another jurisdiction, who is a director or partner of an audit firm
interim results	financial statements for the periods referred to in 6.45, complying with 11.33 and 11.34
International Financial Reporting Standards or IFRS	the International Financial Reporting Standards formulated by the International Accounting Standards Board
International Standards on Auditing or ISA	the International Standards on Auditing formulated by the International Auditing and Assurance Standards Board
introduction	a method of bringing securities to listing not involving an issue of new securities or any marketing of existing issued securities because the free float listing criteria has been met
investment entities	investment companies, investment trusts and unit trusts whose principal activity is investment in securities
IRBA	the Independent Regulatory Board for Auditors, a body established in terms of the Auditing Profession Act, responsible for the registration and regulation of registered auditors in the Republic

issued share capital	the portion of the share capital of an issuer that has been subscribed for by shareholders
issuer's weblink	the exact URL where the information is available on the issuer's website, which URL must be included in the results announcement
JSE	a company duly registered and incorporated with limited liability under the company laws of the Republic under registration number 2005/022939/06, licensed as an exchange under the FMA
JSE cloudlink	the specified URL designated by the JSE where the results are uploaded on the JSE cloud, which URL must be included in the results announcement
JSE Forms Portal	a portal available on the JSE website
King Code	the King Code on Corporate Governance for South Africa, as amended
LAs	in relation to a renounceable right, forms of instruction in respect of letters of allocation
the List	the list maintained by the JSE of securities admitted to listing
local exchange	an exchange in the Republic of South Africa approved in terms of the FMA
listing or listed	the admission of securities to the List
main board	all securities listed on the main board of the List, classified as either in the prime or general segment, which meets the requirements in Section 2
major shareholder	a person who holds beneficial interests equal to or in excess of 5% of the total number of securities of that class issued by the company, together with the extent of those beneficial interests
major subsidiary	a subsidiary that represents 25% or more of total assets or revenue of the consolidated group based on the latest published interim or year-end financial results
market value	in relation to a listed security, the traded or trading price
material	information that if omitted or misstated, could influence the economic decisions of users and includes a change in, or constituent of, a particular factor that may be regarded in the circumstances as being material and that would normally be equal to or exceed 10%
material shareholder	any party, entitled to exercise or control the exercise of 10% or more of the votes able to be cast on all or substantially all matters at general/annual general meetings of the issuer, or any other company that is its holding company
mining	any excavation of the earth, including any portion under water, any tailings, and any borehole for the purpose of extracting a mineral or the use of any mineral deposit in any other manner, excluding oil and gas activities
modified auditor's report	an auditor's report that contains a modified opinion or conclusion (as defined or contemplated by the relevant standard issued by the International Auditing and Assurance Standards Board), a paragraph on material uncertainty relating to going concern, an emphasis of matter paragraph or a paragraph regarding a reportable irregularity as defined in the Auditing Profession Act
MOI	as provided for in the Act or if a foreign applicant issuer an equivalent document constituting or defining the constitution of a company
net asset value	total assets minus total liabilities

non-dilutive scheme	means any share incentive scheme not involving the issue of equity securities by the issuer
offer for sale	an invitation by, or on behalf of, a third party to purchase securities of the issuer already in issue, or to be issued, and may be in the form of an invitation to tender at a stated price
offer for subscription	an invitation, or on behalf of, an issuer to subscribe for securities of the issuer not yet in issue or allotted, and may be in the form of an invitation to tender at a stated price
oil/gas activities	oil and gas activities in terms of the SAMOG code
open market	dealings on the JSE trading system without any prior agreement
operational net income	the annual rental income less any expenses directly attributable to that property (including property management fees) but before interest, head office costs, any general management fees or taxation
ordinary voting share	in relation to a weighted voting share structure, a share that carries one vote
the Panel	the Takeover Regulation Panel established in terms of the Act
pari passu	means - <ul style="list-style-type: none"> <li>(a) are in all respects identical;</li> <li>(b) are of the same nominal value, and that the same amount per security has been paid up;</li> <li>(c) carry the same rights as to transfer, attendance and voting at annual/general meetings and in all other respects; and</li> <li>(d) are entitled to the same dividends for the same period</li> </ul>
placing	a marketing of securities already in issue but not listed, or not yet in issue, to specified persons or to any securities house assisting in the placing, that does not involve an offer to the public or to existing holders of the applicant's securities generally. A placing includes a preferential placing
PLS	listing particulars prepared in terms of the Requirements, which can also be a prospectus
practice notes	practice notes issued by the JSE
pre-issued securities	entitlements to securities the listing of which on the JSE has been approved but where the listing becomes effective only after a number of conditions have been fulfilled on or before the commencement date of official trading, in terms of Schedule 6
pre-issued trading	transactions effected in pre-issued securities in terms of Schedule 6
preference shares	securities that: <ul style="list-style-type: none"> <li>(a) have voting rights at annual/general meetings, in relation to items that will affect their terms and conditions; and</li> <li>(b) will not return the initial capital investment to the preference shareholder, at a predetermined date</li> </ul>
prescribed officer	as defined in the Act or a person with a similar designation as a prescribed officer if the applicant issuer is not incorporated in South Africa
property	freehold and leasehold immovable property, being land and the things attached to the land that cannot be moved from one place to another without damage or change of form
property entity	an entity primarily engaged in property activities, being: <ul style="list-style-type: none"> <li>(a) holding of property as an investment to earn rental and/or for capital appreciation; or</li> <li>(b) development of property to be held as an investment</li> </ul>
price sensitive	unpublished information that is specific or precise, which if it

information	were made public, would have a material effect on the price of the issuer's securities. Apply Practice Note 2/2015
price stabilisation	price stabilisation in terms of Schedule 6
primary listing	the exchange where the primary listing of the issuer is maintained, which exchange will act as the primary regulator and apply its full listings requirements;
prohibited period	means: <ul style="list-style-type: none"> <li>(a) a closed period; and</li> <li>(b) any period where price sensitive information exists in relation to the issuer's securities</li> </ul>
promoter	the party responsible for the formation of a company to be listed, or acquired by an existing issuer, and who earns a fee therefrom, in cash or otherwise
prospectus	a prospectus in terms of the Act
public shareholder	securities will not be regarded as being held by the public if they are beneficially held, whether directly or indirectly, by – <ul style="list-style-type: none"> <li>(a) the directors of the applicant issuer or of any of its major subsidiaries;</li> <li>(b) an associate of the applicant issuer and/or of any of its major subsidiaries;</li> <li>(c) an associate of a director of the applicant issuer or of any of its major subsidiaries;</li> <li>(d) the extended family of a director of the applicant issuer, as applied to the best of his/her knowledge;</li> <li>(e) the trustees of any employees' share scheme or pension fund established for the benefit of any directors or employees of the applicant or any of its subsidiaries;</li> <li>(f) a prescribed officer of the applicant issuer;</li> <li>(g) the controlling shareholder/s; or</li> <li>(h) any person where restrictions on trading in the issuer's listed securities, in any manner or form, are imposed by the applicant issuer for a period exceeding six months from the listing date</li> </ul>
publish/ed or publication	refer to the definition of "announce"
pyramid company	where an issuer – <ul style="list-style-type: none"> <li>(a) exercises more than 50% of the total voting rights of the equity securities of a listed company ("listed controlled company");</li> <li>(b) derives 75% or more of its total attributable income before tax from such listed controlled company, or the value of its shareholding in the listed controlled company represents more than 50% of its gross assets, with both measured, as far as possible, at fair value; and</li> <li>(c) is unable to demonstrate to the JSE that it has: <ul style="list-style-type: none"> <li>(i) a business of substance; or</li> <li>(ii) a business that may qualify for listing, in its own right, without the interest held in the listed controlled company</li> </ul> </li> </ul>
QRE	a qualified reserve evaluator in terms of the SAMOG Code
QRE report	the public report prepared on oil/gas assets and projects by an independent QRE in compliance with Section 14 and the SAMOG code
ratio	basis of share entitlement reflected as a ratio
redemption right	in relation to a SPAC, a right afforded only to the shareholder/s who voted against the proposed acquisition of viable assets, to

	elect to redeem securities and receive a <i>pro rata</i> portion of the amount in cash held in escrow, provided the acquisition of viable assets is approved within the prescribed period
reference price	the last auction or automated trade price, whichever is the most recent, or in the absence of an auction or last trade price, a price as determined by the JSE
Regulations	the Companies Regulations 2011, as amended
REIT	Real Estate Investment Trust which receives a REIT status in terms of the Requirements read with definition of a REIT in terms of section 1(1) of the Tax Act
related party	a related party as defined in Section 9
rentable area	the total space of a property that can be rented and for a building it is as determined in terms of the South Africa Property Owners Association guidelines
rental revenue	group revenue received for the use of property, rental guarantees and dividends received from another REIT that is not consolidated in the group accounts, which is classified as: <ul style="list-style-type: none"> <li>(a) contracted, if the agreement has not expired;</li> <li>(b) near-contracted, if the agreement has expired but there is a reasonable expectation of renewal;</li> <li>(c) uncontracted, if neither (a) nor (b) above applies; and</li> <li>(d) short-term, if the period specified in the agreement, excluding automatic renewals, is for a period less than 18 months</li> </ul>
renounceable offer	an offer by an applicant issuer to its shareholders to subscribe by way of rights for securities through the issue of a renounceable LA, traded as either “fully paid” or “nil paid” rights, where the listed company has received the right to subscribe for those securities (usually the listed company’s subsidiary) but renounces all or part of that right to its shareholders pro rata to their shareholdings
Republic	Republic of South Africa
Requirements	the JSE listings requirements, as amended, including Schedules and Practice Notes, but excluding the Introduction
restrictive funding arrangements	any funding arrangement by way of a loan or otherwise in terms of which the applicant issuer and/or any of its subsidiaries– <ul style="list-style-type: none"> <li>(a) have to obtain the prior consent from the funding provider in order to undertake certain specified events; and</li> <li>(b) do not have the ability to settle the relevant funding arrangement in full, at any time, at the election of the applicant issuer and/or any of its subsidiaries, as the case may be</li> </ul>
results	condensed financial statements, summary financial statements, annual financial statements, annual reports, interim results, quarterly results
results announcement	announcement of results in terms of 6.50
reverse takeover	an acquisition where the categorisation is 100% or more and will result in– <ul style="list-style-type: none"> <li>(a) a fundamental change in the business;</li> <li>(b) a change in the board (changes of 35% or more); or</li> <li>(c) a change in control,</li> </ul> which events will be treated as a new listing
rights offer	an offer by an applicant issuer to existing shareholders to subscribe for further securities <i>pro rata</i> their existing holdings by means of the issue of (i) a renounceable right or (ii) a non-

	renounceable right
RLP	revised PLS prepared in terms of the Requirements complying with the provisions of a PLS
SA financial reporting requirements	Financial Pronouncements as issued by the Financial Reporting Standards Council and SAICA Financial Reporting Guides as issued by the Accounting Practices Committee
SAICA	the South African Institute of Chartered Accountants
SAMOG code	the South African Code for the Reporting of Oil and Gas Resources, including any guidelines contained therein, as amended, available at <a href="http://www.samcode.co.za">www.samcode.co.za</a>
SAMREC code	the South African Code for the Reporting of Exploration Results, Mineral Resources and Mineral Reserves, including any guidelines contained therein, as amended, available at <a href="http://www.samcode.co.za">www.samcode.co.za</a>
SAMVAL code	the South African Code for the Reporting of Mineral Asset Valuation including any guidelines contained therein as amended, available at <a href="http://www.samcode.co.za">www.samcode.co.za</a>
scrip dividend	a cash dividend incorporating an election on the part of shareholders to receive either shares or cash
secondary listing	once an applicant is secondary listed on the JSE, it will be required to comply with the listings requirements of the exchange where it has its primary listing and comply with Sections 2 and 3 of the Requirements;
securities	as defined in the FMA
SENS	the Stock Exchange News Service
significant	any matter or element that is significant for the purpose of making an informed assessment of any transaction or listed security. Significant should be interpreted as being less than material
significant properties	being those that individually account for 3% or more of the rental revenue or value of the property portfolio
solvency and liquidity test	the test set out in section 4 of the Act
South African company	a company incorporated in terms of the Act
SPAC	a special purpose acquisition company, established for the purpose of facilitating the primary capital raising process to enable the acquisition of viable assets in pursuit of a listing on the main board or the ALT <sup>x</sup>
special resolution	a resolution as contemplated in Section 65(9) of the Act or in terms of the relevant company's MOI, which special resolution may, for purposes of the Requirements, be passed only with the support of at least 75 percent of the votes cast by all equity securities holders present in person, or represented by proxy, at the general meeting/annual general meeting convened to approve such resolution
sponsored DR	that the DR is established at the direction of the issuer and in accordance with a deposit agreement between the issuer and the depositary
spouse	a person who is in a marital relationship (recognised as a marriage in terms of the matrimonial laws of any country) with the individual at the time of the relevant transaction, including but not limited to, the individual's spouse in terms of a same sex, hetero-sexual or customary union or any marital union acknowledged by any religion or custom
SSC	the SAMCODES Standards Committee
statement of	as described in IFRS

comprehensive income statement of financial position	as described in IFRS
subsidiary	a subsidiary as defined in section 1 of the Act as read with section 3 of the Act, or a juristic person or other undertaking which would have been a subsidiary company as defined in section 1 of the Act had the juristic person or other undertaking been a company, or a juristic person or other undertaking that would have been a subsidiary as defined in section 1 of the Act but for the fact that it is incorporated outside of the Republic
substantial	a change in or a constituent of a particular factor that may be regarded in the circumstances as being substantial and that would normally be equal to or exceed 30%
substantial mineral or oil/gas assets	mining, exploration or oil/gas assets which represents, or will represent a substantial portion of the total assets or revenue or profits of an applicant issuer, where its main activities are not that of mining, exploration or oil/gas activities
summary financial statements	a summary version of the annual financial statements complying with 11.32 and 11.34, prepared for the purposes of 6.43(b) because the annual financial statements, whilst prepared, have not yet been released on the JSE cloudlink;
Tax Act	the South African Income Tax Act No. 58 of 1962, as amended.
traded or trading price	refer to the definitions of “reference price” or “closing price”, as the case may be
treasury shares	equity shares of an applicant issuer held (a) by a subsidiary and/or (b) by a trust, through a scheme and/or other entity, where the equity shares in the applicant issuer are controlled by the applicant issuer from a voting perspective, the votes of which will not be taken into account for purposes of resolutions proposed pursuant to the provisions of the Requirements
unbundling transaction	shall bear the meaning ascribed thereto in the Tax Act
unsponsored DR	the DR is established solely by the depository (without the involvement of the issuer) in accordance with unsponsored terms and conditions
vendor consideration placing	securities that are to be issued for an acquisition: (a) as marketing on behalf of vendors; or (b) to settle a vendor cash consideration
viable assets	in relation to a SAPC, the acquisition of assets by the applicant issuer that will on its own enable the SPAC to qualify for a listing on the main board or the ALT <sup>x</sup>
weighted average traded price	the total value of the securities traded divided by the total number of securities traded over a prescribed period. If the securities have not traded for the prescribed period, the JSE must be consulted
weighted voting share	in relation to a weighted voting share structure, a share that carries weighted votes but that otherwise has the same rights as an ordinary voting share
weighted voting share structure	a share structure that gives certain ordinary shareholders voting rights disproportionate to their shareholding or any other structure that achieves a similar outcome.

# Section 1

## Authority of the JSE

### Scope of Section

This Section deals with the authority of the JSE.

- 1.1 General authority of the JSE
- 1.2 General principles
- 1.3 Suspension of securities
- 1.8 Removal of listing of securities
- 1.11 Continuing obligations in relation to suspensions
- 1.12 Suspension and removal process
- 1.13 Annual compliance certificate
- 1.14 Disclosure of information
- 1.17 Penalties
- 1.21 Objections and appeals
- 1.24 Liability
- 1.26 Amendments to the Requirements

### General authority of the JSE

- 1.1 The JSE is a licensed exchange in terms of the FMA. The FMA records the JSE's licensed duties and functions, which includes its duty to make and enforce the Requirements.

### General principles

- 1.2 The general principles must always be observed in the application and interpretation of the Requirements. The general principles are to ensure:
  - (a) the existence of a market for the raising of capital, an efficient mechanism for the trading of securities, and to protect investors;
  - (b) that securities are only listed if the JSE is satisfied that it is appropriate for such securities to be listed;
  - (c) that full, equal and timeous public disclosure is made to all holders of securities and the public regarding the activities of an issuer that are price sensitive;
  - (d) that holders of securities are given full information and are afforded adequate opportunity to consider in advance and vote upon:
    - (i) substantial changes in an issuer's business operations; and
    - (ii) other matters affecting an issuer's constitution or the rights of holders of securities;
  - (e) that all parties involved in the dissemination of information observe the highest standards of care in doing so, which includes adherence to section 81 of the FMA. In this regard, any false, misleading or deceptive information or any material omission disseminated, must be remedied forthwith;
  - (f) that holders of the same class of securities are afforded fair and equal treatment in respect of their securities;
  - (g) uniform application of the Requirements, that where the Requirements require specific compliance with local statute, a foreign primary applicant issuer must comply with its foreign equivalent (where there is no such

- equivalent the JSE must be consulted); and
- (h) that the Requirements promote investor confidence in standards of disclosure and corporate governance in the conduct of applicant issuers' affairs and in the market as a whole.

### **Suspension of securities**

- 1.3 Subject to 1.11, the JSE may suspend the listing of securities if it will further one or more of the objects of the FMA, which may include:
- (a) non-compliance with the Requirements and/or sections 11(8)(c) and (d) of the FMA;
  - (b) failure to remedy the existence of two levels of information in the market;
  - (c) the issuer or any of its major subsidiaries being placed in business rescue or the winding-up/liquidation (provisional or final) of an issuer in terms of the Act, or in respect of a foreign issuer under equivalent statute;
  - (d) the Commission issuing a notice to an issuer in terms of section 22 of the Act or deregisters an issuer in terms of section 82 (3) of the Act; and
  - (e) an issuer ceasing to do business.
- 1.4 Issuers and/or sponsors must notify the JSE immediately if any events in 1.3 arise.
- 1.5 If a listing is suspended and the issuer fails to take adequate steps to enable the JSE to reinstate the listing within a reasonable period, the JSE may remove the listing.
- 1.6 In terms of section 12 (3) of the FMA, the JSE may immediately suspend the listing of an issuer's securities if the Requirements or any conditions imposed by the JSE are not complied with or if a circumstance arises which the Requirements envisage as a circumstance justifying the immediate suspension of trading, provided the immediate suspension does not exceed 30 days, which period may be extended for further periods of 30 days.
- 1.7 The JSE may impose conditions for the lifting of any suspension.

### **Removal of listing of securities**

- 1.8 Subject to 1.12, the JSE may remove the listing of securities if it will further one or more of the objects of the FMA, which may include:
- (a) non-compliance with the Requirements;
  - (b) when holders of securities have approved the removal of listing in terms of 1.10;
  - (c) when an offeror intends to remove a listing through a take-over offer in terms of section 124 of the Act or in respect of a foreign issuer under equivalent statute;
  - (d) on the completion of a scheme of arrangement in terms of sections 114 and 115 of the Act or in respect of a foreign issuer under equivalent statute, where all the securities have been acquired and the JSE is satisfied that the issuer no longer qualifies for listing; and
  - (e) the redemption of securities in accordance with their terms, provided the listing of such securities was first suspended.
- 1.9 Issuers and/or sponsors must notify the JSE immediately if any events in 1.8 arise.

- 1.10 An issuer may make application for the removal of any of its securities from the List, provided that the issuer must obtain the approval from holders of securities for the removal of listing. The following must be complied with:
- (a) a circular must be prepared in terms of Section 10 and be sent to holders of securities, stating the reason for the removal;
  - (b) the circular must include a notice of general meeting and a resolution for the removal of listing. At least 75% of the votes of all holders of the securities, present or represented by proxy at the general meeting, must cast their vote in favour of such resolution (excluding any votes from the offeror, their associates and any party acting in concert);
  - (c) a fair offer must be made to all holders of securities disclosing the full terms of the offer; and
  - (d) the board of the issuer must obtain a fairness opinion in terms of Schedule 5, which must be included in the circular, with a statement by the board confirming that the offer is fair to holders of securities of the issuer (excluding the offeror, their associates and any party acting in concert).

### **Continuing obligations in relation to suspensions**

- 1.11 If the listing of securities is suspended, the issuer must:
- (a) continue to comply with all the Requirements;
  - (b) submit a monthly progress report to the JSE providing details on its current state of affairs and any proposed steps to reinstate the listing; and
  - (c) release an announcement, on a quarterly basis, concerning its current state of affairs and any proposed steps to reinstate the listing, including the date on which the suspension is expected to be lifted.

### **Suspension and removal process**

- 1.12 When the listing of securities is under threat of suspension or removal, the JSE will, in terms of section 12 (2) of the FMA:
- (a) inform the issuer of its intention to suspend/remove;
  - (b) give the issuer the reasons for the intended suspension/removal; and
  - (c) call upon the issuer to show cause, within a period specified by the JSE, why the suspension/removal should not be effected.

### **Annual compliance certificate**

- 1.13 An issuer must submit an annual compliance certificate (available on the JSE Forms Portal), which must accompany the issuer's annual report in terms of 6.44. If the certificate is not submitted to the JSE, the JSE will on the first business day after failure to submit the certificate:
- (a) annotate the listing on the trading system with an "R" to indicate failure to comply; and
  - (b) release an announcement, advising that the issuer has not provided the JSE with the certificate and cautioning holders of securities that the issuer's listing may be under threat of suspension if the certificate is not submitted to the JSE.

### **Disclosure of information**

- 1.14 The JSE may require an issuer to disclose:
- (a) to it any information at the issuer's disposal about listed securities, or about the affairs of that issuer, if such disclosure is necessary to achieve one or more objects of the FMA; and
  - (b) that information to the holders of securities through an announcement, within a period specified by the JSE.
- 1.15 If an issuer refuses to disclose the information to the JSE or to the holders of securities, the JSE may, unless the issuer obtains a court order excusing it from such disclosure, suspend the listing of those securities until such time as the required disclosure has been made to the satisfaction of the JSE.
- 1.16 The JSE may require an applicant issuer to provide for the dissemination of any further information not specified in the Requirements, in such form and within such time limits, as it considers appropriate. If the applicant issuer fails to comply, the JSE may announce the information after affording the applicant issuer the opportunity to make representations.

## **Penalties**

- 1.17 Save for the provisions dealing with sponsors in Section 4, where the JSE finds that any applicant issuer, its director(s) and/or officer(s) (the "regulated parties") have contravened or failed to comply with the Requirements, the JSE may:
- (a) censure regulated parties individually or jointly, privately or publicly;
  - (b) impose a fine on regulated parties individually or jointly, not exceeding such amount prescribed by the FMA;
  - (c) disqualify an issuer's director(s)/officer(s) from acting in that capacity for any period;
  - (d) suspend or remove a listing of securities; and/or
  - (e) issue any other penalty that is appropriate in the circumstances.
- 1.18 For any contravention of or failure to comply with the Requirements the JSE may direct that:
- (a) full particulars regarding the imposition of a penalty may be published, with reasons, in the *Gazette*, national newspapers, the website of the JSE or through an announcement; and/or
  - (b) any party who contravenes or fails to comply with the Requirements pay the costs incurred in an investigation or hearing.
- 1.19 If any of the parties fail to pay a fine, the JSE may file with the clerk or registrar of any competent court a statement certified by it as correct, stating the amount of the fine imposed, and such statement thereupon shall have all the effects of a civil judgement lawfully given in that court against that person in favour of the JSE for a liquid debt in the amount specified in that statement.
- 1.20 The whole or any part of the fines issued in terms of 1.17 will be appropriated as follows:
- (a) external costs incurred by the JSE at its specific instance and request, in enforcing the Requirements, including but not limited to, attorney fees, senior counsel fees, forensic investigation fees and any fees that relate (direct or indirectly) to any investigative services or in support of any investigation initiated by the JSE;
  - (b) external costs incurred by the JSE to create an observance and awareness as to the interpretation and application of the Requirements in furtherance of the general principles, and the objects of the FMA; and

- (c) project costs initiated by the JSE, which are directly associated with the Requirements and fall within the sphere of research and/or analysis in financial markets regulation.

## **Objections and appeals**

- 1.21 Save for 1.22 below, an applicant issuer, director, sponsor and/or DA may object against any decision (other than a decision in respect of which a specific appeal or review procedure is prescribed in the Requirements and the FMA) taken under the Requirements by notifying the JSE within 48 hours of the decision and giving reasons for the objection. When considering the objection, the JSE may consult with at least three independent members of the Issuer Regulation Advisory Committee. The JSE's decision will be final.
- 1.22 An issuer may appeal a removal of listing decision and a sponsor/DA may appeal the removal decision from the JSE Register of Sponsors/DAs, by notifying the JSE within 48 hours of the decision and giving reasons for the appeal. The JSE will constitute the Issuer Regulation Appeal Committee in terms of the mandate issued by the JSE board, to hear the appeal.
- 1.23 Applicant issuers are referred to the appeals process in Section 105 of the FMA.

## **Liability**

- 1.24 In terms of section 72 of the FMA, the JSE, the chief executive officer, a director, official, other officer, employee or representative or any member of the controlling body or committee of a controlling body, is not liable for any loss sustained by or damage caused to any person as a result of anything done or omitted by the JSE, chief executive officer, other officer, employee, representative or member in the *bona fide* performance of an obligation or function under or in terms of the FMA or the Requirements.
- 1.25 No applicant issuer or its directors, officers or holders of securities, including nominees and an auditor shall have any cause of action against the JSE, or against any person employed by the JSE, for damages arising out of any statement or announcement made in terms of 1.18(a), unless such publication was made either grossly negligently or with wilful intent.

## **Amendments to the Requirements**

- 1.26 The JSE may amend the Requirements through public consultation and invite comments from parties who have interest in the Requirements, including issuers, investors and stakeholders for a period of at least one month. The proposed amendments and the manner of submitting comments to the JSE will be announced and published on the JSE website.
- 1.27 Once the public consultation process has been completed, the JSE will submit the proposed amendments to the Requirements, together with an explanation of the reasons for the proposed amendments, and any concerns or objections raised during the public consultation process to the Financial Sector Conduct Authority for approval in terms of section 11 (6) of the FMA.

## Section 2 New Listings

### Scope of Section

This Section deals with all equity listings:

- 2.1 Listing Criteria: General
- 2.4 Main Board
- 2.6 ALT<sup>x</sup>
- 2.8 Development Stage Company
- 2.9 Property Entities
- 2.11 Criteria for REIT status
- 2.12 Mining/Oil and Gas Companies
- 2.14 Investment Entities
- 2.16 SPAC
- 2.18 Weighted Voting Share Structure
- 2.19 Preference Shares
- 2.21 Secondary Listings
- 2.22 Fast-Track Secondary Listings
- 2.24 Dual Listed Company Structure
- 2.26 BEE Segment
- 2.27 Depositary Receipts
- 2.28 General: New Listings
- 2.50 Market Segmentation
- 2.64 General: ALT<sup>x</sup>
- 2.73 General: Weighted Voting Shares
- 2.80 Preference Shares

### Listing Criteria: General

- 2.1 New listings must be approved by the JSE, subject to compliance with the Requirements, and must comply with the corporate action timetables.
- 2.2 An applicant seeking a listing on the JSE must prepare a PLS in terms of Section 10, save for a fast-track secondary listing in terms of this Section.
- 2.3 An applicant seeking a listing on the JSE must appoint a sponsor.

### Main Board

- 2.4 An applicant seeking a listing must have:
  - (a) audited financial statements for the preceding three years, subject to the exemptions in 2.5, 2.8, 2.10, 2.13, 2.14 and 2.16 below;
  - (b)
    - (i) in respect of the most recent financial year profit of at least R15 million before tax taking account of the headline earnings adjustments on a pre-tax basis and an existing net asset value,\* excluding minority interests, of at least R50 million; or
    - (ii) it must have an existing net asset value\* excluding minority

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\* See definition of “net asset value”. Where the net asset value comprises material revaluation of assets, disclosure must be provided of the valuation amounts, valuation methodology/ies, details of the assumptions, sensitivity analysis, effective date of valuation and name of valuer. This revaluation disclosure may be incorporated by reference if already reported by the applicant.

interests of at least R500 million;

- (c) have control (at least 50% +1 of the voting shares) or a reasonable spread of direct interests (with the right to participate through voting or other rights in the management thereof) in the majority of its assets, and must have done so for a period of at least twelve months;
- (d) a minimum of 25 million issued equity shares; and
- (e) a free float, comprising 10% of each class of equity securities held by public shareholders and representing at least 100 shareholders.

2.5 Where the applicant does not comply with 2.4(a), the JSE may list the applicant, provided that:

- (a) it has audited financial statements for the preceding financial year which reported an audited profit of at least R15 million before tax taking account of the headline earnings adjustments on a pre-tax basis and an existing net asset value,\* excluding minority interests, of at least R50 million;
- (b) it can illustrate that the underlying assets/companies/subsidiaries are in a similar line of business and are interdependent/complementary to have achieved 2.5(a); and
- (c) at least one of the underlying assets/companies/subsidiaries qualify for a listing on the main board.

## **ALT<sup>x</sup>**

2.6 An applicant seeking a listing must have:

- (a) audited financial statements for the preceding financial year or prepare a profit forecast for the current financial year and for a period of 12 months thereafter. In relation to the historical financial information, applicant issuer must consider the provisions of International Auditing Standard 1 which deals with comparative information;
- (b) a net asset value, excluding minority interests, of at least R2 million;
- (c) have control (at least 50% +1 of the voting shares) or a reasonable spread of direct interests (with the right to participate through voting or other rights in the management thereof) in the majority of its assets; and
- (d) a free float, comprising 10% of each class of equity securities held by public shareholders;

2.7 The directors of the applicant and the DA must present a business plan to the ALT<sup>x</sup> Advisory Committee prior to being granted a listing. The committee will make a recommendation to the JSE as regards the eligibility of the applicant. The JSE will consider the committee's advice in granting the listing.

## **Development Stage Company**

2.8 The JSE may list an applicant on the main board that does not comply with 2.4(a) and 2.4(b)(i) provided that the applicant:

- (a) is in its development stage;
- (b) has been in existence for at least 12 months;
- (c) it has audited financial statements for the most recent financial year; and
- (d) has an existing net asset value\* excluding minority interests of at least R500 million.

## Property Entities

- 2.9 An applicant seeking a listing must comply with the listing criteria for the main board or the ALT<sup>x</sup>.
- 2.10 The JSE may list an applicant that does not comply with 2.4(a) and 2.4(b) provided that the applicant has an existing net asset value,\* excluding minority interests, of at least R50 million and produces a forecast in terms of Section 13 reflecting forecast profit of at least R15 million before tax taking into account the headline earnings adjustments on a pre-tax basis provided that:
- (a) contracted and near-contracted rental revenue account for 75% of rental revenue in each of the periods; and
  - (b) for short-term rental revenue, the board confirms that:
    - (i) the properties have generated rental revenue for the immediate preceding two years; and
    - (ii) for the last financial year, based on audited financial information, the properties generated at least R15 million profit before taxation, after taking into account the headline earnings adjustments on a pre-tax basis.

## Criteria for REIT status

- 2.11 In order to be granted REIT status an applicant issuer must:
- (a) be a property entity with a primary listing on the JSE;
  - (b) comply with the listing criteria of:
    - (i) the main board; or
    - (ii) ALT<sup>x</sup>, provided it shows R8 million profit before taxation after taking into account pre-tax headline earnings adjustments and that any forecast complies with 2.10(a) and (b);
  - (c) control the majority of its assets (50%+ 1 of the voting shares);
  - (d) reflect R300 million of gross assets and 75% rental revenue in its:
    - (i) latest audited or reviewed consolidated financial statements; or
    - (ii) its pro forma statement of financial position in terms of 13.10 and forecast in terms of 13.8 if these reflect more recent information;
  - (e) provide the confirmation in 13.26 and an undertaking to comply with 13.27; and
  - (f) apply 13.34 if its REIT status was previously removed.

## Mining/Oil and Gas Companies

- 2.12 Subject to 2.13, an applicant seeking a listing must comply with the listing criteria for the main board or the ALT<sup>x</sup>.
- 2.13 If an applicant does not comply with 2.4(a) and (b), it will still qualify for listing provided that the applicant has an existing net asset value,\* excluding minority interests, of at least R50 million.

## Investment Entities

- 2.14 The JSE may list an applicant on the main board if it does not comply with 2.4(a), (b) and (c), provided the applicant complies with the following:
- (a) it is an investment entity;

- (b) it has audited financial statements for the most recent financial year;
- (c) must have a net asset value,\* excluding minority interests, of at least R500 million;
- (d) if listing with an existing portfolio, it must have a reasonable spread of direct interests in the majority of its assets and must have done so for a period of at least twelve months; and
- (e) its investment manager/s have sufficient and satisfactory experience in the management of the types of investment in which the investment entity proposes to invest, to the satisfaction of the JSE.

2.15 The applicant seeking a listing on the ALT<sup>x</sup> must have a net asset value,\* excluding minority interests, of at least R50 million, and comply with 2.14(d) and (e).

## **SPAC**

2.16 An applicant seeking a listing on the main board is not required to comply with 2.4 above provided that the applicant:

- (a) has a net asset value\* excluding minority interests, of at least R500 million;
- (b) does not carry on any commercial and/or business operations at the time of application of listing to the JSE; and
- (c) evidences that the directors collectively have appropriate experience and track record to complete the acquisition of viable assets in terms of the acquisition criteria. The requisite collective experience and track record, includes having:
  - (i) sufficient and relevant technical and commercial experience, and expertise;
  - (ii) established track record in relevant operating industry and business activities including –
    - (a) specific contributions to business growth and performance;
    - (b) the ability to manage relevant business operations risks; and
    - (c) the ability to identify and develop acquisition opportunities; and
  - (iii) established corporate governance and regulatory compliance history.

2.17 An applicant seeking a listing on the ALT<sup>x</sup> is not required to meet 2.6 above and must:

- (a) have a net asset value,\* excluding minority interests, of at least R50 million; and
- (b) comply with 2.16(b) and (c).

## **Weighted Voting Share Structure**

2.18 An applicant seeking a listing on the main board must:

- (a) comply with the main board listing criteria in 2.4;
- (b) ensure that each weighted voting share shall not carry more than 20 votes per share and the ratio cannot be increased; and
- (c) comply with the governance arrangements in 2.75.

A weighted voting share structure is not available on ALT<sup>x</sup>.

## **Preference shares**

- 2.19 An applicant seeking a listing on the main board of its preference shares must comply with the listing criteria for the main board, save for 2.4(d) and (e). The listing of preference shares is not available on ALT<sup>X</sup> in terms of this provision.
- 2.20 An issuer already listed on the main board or the ALT<sup>X</sup> may seek a listing of preference shares provided it has a free float, comprising 10% of each class of preference shares held by public shareholders.

## **Secondary Listings**

- 2.21 An applicant seeking a secondary listing on the main board or the ALT<sup>X</sup> must:
- (a) comply with the listing criteria for the main board or the ALT<sup>X</sup>. The criteria for listing must be read with due regard to the jurisdiction in which the applicant is incorporated and the listing criteria of the primary exchange; and
  - (b) have a primary listing on an approved exchange or local exchange in terms of 3.13, and on an equivalent board to that for which listing is being sought on the JSE.

## **Fast-Track Secondary Listings**

- 2.22 An applicant seeking a fast-track secondary listing, must have its securities primary listed on an approved exchange for at least 12 months, prior to applying for listing on the main board or the ALT<sup>X</sup>.
- 2.23 For a fast-track secondary listing application for the ALT<sup>X</sup>, a business plan need not be prepared but the board and DA must prepare a presentation for the ALT<sup>X</sup> Advisory Committee dealing with a general overview of the applicant, including operations and industry, strategy and prospects, financial position, performance and regulatory environment. The latest audited financial results/annual report must be sent in advance to the JSE. The committee will make a recommendation to the JSE as regards the eligibility of the applicant. The JSE will consider the committee's advice in granting the listing.

## **Dual Listed Company Structure**

- 2.24 A dual listed company structure ("DLC structure") is an aggregated group, with combined businesses, accounted for under two separately listed companies that can demonstrate that they participate in the control of the combined business through a formal agreement or such other mechanisms acceptable to the JSE.
- 2.25 All companies comprising the DLC structure must have a primary or secondary listing on the main board in terms of this Section.

## **BEE Segment**

- 2.26 An applicant seeking a listing must comply with Schedule 7.

## **Depository Receipts**

- 2.27 An applicant seeking a listing must comply with Schedule 8.

## **General: New Listings**

### **Introduction**

- 2.28 The applicants below seeking a listing must also comply with the relevant Sections/Schedules in the Requirements:
- (a) Dual Listings (Section 3);
  - (b) Property Entity (Section 13);
  - (c) Mining and Oil Gas (Section 14),
  - (d) Investment Entity and SPACs (Section 15);
  - (e) BEE Segment (Schedule 7); and
  - (f) Depositary Receipts (Schedule 8).
- 2.29 An applicant may use any of the methods of listing in Section 10, when seeking a listing on the JSE.

### **Corporate Governance**

- 2.30 Applicants must comply with the corporate governance provisions in terms of Section 5.

### **Financial information**

- 2.31 Applicants must appoint an auditor in terms of Section 6.
- 2.32 Applicants must comply with the financial information provisions in terms of Section 11, save as otherwise stated in terms of the above listing criteria. The latest results must have been reported on by the auditor without qualification, disclaimer, adverse audit opinion or the inclusion of a paragraph on material uncertainty relating to going concern. If the listing criteria does not specify the need for a profit history, an audited statement of financial position must be presented.

### **MOI and Share Incentive Scheme**

- 2.33 The MOI and dilutive schemes must be approved by the JSE in terms of Schedule 2 and 9. Incentive schemes for secondary listings do not require JSE approval.

### **Directors' experience and conflicts**

- 2.34 The directors and senior management of an applicant must collectively have appropriate expertise and experience for the governance and management of the applicant and the group's business.
- 2.35 The applicant must submit the director's declarations in term of Schedule 1 in respect of each of its directors to the sponsor and JSE. The applicant must ensure that each of its directors are free of any conflict of interests between their duties to the company and private interests.

### **Applicant to be duly incorporated**

- 2.36 The applicant must be duly incorporated or otherwise validly established under the laws of the country of incorporation, and must be operating in conformity with its MOI, if not South African, and all laws of its country of incorporation.
- 2.37 An applicant seeking a listing on the JSE must contractually undertake to the JSE, by completing an application for a new listing (available on the JSE Forms Portal), that from the listing date of its securities it will comply fully with all the Requirements, irrespective of the jurisdiction in which the applicant is incorporated.

### **Transferability of securities**

- 2.38 Securities for which listing is sought must be fully paid up and, unless otherwise required by statute, be freely transferable. The JSE will not list shares that are not fully paid for upon listing. An applicant that is proposing any form of restricted transferability must consult the JSE.

### **Status of securities**

- 2.39 Securities for which a listing is sought must be issued in terms of the laws of the applicant's country of incorporation and in terms of the applicant's MOI, if not South African. All authorisations needed for their creation and issue under such laws must have been obtained.
- 2.40 Securities in each class for which listing is applied must rank *pari passu* in respect of all rights.

### **Whole class to be listed**

- 2.41 An application for listing of securities must be for all the securities of that class.

### **Unlisted securities**

- 2.42 Where shareholders are required to vote in terms of the Requirements, the votes of unlisted securities will not be taken into account in determining either a quorum or for approval of any resolution considered at any general meeting. This provision will not apply to ordinary shares and any special shares created for the purposes of black economic empowerment in terms of the BEE Act and BEE Codes.

### **Low and high voting securities**

- 2.43 Save for weighted voting shares, the JSE will not allow an issuer to issue low or high voting securities.
- 2.44 Where an issuer had listed low or high voting securities prior to 17 July 2023 (the date of the incorporation of weighted voting shares into the Requirements), the JSE will grant a listing of additional securities of that class.

### **External Companies**

- 2.45 Where appropriate, an applicant must be registered as an external company in terms of the Act before making application for a listing on the JSE. An applicant must obtain a legal opinion as to whether it is required to register as an external company. A copy of this legal opinion must be submitted to the JSE on application for listing.
- 2.46 An external company with a listing on the JSE must appoint and maintain, whilst listed, a person authorised to accept service of due process and notices on its behalf in the Republic and must notify the JSE of such appointment or termination. In the event of termination, another person must immediately be appointed. The following must be submitted to the JSE in respect of the appointee:
- (a) the name and business address;
  - (b) the service address;
  - (c) business telephone number and email;
  - (d) any change in the above particulars.

### **Transfer secretaries or a receiving and certification office and central securities**

## **depository relationship**

- 2.47 All applicant issuers must:
- (a) with respect to the certificated environment, maintain a transfer secretary or a receiving and certification office. All certifications must be completed within 24 hours of lodgement; and
  - (b) with respect to the dematerialised environment, be approved by the central securities depository and comply with the central securities depository rules.

## **Pyramid company**

- 2.48 The JSE will not grant a listing to a pyramid company, whether a primary or a secondary listing.

## **SARB Approval**

- 2.49 Applicants must obtain approval from the Financial Surveillance Department of the South African Reserve Bank as required in terms of Section 12.

## **Market Segmentation**

### **General**

- 2.50 The main board is segmented through the classification of issuers, with a listing on the main board, to either the prime segment or the general segment.
- 2.51 The general segment affords issuers with a main board primary listing with different application of certain provisions of the Requirements.
- 2.52 The default position for all main board issuers is classification in the prime segment. Only issuers not included in the FTSE/JSE All Share Index are eligible for inclusion in the general segment.

### **General segment classification: new listing**

- 2.53 An applicant issuer may apply for a listing in the general segment.
- 2.54 The JSE will, in consultation with the JSE Indices Department, determine the likelihood of the applicant being included in FTSE/JSE All Share Index in the near future. The determination will be based on various indicators, such as expected market capitalisation, including any published market capitalisation on a licensed exchange, free float, expected split of shares on the domestic share register and the FTSE/JSE All Share Index exclusion rules.

### **General segment classification: existing issuers**

- 2.55 An application for inclusion in the general segment must be approved by the JSE.
- 2.56 Once approved, an issuer will be included in the general segment from the date of approval of the application.
- 2.57 The issuer must release an announcement once classified in the general segment, which must include:
- (a) the effective date; and
  - (b) a summary of the market segmentation provisions in 2.63.
- 2.58 An applicant issuer must prominently include a statement on the cover page of its notice of meetings, circulars, annual reports and announcements that the

applicant issuer is classified in the general segment.

### **Reclassification**

- 2.59 An issuer in the general segment may at any time, on application to the JSE, seek re-classification to the prime segment. The proposed effective date of re-classification must be included in the application.
- 2.60 If an issuer in the general segment is included in the FTSE/JSE All Share Index for a period of twelve months in accordance with the FTSE/JSE All Share Index bi-annual reviews, such issuer will no longer be eligible for the general segment. The JSE will reclassify the issuer in the prime segment with a specified effective date, subject to a six month notice period. An issuer may request an earlier effective date.
- 2.61 The issuer must release an announcement once reclassified, including the effective date. The provisions in 2.63 cease to apply on the effective date of reclassification to the prime segment.
- 2.62 An issuer will only be eligible to reapply for the general segment, once it falls outside of the FTSE/JSE All Share Index for a period of at least 12 months in accordance with the FTSE/JSE All Share Index bi-annual reviews.

### **General Segment**

- 2.63 Subject to the MOI of an applicant issuer and the Act, the following provisions apply to the general segment:
- (a) 6.43: The obligations to release a results announcement dealing with condensed financial statements or annual financial statements/summary financial statements within three months do not apply;
  - (b) 7.38: A general authority to issue shares for cash does not require shareholders' approval, provided it does not exceed 10% of the issuer's issued share capital, as at the date of each annual general meeting.

The following provisions apply to this authority:

- (i) the validity of any existing general authority provided under the prime segment must be extinguished before this provision can be applied; and
- (ii) the issuer must disclose in each notice of annual general meeting:
  - (aa) the nature and extent of the rolling general authority; and
  - (bb) the number of shares issued under this authority during the previous 12 months, if applicable;
- (c) 7.77: In respect of a specific authority to repurchase securities from parties other than related parties, no shareholders' approval is required provided it does not exceed 20% of the issuer's share capital in any one financial year;
- (d) 7.84: In respect of a general authority to repurchase securities, no shareholders' approval is required. The validity of any existing authority provided under the prime segment must be extinguished before this provision can be applied;
- (e) 10.3: A PLS must be prepared where 100% or more of the securities already listed are issued for an acquisition over any three-month period;
- (f) 11.9: The preparation of pro forma financial information is not required for transactions and corporate actions, but rather a detailed narrative must be provided on the impact of the transaction/corporate action on the financial statements, which must at least include:

- (i) an explanation of how the transaction/corporate action will be treated from an IFRS perspective;
  - (ii) impact on debt and cash levels; and
  - (iii) anticipated changes to number of shares in issue.
- (g) Section 8: Shareholders' approval and a circular are not required for transactions by a subsidiary that is listed on the JSE;
  - (h) 8.4(b): The category 1 percentage ratio is 50% or more, which increases the category 2 threshold accordingly;
  - (i) Definitions: The material shareholder definition percentage ratio is 20%;
  - (j) 9.3: The small-related party transaction percentage ratio is less than or equal to 10%, but exceeds 3%; and
  - (k) 11.1(c): In relation to a new listing, an applicant issuer is not required to prepare and disclose historical financial information of any acquisition or disposal effected in the current or preceding financial year.

The provisions above have the specified different application to the general segment as stated and the remainder of the provisions of the paragraph/Section continue to apply.

### **General: ALT<sup>X</sup>**

- 2.64 Applicant issuers must comply with the Requirements in all respects, unless otherwise stated.
- 2.65
  - (a) ALT<sup>X</sup> is a market for small to medium companies that are in a growth phase and applicants that comply with the listing criteria for the main board or any other sector will not generally be granted a listing on ALT<sup>X</sup> and the JSE reserves the right to request such applicants to route their applications to the main board; and
  - (b) when an ALT<sup>X</sup> issuer complies with the listing criteria of the main board, the JSE may transfer the listing to the main board or the issuer can make application for transfer.
- 2.66 The following applies to the applicant:
  - (a) it must appoint a DA; and
  - (b) the directors of the applicant must have completed the ALT<sup>X</sup> Directors Induction Programme ("DIP") or must make arrangements for completion to the satisfaction of the JSE to complete it.

### **PLS**

- 2.67 Applicants must comply with all the provisions for a PLS in Section 10, with the exception that the percentage for RLP in 10.3 is 100%.

### **Announcements**

- 2.68 Announcements must be released on SENS only.

### **Corporate actions**

#### **Issues for cash**

- 2.69 The general issue of shares for cash threshold in 7.38(c) is 50%.

#### **Transactions**

- 2.70 The following applies to transactions:

- (a) the category 1 threshold in terms of 8.4(b) is 50% or more; and
- (b) the category 2 threshold in terms of 8.4(a) is 5% or more but less than 50%.

### **Related party transactions**

2.71 The following applies to related party transactions:

- (a) the related party transaction exemption in 9.1(c)(ii) is 10% and below;
- (b) the small related party transaction thresholds in 9.3 is between more than 10% and below 50%;
- (c) related party transactions are subject to Section 8 and 9, where the transaction is 50% or more; and
- (d) all transactions with related parties must be announced (containing the information required by 8.13) irrespective of the size of the transaction.

### **Financial information: Transactions**

2.72 All the provisions of Section 11 applies, save for listing entry criteria.

### **General: Weighted Voting Shares**

2.73 Weighted voting shares will not be listed on the JSE; and

2.74 The criteria for listing in 2.18(b) and (c) must be incorporated in the MOI of the applicant.

### **Governance Arrangements**

2.75 The applicant must comply with the following:

- (a) the weighted voting share must have automatic conversion provisions which provide that a weighted voting share will be converted into an ordinary voting share in the event that:
  - (i) the weighted voting share is sold or transferred to any person; or
  - (ii) on the expiry of a period of ten years from the listing date of the applicant issuer, subject to 2.75(b);
- (b) holders of ordinary voting shares may agree at a general meeting to extend the period in (a)(ii) above provided the holder/s of weighted voting shares (in respect of their entire shareholdings in respect of the applicant, both weighted voting shares and ordinary shares) may not participate in such vote;
- (c) holder/s of weighted voting shares must hold at least 10% of the economic interest in the applicant on listing;
- (d) holder/s of ordinary voting shares holding at least 10% of the total voting rights, as measured against the total issued ordinary shares, must have the ability to convene a general meeting;
- (e) the holder/s of weighted voting shares must provide an undertaking that their entire shareholdings in respect of the applicant, both weighted voting shares and ordinary shares on listing, may not be disposed or transferred for a period of 12 months from the listing date; and
- (f) the following matters must be voted on through the enhanced voting process:
  - (i) variation of rights attaching to securities;
  - (ii) appointment and removal of auditors;

- (iii) appointment, re-election or removal of independent non-executive directors;
- (iv) remuneration policy and implementation report pursuant to Section 5;
- (v) reverse takeover; and
- (vi) removal of listing.

### **Contents of PLS**

2.76 In addition to the provisions of Section 10, the following must be disclosed:

- (a) a statement on the cover page that the applicant has a weighted voting share structure;
- (b) details of the weighted voting share structure and its associated risks;
- (c) the rationale for adopting a weighted voting share structure;
- (d) the matters that are subject to the enhanced voting process;
- (e) a summary of the key provisions of the weighted voting share structure as incorporated in the MOI;
- (f) the following details of each holder of weighted voting share:
  - (i) name of beneficial shareholder/s with weighted voting shares;
  - (ii) number of weighted voting shares;
  - (iii) total voting rights of weighted voting shares;
  - (iv) number of ordinary voting shares;
  - (v) total voting rights of ordinary voting shares; and
  - (vi) total voting rights of weighted voting shares compared to ordinary voting shares.

### **Changes in capital**

2.77 No further weighted voting shares can be issued, save in the event of a rights issue, bonus issue, capitalisation issue, scrip dividend, consolidation or subdivision of securities, in each case offered in the same ratios in conjunction with ordinary voting shares.

### **Circulars, annual reports and announcements**

2.78 An applicant with a weighted voting share structure must prominently include a statement on the cover page of its notice of meetings, circulars, annual reports and announcements that the applicant is an issuer with a weighted voting share structure.

2.79 The events in 2.75(a) and (b) must be announced immediately.

### **Preference Shares**

#### **General**

2.80 The payment of dividends/distributions must comply with the corporate action timetables.

2.81 The applicant issuer must obtain approval from the JSE and from preference shareholders holding not less than 75% of the value of a specific class of preference shares, in the event that the applicant issuer makes any changes that

affect the terms and conditions of the preference shares or the guarantee (if applicable).

- 2.82 Where amendments are of a technical nature, made to correct a manifest error or to comply with mandatory provisions of any applicable laws, no prior approval by the JSE is required however, the issuer must provide the amended terms and conditions to the JSE immediately and release an announcement providing a summary of the amendments, the effective date of the change/s and where it may be inspected. Any such modification will be binding on the relevant shareholders of preference shares.
- 2.83 If the applicant issuer is already listed, it need not comply with the corporate governance provisions in Section 5.
- 2.84 The applicant issuer need not comply with the provisions dealing with corporate actions in Section 7.
- 2.85 The applicant issuer must announce transactions in terms of Section 8.

#### **PLS or circular**

- 2.86 An applicant issuer must prepare a PLS in terms of Section 10, including the terms of the preference shares. If an applicant issuer is already listed on the JSE, it must prepare a circular, including the terms of the preference shares.

#### **Announcements**

- 2.87 The issuer must make an announcement, one day prior to the event, of any maturity, early redemption, conversion or other such rights of the preference shares.
- 2.88 An application must be made to the JSE for the removal of listing of the preference shares at the close of business on the maturity, early redemption or conversion date of the preference shares.

#### **Continuing Obligations**

- 2.89 The PLS or circular must be available on the website of the applicant issuer for the duration that the preference shares are listed on the JSE.

## Section 3 Dual Listings

### Scope of Section

This Section deals with secondary listings and dual listed company structures.

- 3.1 Secondary Listings: General
- 3.13 Secondary Listing: Local Exchange
- 3.14 PLS: General
- 3.23 Fast-track Listing: General
- 3.26 Pre-listing announcement
- 3.28 Continuing obligations
- 3.31 Dual listed company structure

### Secondary listings: General

- 3.1 Secondary listing status means that once an applicant is listed, it will be required to comply with the listings requirements of the exchange where it has its primary listing. Secondary listings on the JSE must comply with the listing criteria in Section 2 and this Section 3.
- 3.2 An applicant seeking a listing on the JSE must be listed on an approved exchange. An applicant not listed on an approved exchange will not qualify for a secondary listing on the JSE but can apply for a primary listing.
- 3.3 An applicant seeking a secondary listing on the JSE may decide whether it will seek a primary or secondary listing on the JSE.
- 3.4 The applicant must have the free float required in terms of Section 2 on the South African share register or it must have in place arrangements, to the satisfaction of the JSE's Clearing and Settlement Division, to ensure that sufficient scrip is available on the South African share register.
- 3.5 The applicant must confirm that it is in full compliance with all the listing requirements of its primary exchange. The JSE may request this confirmation from the primary exchange.
- 3.6 The JSE will not grant a secondary listing:
  - (a) on the main board for an applicant that has a primary listing on a junior market of an exchange; or
  - (b) if its securities are not listed in the country of incorporation, unless the applicant can demonstrate that the absence of such a listing is not due to any negative circumstances, events or regulatory issues.
- 3.7 If the applicant is not incorporated in the country of an approved exchange, the applicant must notify the JSE for the JSE to familiarise itself with the laws of incorporation/company law of the applicant. The JSE may elect to require additional and prominent disclosure in the PLS regarding the laws of incorporation/company law applicable to the applicant.
- 3.8 For an ALT<sup>X</sup> listing:
  - (a) the applicant can either appoint a DA or sponsor; and
  - (b) the need for directors to complete the DIP in terms of 2.66 and the lock-up provisions in terms of 4.17 will not apply.
- 3.9 An issuer with a dual listing must immediately notify the JSE of any suspension or removal of listing on any other exchange on which it has securities listed.

- 3.10 An issuer may only transfer its primary listing from the JSE to another exchange and maintain a secondary listing on the JSE provided the following has been complied with:
- (a) the other exchange must be an approved exchange;
  - (b) the issuer complies with this Section for purposes of the secondary listing; and
  - (c) a majority of the votes of all shareholders, excluding any controlling shareholders, their associates and any party acting in concert, must be cast in favour of such a resolution. The resolution must be accompanied by a comparison explaining to shareholders the key regulatory and disclosure differences applied by the JSE and the new primary exchange.
- 3.11 If an issuer has been granted permission to transfer, it must ensure that the securities have been listed on the other exchange and will be accepted for transfer, without delay, if presented in any of the markets in which the securities are listed.
- 3.12 A secondary listing onto another exchange only requires the approval of the issuer's board of directors.

### **Secondary Listing: Local Exchange**

- 3.13 An applicant primary listed on a local exchange may seek a secondary listing on the JSE, provided:
- (a) it must be incorporated in terms of the Act;
  - (b) if not incorporated in terms of the Act, must be validly incorporated in terms of its laws of incorporation/company law and demonstrate that such legislation has provisions that are equivalent to the Act dealing with:
    - (i) take-over laws;
    - (ii) minority shareholder protections;
    - (iii) appointment of directors;
    - (iv) financial reporting standards;
    - (v) corporate governance, including board sub-committees; and
    - (vi) shareholders meetings;
  - (c) must demonstrate that the primary exchange has provisions that are equivalent to the Requirements dealing with:
    - (i) timing of release of financial results;
    - (ii) dissemination and treatment of price sensitive information;
    - (iii) authorities required for issues for cash;
    - (iv) authorities required for repurchases;
    - (v) continuing obligation standards, which includes corporate governance standards and industry specific disclosures;
    - (vi) announcement events; and
    - (vii) regulation of transactions and related party transactions.

### **PLS: General**

- 3.14 An applicant must produce a PLS in compliance with the Requirements save as otherwise stated in the Requirements. Where the disclosure requirements of

Section 10 relate to continuing obligations, the JSE may allow the applicant to address it with reference to the listings requirements of the primary exchange.

- 3.15 The applicant must disclose in the PLS headline earnings per share and diluted headline earnings per share together with an itemised reconciliation between headline earnings and the earnings used in the calculation.
- 3.16 The JSE will accept financial information prepared in accordance with the following accounting frameworks:
- (a) IFRS;
  - (b) IFRS as adopted by the European Union;
  - (c) United Kingdom GAAP;
  - (d) United States GAAP;
  - (e) Australian GAAP; and
  - (f) Canadian GAAP.
- 3.17 The JSE may accept extracted financial information in terms of the accounting frameworks provided that:
- (a) it was prepared and issued in terms of the listings requirements of the primary exchange;
  - (b) the extracts are in compliance with IAS 34; and
  - (c) the PLS contains full details of the applicant's accounting policies.
- 3.18 The applicant must engage with the JSE on the presentation of the financial information in the PLS.
- 3.19 The JSE may allow an applicant to modify the relevant Part I and II documents required (available on the JSE Forms Portal) for a new listing where full compliance would be in conflict with this Section or the primary exchange.
- 3.20 The applicant must disclose in the PLS the differences between the provisions of the Requirements below and the regulatory/legislative framework of the primary exchange:
- (a) pre-emptive rights, ranking of securities in the same class, and expropriation rights in respect of securities;
  - (b) transferability of securities and transfer of securities;
  - (c) preferences, rights, limitations and other share terms;
  - (d) special voting rights in respect of securities;
  - (e) process dealing with amendment/s to the constitutional document of the issuer;
  - (f) appointment and removal of directors;
  - (g) authority to issue shares or other securities (general and specific);
  - (h) disclosure of changes in beneficial ownership of securities;
  - (i) regulation in respect of director's interests in transactions;
  - (j) regulation in respect of transactions (acquisitions and disposals) and related party transactions;
  - (k) mandatory corporate governance provisions and the corporate governance code applied;
  - (l) the pro-active monitoring process (if any) dealing with the review of financial statements of the issuer by the listing authority or any other

relevant regulatory body. Confirmation will be required whether the applicant issuer has been subject to such a review or not;

- (m) takeover laws applicable to the issuer; and
- (n) special disclosure requirements dealing with mining companies, such as the preparation of special reports dealing with reserves, life of mine and valuation of mining activities.

Additional disclosure may be required by the JSE in the PLS where matters not covered in the above are significant to providing an understanding of the differences between the regulatory and legislative frameworks applicable to an applicant issuer.

- 3.21 For a mineral applicant, the JSE will accept a CPR (as required by Section 14) which has been prepared within the 12 months prior to listing on the JSE, provided that it has been prepared in accordance with SAMREC, Joint Ore Reserves Committee Code or National Instrument 43-101 and that there have either been no changes since that date or that any changes are reported on by the CP. Applicants who do not comply with the above must produce a new CPR in compliance with the prescribed codes.
- 3.22 Disclosure of the items in 13.3(b) and (c), if applicable.

### **Fast-track Listing: General**

- 3.23 The applicant must comply with this Section, save that a pre-listing announcement must be prepared and not a PLS.
- 3.24 If capital will be raised with the listing, the JSE must be consulted, and the applicant must confirm that such capital raising will comply with the requirements of the approved exchange.
- 3.25 An applicant must submit to the JSE:
  - (a) the signed application for listing (available on the JSE Forms Portal); and
  - (b) for a listing on the main board, the latest audited financial statements for the preceding three years; or
  - (c) for a listing on ALT<sup>x</sup>, the latest audited financial statements.

For purposes of (b) and (c) above, interim results must be submitted if more than nine months have elapsed since the last financial year-end.

### **Pre-listing announcement**

- 3.26 The pre-listing announcement must comply with 3.26 below and must be approved by the JSE. The announcement must be released five business days before the date of listing. If there are any changes to the announcement prior to the date of listing, the JSE must be notified immediately with the details of such changes. If the changes are deemed material by the JSE, the JSE may delay the listing and an announcement must be released to that effect.
- 3.27 The pre-listing announcement must include the following:
  - (a) name and address of the registered office (also in the Republic if an external company);
  - (b) the transfer secretaries in the Republic;
  - (c) date and country of incorporation;
  - (d) the approved exchange, equivalent board and date of admittance, as well as details on which other exchanges the securities of the applicant is listed;

- (e) confirmation whether a listing is sought on the main board or ALT<sup>x</sup> and the reasons for seeking a secondary listing on the JSE;
- (f) listing date and timetable;
- (g) the number and class of securities in respect of which the applicant seeks a listing and disclosure of the number of treasury shares held, including details of any restriction as to the transfer of the securities;
- (h) the market capitalisation on date of application;
- (i) the full names and functions of the board of directors;
- (j) a brief description of its business (including its main country of operation);
- (k) details of the prospects of the applicant following the date of listing;
- (l) insofar as is known to the applicant, the name of any shareholder other than a director, that directly or indirectly, is beneficially interested in 5% or more of a class of securities issued by the applicant, together with the amount of such shareholder's interest;
- (m) a statement by the board of the applicant, that to the best of their knowledge and belief, the applicant has adhered to all legal and regulatory requirements of the approved exchange;
- (n) the website address of the applicant where any documents (such as financial information, CPRs, valuations reports and the like) or announcements which the applicant has made public over the last two years (in consequence of having its securities listed on an approved exchange), including its constitutional documents, are available;
- (o) disclosure of headline earnings per share and diluted headline earnings per share together with an itemised reconciliation between headline earnings and the earnings used in the calculation;
- (p) a description of any significant change in the financial or trading position of the applicant which has occurred since the end of the last financial period for which audited financial statements have been published;
- (q) a statement from the board of the applicant that they have no reason to believe that the working capital available to the applicant or its group will be insufficient for at least twelve months from the date of listing;
- (r) the financial year-end; and
- (s) disclosure of the differences between the regulatory and legislative frameworks applicable to the applicant in terms of 3.20 (which can be incorporated by reference).

### **Continuing obligations**

3.28 The continuing obligations of the primary exchange takes precedence, with the following exceptions:

- (a) the annual financial statements and any other communication with shareholders must identify the primary and secondary exchange venues;
- (b) any information released on another exchange, must also be announced simultaneously. If the JSE is closed, the information must be announced at the commencement of business on the next business day;
- (c) it must announce, with its interim and year-end results, headline earnings per share and diluted headline earnings per share together with an itemised reconciliation between headline earnings and the earnings used in the calculation;

- (d) its interim and year-end results must be prepared and announced in compliance with the acceptable accounting frameworks of the primary exchange;
- (e) where there are notifications dealing with:
  - (i) changes of beneficial ownership in the issuer; or
  - (ii) dealings in securities in the issuer by directors and those closely related to the directors,

prescribed by local statute, the listings requirements of the primary exchange or otherwise, such changes and dealings must be announced within 48 hours after receipt of such notice; and
- (f) issuers must comply with the corporate action timetables. Issuers must notify the JSE in advance of corporate actions to ensure that the JSE can accommodate the processing thereof for shareholders on the South African share register.

3.29 The following applies to issuers that are not listed on an approved exchange:

- (a) the applicant issuer must submit details of the volume and value of securities traded (over the previous 24 months), on all exchanges where it has a listing, in order for the JSE to consider the applicant issuer's continued secondary listing status. This information must be submitted to the JSE, together with the applicant issuer's annual financial statements in terms of the Appendix 1 to Section 6 or by no later than four months from the financial year-end of the applicant issuer; and
- (b) if both the volume and value of securities traded on the JSE exceeded 50% of the total volume and total value of those securities (over the previous 24 months) traded on all exchanges where the applicant issuer has a listing, then the applicant issuer's listing status on the JSE may be converted to a primary listing. The converse would apply when both the volume and value of securities traded on the JSE was 50% or below.

3.30 The applicant issuer must notify the JSE and release an announcement of any suspension or removal of listing on any other exchange on which it has securities listed.

### **Dual listed company structure**

- 3.31 Transactions necessary to constitute the DLC structure or between companies comprising the DLC structure will not be regarded as related party transactions.
- 3.32 Any variations to agreement/s governing the relationship between the companies comprising the DLC structure must be approved by the shareholders of each company.
- 3.33 With respect to any calculations/categorisations/measurements in terms of the Listings Requirements applicable to either company comprising the DLC structure, the DLC will be regarded as one combined entity.
- 3.34 Common accounting policies must be used for the companies comprising the DLC structure.
- 3.35 Annual financial statements must be announced for the merged DLC structure in accordance with IFRS or other accounting frameworks in terms of 3.16.
- 3.36 Interim financial information, on an equivalent basis to 3.35, on the merged DLC structure must be announced.
- 3.37 Where an announcement is required, it must be released in accordance with the relevant exchange's requirements and simultaneously on both the JSE and the

foreign exchange(s).

## Section 4

### Sponsors and Designated Advisers

#### Scope of Section

This section deals with sponsors and DAs, read with Schedule 4.

- 4.1 Application: Sponsors and DAs
- 4.3 Sponsors: Main Board
- 4.9 Conflicts of interest
- 4.10 Documents approved by sponsor
- 4.11 Resignation and termination
- 4.13 Responsibilities of a sponsor
- 4.14 Directors
- 4.15 Financial reporting procedures
- 4.16 Discussions with the JSE
- 4.17 Shares issued to a sponsor
- 4.19 Penalties
- 4.23 DA – ALT<sup>x</sup> Issuers

#### Application: Sponsor and DAs

- 4.1 Application must be made in terms of Schedule 4. Once approved, the sponsor and/or DA will be added to the JSE Register of Sponsors/DAs. Sponsor and DA status will be reviewed annually in terms of Schedule 4.
- 4.2 The provisions applicable to a sponsor apply equally to a DA, save as otherwise stated.

#### Sponsors: Main board

##### Appointment and independence

- 4.3 An applicant issuer must always have a sponsor and must notify the JSE of the appointment.
- 4.4 An independent sponsor must be appointed for the events in 4.5 and when the sponsor's independence is compromised in terms of 4.6.
- 4.5 An independent sponsor must attend to the following:
  - (a) any event requiring shareholders' approval except for those pertaining to:
    - (i) MOIs;
    - (ii) share incentive schemes;
    - (iii) general issue of shares for cash;
    - (iv) general repurchase;
    - (v) increase in share capital; and
    - (vi) change of name;
  - (b) unbundlings not requiring shareholders' approval;
  - (c) related party transactions;
  - (d) new listings;
  - (e) removal of listings; and
  - (f) rulings on all above matters requiring an independent sponsor.

- 4.6 An independent sponsor must be appointed where a sponsor:
- (a) is the applicant issuer, its subsidiary, associate or division of the applicant issuer;
  - (b) controls the applicant issuer;
  - (c) acts as the auditor and/or tax adviser to the applicant issuer;
  - (d) has an investment or interest in the applicant issuer which is material to the sponsor;
  - (e) will obtain an interest in the success of a listing, transaction or corporate action, which is substantial to the sponsor; and
  - (f) is deemed to be non-independent by the JSE.
- 4.7 The sponsor must confirm its independence by submitting a sponsor declaration (available on the JSE Forms Portal) on first submission to the JSE, which will be used by the JSE in its assessment of a sponsor's independence.
- 4.8 Where an independent sponsor is appointed, it must be the lead sponsor. Where multiple sponsors are appointed, one sponsor must be identified as the lead sponsor in all communications.

### **Conflicts of interest**

- 4.9 Sponsors and sponsor executives must disclose all matters that may reasonably impair their independence and objectivity in their professional dealings with the applicant issuer or in relation to the corporate action/transaction, to its clients, the JSE and shareholders of the applicant issuer. Details of any conflicts of interest, along with the procedures to avoid/manage such conflicts, must be disclosed in any PLS or circular.

### **Documents approved by sponsor**

- 4.10 The following documents only require sponsor approval:
- (a) all announcements, save that any announcements including corporate action timetables must be approved by the JSE;
  - (b) capitalisation issues, scrip dividend and cash dividend elections;
  - (c) change of name, subject to 7.14;
  - (d) increase in authorised share capital, subdivisions and consolidations;
  - (e) general authority to make payments to securities holders;
  - (f) general authority to repurchase shares; and
  - (g) general authority to issue shares for cash.

### **Resignation and termination**

- 4.11 A sponsor can resign or have its appointment terminated by the applicant issuer. The applicant issuer and the sponsor must notify the JSE separately of the effective date and reasons within 48 hours of the resignation or termination. The applicant issuer must appoint a new sponsor within 30 business days from the effective date, unless the JSE decides otherwise.
- 4.12 Before accepting an appointment, the new sponsor must request the reason/s from the outgoing sponsor, as submitted to the JSE. The reason/s must be supplied by the outgoing sponsor within five business days of such request.

## **Responsibilities of a sponsor**

4.13 A sponsor must:

- (a) ensure that the applicant issuer is advised on the application of the Requirements, including the spirit of the Requirements and upholding the integrity of the JSE;
- (b) adhere to Schedule 4;
- (c) discharge its responsibilities with due care and skill;
- (d) ensure that the documentation required for an applicant issuer as submitted to the JSE, are in compliance with the Requirements;
- (e) ensure that announcements and listing applications (of a class of securities already listed) comply with the Requirements, on the basis that there are no JSE pre-approval processes (save for corporate action timetables). The sponsor must ensure that results announcements include a statement that they have been prepared in compliance with the Requirements;
- (f) submit a first submission checklist (available on the JSE Forms Portal) with every first submission;
- (g) submit the annual report/annual financial statements questionnaire (available on the JSE Forms Portal) to the JSE;
- (h) satisfy itself that the credentials of the CP, CV, QRE, property valuers, independent professional experts, and any other party deemed necessary by the JSE;
- (i) carry out any activities in terms of the Requirements, as requested by the JSE;
- (j) ensure that the directors of the issuer are informed of any amendments to the Requirements;
- (k) notify the JSE immediately if aware, or has reason to believe, that any of its applicant issuers have or may have breached the Requirements;
- (l) provide to the JSE any information known to it, in respect of any breaches of the Requirements by an applicant issuer; and
- (m) all correspondence with the JSE must be communicated through the sponsor.

## **Directors**

4.14 The sponsor must, in relation to all the directors of an applicant issuer and any newly appointed/elected directors:

- (a) submit to the JSE the director's declarations in terms of Schedule 1;
- (b) explain their responsibilities in terms of the Requirements; and
- (c) explain the treatment of price sensitive information in terms of the Requirements and the market abuse provisions in terms of the FMA.

## **Financial reporting procedures**

4.15 On appointment as sponsor, the sponsor must notify the JSE that it has obtained written confirmation from the applicant issuer that the directors have established suitable information communication procedures, providing for a flow of information that provides a reasonable basis for the directors to make proper judgements as to the financial position and prospects of the applicant issuer and its group.

## **Discussions with the JSE**

- 4.16 A sponsor must be included in all formal discussions between the JSE and an applicant issuer, unless the JSE allows otherwise. If the sponsor was not included, the applicant issuer must update the sponsor as soon as practicable.

## **Shares issued to a sponsor**

- 4.17 Trading in the applicant issuer's securities held by the sponsor on listing must be prohibited until the announcement of the first annual financial statements of the applicant issuer post listing. The sponsor may trade up to 50% of the securities held in the applicant issuer from that date and the balance after the announcement of the next annual financial statements. Disclosure of the number of securities, value and terms must be provided in the PLS.
- 4.18 For existing issuers, where shares are issued to the sponsor *in lieu* of fees, such shares must be issued in compliance with the issue of shares for cash provisions in Section 7.

## **Penalties**

- 4.19 Where the JSE finds that any sponsor/DA has contravened or failed to comply with the Requirements, the JSE may:
- (a) censure the sponsor/DA, privately or publicly;
  - (b) impose a fine not exceeding R1 million; and/or
  - (c) remove the sponsor/DA from the JSE Register of Sponsors/DAs.
- 4.20 The JSE may announce any penalties, with reasons.
- 4.21 The JSE will give advance notice to the sponsor/DA involved of any action that the JSE proposes to take in terms of 4.19, and will afford the sponsor/DA with an opportunity to make written representations to the JSE.
- 4.22 A sponsor/DA may:
- (a) object against a decision in 4.19(a) and/or (b) in terms of the procedure in 1.20; and
  - (b) appeal against a decision in 4.19(c) in terms of the procedure in 1.21.

## **DA – ALTX Issuers**

### **Resignation and termination**

- 4.23 The provisions regarding the resignation and termination of sponsor apply, save that the applicant issuer must appoint a new DA within ten business days from the effective date, unless the JSE decides otherwise.
- 4.24 If an issuer fails to appoint a DA within ten business days, the JSE may suspend trading in the issuer's securities. The issuer's listing may be removed after 30 business days from the effective date, if the issuer has failed to appoint a DA.

### **Additional responsibilities**

- 4.25 The DA must ensure that:
- (a) the directors of a new applicant have completed the DIP in terms of 2.66 prior to listing or make arrangements with the JSE that it will be completed within an agreed period;
  - (b) all newly appointed/elected directors complete the DIP in terms of 2.66 within three months of the date of appointment, unless agreed otherwise by

- the JSE;
- (c) the directors understand the importance of accurately disclosing all material information in announcements, circulars and PLS, to shareholders and the market;
  - (d) it has explained to the directors of the applicant issuer their responsibilities in terms of the Requirements and the Act relating to the board and its sub-committees and has satisfied itself to the best of its knowledge and belief, having made due and careful enquiries that the directors:
    - (i) have the requisite expertise and experience;
    - (ii) understand their responsibilities in terms the Requirements and the Act; and
    - (iii) understand their responsibilities to announce all information necessary for an informed market to take place in the applicant issuer's securities; and
  - (e) it regularly reviews the issuer's actual trading performance and financial condition to ensure that price sensitive information is announced.

### **Securities held by the DA**

- 4.26 Any dealings in securities in the applicant issuer by the DA (including by its employees and directors), must be announced as dealings in securities by directors in terms of Section 6

## Section 5 Corporate Governance

### Scope of Section

This Section deals with the corporate governance provisions for main board and ALT<sup>x</sup> applicant issuers.

- 5.1 General
  - 5.2 Directors
  - 5.7 Main Board
  - 5.8 ALT<sup>x</sup>
  - 5.9 Responsibility Statement: Annual financial statements
  - 5.10 Secondary listings and dual listings
- Appendix to Section 5: Corporate Governance Table

### General

- 5.1 The effect of incorporating certain practices from the King Code in the Requirements is to make their implementation mandatory. Applicant issuers must disclose compliance with this Section in its PLS and annual report.

### Directors

- 5.2 The capacity of each director must be classified as executive, non-executive and independent non-executive, based on the following guidelines:
  - (a) executive directors are involved in the day-to-day management or in full-time salaried employment of the applicant issuer and/or its subsidiaries;
  - (b) non-executive directors are not involved in the day-to-day management or in full-time salaried employment of the applicant issuer and/or its subsidiaries; and
  - (c) independent non-executive directors must be assessed holistically, and on a substance over form basis in accordance with section 94 of the Act and the King Code. Any director that participates in a share incentive scheme, will not be classified as independent.
- 5.3 In a newly incorporated company listed on the JSE, all the non-executive directors must retire at the first annual general meeting following the listing date.
- 5.4 Once the applicant issuer is listed, all non-executive directors must be elected by shareholders at an annual general meeting. A brief CV and capacity of each director standing for election or re-election must be included in the notice of annual general meeting. The meeting may not be conducted in terms of section 60 of the Act for main board issuers. The temporary appointment of a non-executive director, to fill a casual vacancy or as an addition to the board, must be tabled to shareholders for election at the next general meeting.
- 5.5 A third of all non-executive directors must retire at each annual general meeting. In determining the one-third, the longest serving non-executive directors which have not been subjected to staggered rotation must retire first. The retiring directors may be re-elected, provided they are eligible. The nomination committee or board should recommend eligibility, taking into account past performance and contribution made.
- 5.6 The board must perform a fit and proper assessment of each person, before such person is nominated/appointed as a director or appointed to fill a casual vacancy.

The assessment by the board, as a minimum, must include an investigation into the background of the person, including independent verifications of qualifications.

## **Corporate governance**

Applicant issuers must comply with the corporate governance provisions below and in the Appendix to this Section.

### **Main Board**

5.7 Applicant issuers on the main board must comply with the following:

- (a) adopt and apply the King Code through the King Code application and disclosure regime;
- (b) a brief CV and capacity of each director must be included in the PLS;
- (c) the directors and senior management must collectively have the appropriate expertise and experience for the governance and management of the applicant issuer;
- (d) have a chief executive officer and a chair, and these positions must not be held by the same person. The chair must not be an executive director, and must either be an independent non-executive director, or the applicant issuer must appoint a lead independent director in accordance with the King Code;
- (e) have an executive financial director. The JSE may, due to the existence of special circumstances, allow the financial director to be appointed on a part time basis or not at all. Any such request must include a motivation from the audit committee of the applicant issuer;
- (f) have a company secretary appointed in terms of the Act and the recommended practices in the King Code. The board must satisfy themselves as to the competence, qualifications and experience of the company secretary on listing, and on an annual basis;
- (g) have an audit, remuneration and social and ethics committee. These committees:
  - (i) must comply with the Act (as applicable);
  - (ii) should comply with the recommended practices in the King Code, on an apply and explain basis; and
  - (iii) must have at least three members;

A brief description of the above committees' mandates, the number of meetings held, and any other relevant information must be disclosed in the annual report;

- (h) the audit committee must:
  - (i) on an annual basis satisfy itself of the competence, qualifications and experience of the financial director;
  - (ii) ensure that the issuer has established appropriate financial reporting procedures and that those procedures are operating, which should include consideration of all entities included in the consolidated group IFRS financial statements, to ensure that it has access to all the financial information of the issuer to allow the issuer to effectively prepare and report on the financial statements of the issuer;

- (iii) consider, the following information provided by the audit firm and individual auditor, in the assessment of the suitability of appointment or reappointment of the auditor:
  - (aa) the latest inspection results (including related remedial action plan) of an inspection performed by its regulator. The audit committee may accept reports with the identity of specific entities redacted provided that such redaction does not limit the understanding of their content;
  - (bb) any new inspection result of an inspection performed by its regulator, between the date of appointment of the auditor and the date of signature of the audit report on the annual financial statements;
  - (cc) a summary, of the ongoing communication related to monitoring and remediation referred to in paragraph 46 of International Standard on Quality Management 1 (ISQM 1); and
  - (dd) a summary of any legal or disciplinary proceedings completed or pending, as determined by the audit firm's head of risk (or a similar senior person within the firm tasked with the responsibility of risk management) within the past five years. Legal or disciplinary proceedings include those instituted through any statute or by any regulatory/professional body;
- (iv) ensure that the appointment or re-appointment of the auditor is presented and included as a resolution at the annual general meeting of the issuer;

The board must confirm, by reporting to shareholders in its annual report, that the audit committee has executed the responsibilities set out in (h) above.

- (i) have a policy evidencing a clear balance of power and authority at board level, to ensure that no one director has unfettered powers of decision-making;
- (j) have a policy on the promotion of broader diversity at board level, dealing with the promotion of the diversity attributes of gender, race, culture, age, field of knowledge, skills and experience, which policy must be available on the issuer's website. The policy may include voluntary diversity targets. A statement must be included in the annual report on how the board applied the policy of broader diversity in the nomination and appointment of directors. If applicable, the board must explain why any of the diversity indicators have not been applied and report progress on voluntary diversity targets contained in the policy; and
- (k) the remuneration policy and the implementation report must be tabled every year for separate non-binding advisory votes at the annual general meeting. The remuneration policy must record the measures that the directors of the issuer commit to take in the event that either the remuneration policy or the implementation report, or both, are voted against by 25% or more of the votes exercised. In compliance with the King Code, in the event that either the remuneration policy or the implementation report are voted against by shareholders exercising 25% or more of the voting rights exercised, the issuer must in its voting results announcement in terms of 6.63 provide for the following:
  - (a) an invitation to dissenting shareholders to engage with the issuer; and

- (b) the manner and timing of such engagement.

If voted against, the issuer must provide details of the engagement with shareholders in its annual report for the next financial year advising (i) who the issuer engaged with, (ii) the manner and form of engagement and (iii) the nature and steps taken to address objections.

## ALT<sup>x</sup>

5.8 Applicant issuers on ALT<sup>x</sup> must comply with the following:

- (a) adopt and apply Part 5.3 (Governing Structures and Delegation of the King Code) of the King Code, through the King Code application and disclosure regime;
- (b) the provisions of 5.7(b) CV, 5.7(c) experience, 5.7(e) financial director, 5.7(f) company secretary, 5.7(h) audit committee, 5.7(j) board diversity policy and 5.7(k) non-binding vote on remuneration;
- (c) the DA must attend all audit committee meetings of the applicant issuer and must advise the audit committee on the Requirements for a period equal to:
- (i) the first anniversary of listing; or
  - (ii) the date of announcement of the applicant issuer's annual financial statements,
- whichever is the longer; and
- (d) the DA must be allowed to attend any board meeting of the applicant issuer should it wish to attend, only as an observer and not as a member.

## Responsibility Statement: Annual financial statements

5.9 The following responsibility statement must be included *verbatim* in the annual financial statements of main board and ALT<sup>x</sup> issuers, after due, careful and proper consideration by the chief executive officer and the financial director

“Each of the directors, whose names are stated below, hereby confirm that–

- (a) *the annual financial statements set out on pages [...] to [...], fairly present in all material respects the financial position, financial performance and cash flows of the issuer in terms of IFRS;*
- (b) *to the best of our knowledge and belief, no facts have been omitted or untrue statements made that would make the annual financial statements false or misleading;*
- (c) *internal financial controls have been put in place to ensure that material information relating to the issuer and its consolidated subsidiaries has been provided to effectively prepare the financial statements of the issuer;*
- (d) *the internal financial controls are adequate and effective and can be relied upon in compiling the annual financial statements, and we have fulfilled our role and function as executive directors with primary responsibility for implementation and execution of controls;*
- (e) *where we are not satisfied, we have disclosed to the audit committee and the auditors any deficiencies in the design and operational effectiveness of the internal financial controls, and have\* remediated the deficiencies / taken steps to remedy the deficiencies; and [\*Delete as applicable].*
- (f) *any fraud that involves directors was reported to the audit committee/We are not aware of any fraud involving directors. [\*Delete as applicable].*

*Signed by the chief executive officer and the financial director.”*

## Secondary listings and dual listings

- 5.10 An applicant seeking a secondary listing on the JSE, with a primary listing on an approved exchange, need not comply with this Section. A positive statement confirming that the applicant complies with the corporate governance provisions of the primary exchange must be provided to the JSE and an overview of the corporate governance regime and compliance by the applicant must be disclosed in the PLS.
- 5.11 If the applicant does not have a primary listing on an approved exchange, the JSE must be satisfied with the corporate governance regime of the primary exchange. An overview of the corporate governance regime and compliance by the applicant must be disclosed in the PLS.

## Appendix to Section 5: Corporate Governance Table

The corporate governance provisions must be applied and disclosed as follows:

	Listing Condition	Continuing Obligation	Disclosure in PLS	Disclosure in Annual Report	Disclosure in Annual Financial Statements	Notice of annual / general meeting
5.7(a) King Code	MB	MB	MB	MB		
5.8(a) King Code	ALT <sup>x</sup>	ALT <sup>x</sup>	ALT <sup>x</sup>	ALT <sup>x</sup>		
5.7(b) CV & capacity of directors	MB/ALT <sup>x</sup>	MB /ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>		MB/ ALT <sup>x</sup> Election / Re-election
5.7(c) Experience	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>			
5.7(d) Chief executive officer and chair	MB	MB	MB	MB		
5.7(e) Financial director	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>		
5.7(f) Company secretary	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>		
5.7(g) Board committees	MB	MB	MB/	MB		
5.7(h) Audit committee	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>		Appointment / re-appointment of auditor
5.7(i) Balance of powers	MB	MB	MB	MB		
5.7(j) Board diversity	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>	MB/ALT <sup>x</sup>		
5.7(k) Remuneration		MB/ALT <sup>x</sup>		If voted against MB/ALT <sup>x</sup>		MB/ALT <sup>x</sup>
5.9 Responsibility statement		MB/ALT <sup>x</sup>			MB/ALT <sup>x</sup>	

## Section 6 Continuing Obligations

### Scope of Section

This Section deals with the continuing obligations for issuers.

- 6.1 Continuing obligation principles
- 6.8 Rights between holders of securities
- 6.15 General continuing obligations
- 6.41 Disclosure obligations of results
- 6.55 Cash company
- 6.56 Pyramids
- 6.61 Meetings
- 6.71 Directors
- 6.92 Business Rescue

Appendix 1 to Section 6: Publication of information

### Continuing obligation principles

#### Announcements

- 6.1 The JSE has established the SENS platform as a result of a need to disseminate relevant company information to the market on a real time basis. To ensure that shareholders and the investing public only receive relevant information, issuers and sponsors must ensure that the information that they announce constitutes relevant company information, being company announcements explicitly required in terms of the Requirements and/or price sensitive information.
- 6.2 Announcements must be in English and comply with Appendix 1 to Section 6. Announcements may only be made available on the issuer's website simultaneously or after it has been announced.
- 6.3 Any announcement of price sensitive information may not be released to any third party under a time embargo before it is announced.
- 6.4 Issuers must submit all announcements to their sponsors for approval prior to release.
- 6.5 The name of the sponsor must appear on all announcements and documents issued by the issuer.

#### Conflicts

- 6.6 If there is any conflict between the application of the Requirements and adherence to any statute, the Requirements must be adhered to unless specifically otherwise directed by statute or a court of law.

#### Prescribed information to shareholders

- 6.7 An issuer must:
  - (a) inform shareholders of general meetings that they are entitled to attend;
  - (b) enable shareholders to exercise their right to vote, where applicable; and
  - (c) release results, announcements and deliver circulars in terms of the Requirements.

## **Rights between holders of securities**

### **Equality of treatment**

- 6.8 An issuer must ensure that all holders of any class of its securities receive fair and equal treatment.

### **Voting rights**

- 6.9 An issuer must not issue any securities with voting rights differing from other securities of the same class, save for weighted voting shares in terms of Section 2. Where an issuer currently has listed low or high voting securities prior to the incorporation of weighted voting shares in the Requirements, the JSE will grant a listing of additional securities of that class.

### **Pre-emptive rights**

- 6.10 Listed securities in each class must rank *pari passu* in respect of all rights
- 6.11 Subject to 6.13, an issuer proposing to issue equity securities for cash must first offer those securities in terms of a rights offer, to existing holders of equity securities in proportion to their existing holdings.
- 6.12 If permitted by the Commission and subject to the prior approval of the JSE, an issuer need not comply with 6.11 for securities that the issuer considers necessary to be excluded from the rights offer due to legal impediments or compliance with the requirements of any regulatory body of any territory recognised.

### **Waiver of pre-emptive rights**

- 6.13 The issue of securities made otherwise than through a rights offer, will be permitted if, in accordance with:
- (a) a specific and/or general authority to issue shares for cash in terms of Section 7; or
  - (b) an acquisition issue in terms of Section 8 and vendor consideration placing in terms of Section 7.

### **Listing fees**

- 6.14 An issuer must pay the listing and other JSE fees as published on the JSE website. Failure to pay any fees due may result in the censure of the issuer in terms of Section 1.

## **General continuing obligations**

### **Listing criteria**

- 6.15 Issuers must comply with the control listing criteria in terms of Section 2. If there is a failure to comply with this provision, the issuer must notify the JSE.
- 6.16 Issuers must use their best endeavours to comply with the free float listing criteria in terms of Section 2. If there is a failure to comply with this provision, the issuer must notify the JSE.

## **Corporate Governance**

- 6.17 Issuers must comply with the corporate governance continuing obligations in Section 5.

## **MOI**

- 6.18 All amendments to the MOI must be approved by the JSE and shareholders.

### **General obligation of disclosure**

- 6.19 With the exception of trading statements below, an issuer must, without delay, unless the information is kept confidential for a limited period of time, release an announcement providing details relating, directly or indirectly, to such issuer that constitutes price sensitive information. Apply Practice Note 2/2015

### **Confidentiality**

- 6.20 Subject to 6.21 and 6.22, information that is required to be announced in terms of the Requirements, including price sensitive information, must not be disclosed until announced.
- 6.21 Issuers may, if deemed necessary, disclose inside information in terms of section 78(4)(b) of the FMA, prior to such information being announced. If an issuer believes or suspects that the confidentiality of such information cannot be maintained, the issuer must immediately:
- (a) notify the JSE; and
  - (b) ensure that such information is announced.
- 6.22 When an issuer intends to disclose any information as contemplated in 6.20 at any meeting or forum, such information must be announced either before or at the same time as the meeting or forum. If any information is disclosed inadvertently during the meeting or forum prior to it being announced, the issuer must immediately:
- (a) notify the JSE; and
  - (b) ensure that such information is announced.

### **Cautionary announcements**

- 6.23 Immediately after an issuer knows of any price sensitive information and the confidentiality cannot be maintained or if the issuer suspects that confidentiality has or may have been breached, an issuer must release a cautionary announcement. Apply Practice Note 2/2015
- 6.24 Cautionary announcements must contain disclosure of all available details regarding the information and contain a warning to shareholders that they must exercise caution when dealing in their securities, until full details of the information have been announced.
- 6.25 After an issuer has issued a cautionary announcement, it must renew the cautionary announcement (available on the JSE Forms Portal,) every 30 business days thereafter unless the JSE allows otherwise, until full details of the information have been announced. Once full information has been announced, the cautionary announcement must be withdrawn (template available on the JSE Forms Portal)

### **Trading statements**

- 6.26 Subject to 6.19, issuers must announce a trading statement as soon as they are reasonably certain that the results for the period to be reported upon next will differ by at least 20% from the most recent results below:
- (a) the published\* results for the previous corresponding period; or

- (b) a profit forecast in terms of Section 11 previously published in relation to such period.

\*In respect of a new listing these provisions will apply to the previous corresponding period notwithstanding that the results were not published.

- 6.27 The results measure is headline earnings per share and/or earnings per share, and if more relevant (because of the nature of the issuer's business) net asset value per share ("navps"). If an issuer wishes to adopt navps, it must announce the election in advance of the first period ending.
- 6.28 Property entities may elect to adopt distribution per listed security as their results measure provided it is relevant and adhere to the following:
- (a) they must announce the election in advance of the first period ending; and
- (b) the 20% trigger for the announcement in 6.26 is 15%.
- 6.29 The determination of a reasonable certainty is a judgmental decision which has to be taken by the directors of the issuer.
- 6.30 Trading statements must provide specific guidance by including the period to which they relate, the comparative numbers for the periods in 6.26, and:
- (a) a specific percentage and number to describe the differences; or
- (b) a range (e.g. the issuer is expecting an increase of between 15% and 25%) and numbers to describe the differences, provided the range must not exceed 20% (e.g. 20% to 40%, 25% to 45% etc.); or
- (c) the minimum actual difference in percentage and number for which the issuer has reasonable certainty, together with any other information available to the issuer, provided that (a) or (b) must then be announced once reasonable certainty is obtained in relation to either of these disclosures.

The specific percentage as referred to in (a) to (c), need only be provided if less than 100%.

If the range required by (b) translates into a very small number, the JSE can be consulted for a ruling to permit a wider range.

- 6.31 If, after publication of a trading statement but before publication of the relevant results, an issuer becomes reasonably certain that its previously published trading statement is incorrect, then the issuer must publish an updated trading statement.
- 6.32 When announcing a trading statement, an issuer must comply with the provisions dealing with profit forecasts or estimates in terms of 11.25.
- 6.33 Issuers that announce quarterly results may apply the trading statements provision on a voluntary basis. If not applied, such issuers must include commentary in each quarterly results announcement on the expected performance of the issuer for the next quarter. The commentary is exempted from compliance with the provisions dealing with profit forecasts and estimates in Section 11.

### **Press announcements**

- 6.34 Announcements requiring publication in the press must be published in a widely circulated daily newspaper taking into account the composition and demographics of the issuer's stakeholders, in the reasonable opinion of the issuer, in any official language.
- 6.35 Publication in the press can be made through a short-form announcement. The following details must be included in the short-form announcement:

- (a) a headline describing the subject matter of the announcement;
- (b) a statement that the short-form announcement is the responsibility of the directors;
- (c) a statement that:
  - (i) the full announcement/results has been released and is also available on the issuer's website; and
  - (ii) any investment decision should include consideration of the information in the full announcement/results;
- (d) a short-form announcement dealing with results must disclose the following increases/decreases compared to the results for the previous corresponding period:
  - (i) revenue/profit;
  - (ii) headline earnings per share;
  - (iii) earnings per share;
  - (iv) dividend/distribution; and
  - (v) net asset value, only if more relevant because of the nature of the issuers business.

To the extent that any of the above indicators in (i)-(v) are not considered to be a true measure to reflect the performance of an issuer in the banking and property industries, the JSE may waive the requirement to publish such information or agree to a relevant alternative indicator/s; and

- (e) where the auditor has issued a report on the results, the name of the audit firm, a statement of the type of audit opinion/review conclusion that was reached (unmodified, qualified, disclaimer or adverse) and a statement to that effect if any disclosure of the following exists:
  - (i) material uncertainty relating to going concern;
  - (ii) emphasis of matter;
  - (iii) a reportable irregularity (as defined in the Auditing Profession Act); and
  - (iv) a material inconsistency in information included in a document that contains results.

### **Appointment of auditor**

6.36 An applicant issuer must appoint an auditor in terms of the following:

- (a) the auditor must be registered with its regulator in its country of incorporation and such appointment must be in compliance with its laws;
- (b) the audit firm must have at least three individual auditors registered as assurance registered auditors with their regulator;
- (c) the audit firm must have had a firmwide independent quality management inspection by its regulator either in its regulator's current or prior inspection cycle;
- (d) the auditor must have demonstrated to the applicant issuer that it has the necessary resources and expertise to carry out the relevant engagement, as required in the "auditing pronouncements" defined in section 1 of the Auditing Profession Act, which includes paragraph 30 of ISQM 1; and
- (e) the audit committee of the applicant issuer must assess the audit firm in

terms of 5.7(h)(iii).

- 6.37 An applicant issuer must ensure that the terms of the engagement include the following:
- (a) a provision for the auditor to notify the applicant issuer within 48 hours where the auditor has been prohibited from signing the audit report or is no longer registered with its regulator; and
  - (b) the auditor is obliged to notify the JSE and the audit committee of the applicant issuer, where the applicant issuer misrepresents the content of its auditor's report. Such notification must be made by the auditor within 48 hours of the date the auditor became aware of the matter.
- 6.38 The issuer must ensure that the individual auditor appointed to sign the assurance engagement report/s referred to in Section 11 has the necessary knowledge, resources and expertise and/or attended the relevant training to provide the appropriate advice on the application of the Requirements before any document or announcement is submitted to the JSE.

### **Notifications in respect of the auditor**

- 6.39 An issuer must notify the JSE of:
- (a) the appointment of the auditor;
  - (b) the termination, non-reappointment or resignation of the auditor; and/or
  - (c) any change of the individual auditor,
- within two business days following the decision. The notification must state the effective date and confirm to the JSE that the appointment complies with 6.36 and 6.37.
- 6.40 The notification in 6.39(b) must include a letter from the auditor confirming:
- (a) the reason/s; and
  - (b) any matters of non-compliance with laws and regulations regarding the issuer that were reported by the auditor to an appropriate authority in the last 12 months. This includes any reportable irregularities regarding the issuer reported by the auditor to its regulator in the past 12 months.
- 6.41 On notification to the JSE of the matters in 6.39(a) and (b), the issuer must release an announcement on the change in audit firm, including:
- (a) whether the change was initiated by the issuer or the audit firm;
  - (b) the reason(s) for the change;
  - (c) the effective date of the change; and
  - (d) the name of the newly appointed audit firm (if a decision has not yet been made on the appointment of a new audit firm this fact must be disclosed).

### **Disclosure obligations of results**

#### **Restatement of previously published results**

- 6.42 Where an issuer restates previously published results, it must submit a restatement notification to the JSE with the details of the restatement and the reasons thereof. Such notification must be submitted in terms of Practice Note 3/2017.

#### **Annual results**

- 6.43 Every issuer must within three months after the end of each financial year end, release a results announcement dealing with either:
- (a) condensed financial statements; or
  - (b) annual financial statements/summary financial statements.
- 6.44 Every issuer must within four months after the end of each financial year and at least fifteen business days before the date of the annual general meeting:
- (a) release the annual report through a results announcement; and
  - (b) deliver to all holders of securities the notice of annual general meeting, together with a weblink to the annual report.

### **Interim and quarterly reports**

- 6.45 Every issuer must within three months release its interim results through a results announcement after the end of:
- (a) the first six-month period of a financial year; and
  - (b) the twelve-month period commencing on the first day of a financial year if the issuer has changed its year end and therefore has a financial year of longer than twelve months.
- 6.46 Reporting on a quarterly basis is voluntary. Should an issuer elect to report on a quarterly basis, such results must be released through a results announcement as soon as possible after each quarter. Reporting on a quarterly basis does not replace the interim results obligations in 6.45.

### **Auditors report**

- 6.47 The issuer's auditor must perform an audit in accordance with ISA (or in the case of foreign companies, in accordance with national auditing standards acceptable to the JSE) on:
- (a) the annual financial statements; and
  - (b) the separate annual financial statements of the issuer, where the issuer is a South African company.
- 6.48 The issuer's auditor must perform a review in accordance with the International Standard on Review Engagements (or in the case of foreign companies, in accordance with national standards acceptable to the JSE) on the:
- (a) the condensed financial statements; and
  - (b) 6.45(b) interim results.
- 6.49 The information in the auditor's report must be disclosed as follows:
- (a) the auditor's report must accompany the relevant results on which their report is issued;
  - (b) where additional information accompanies the results, the demarcation between which information is audited/reviewed and which is not must be clear;
  - (c) summary financial statements must be accompanied by the following:
    - (i) a statement that it is extracted from audited information but is not itself audited and the directors are responsible for the accuracy of the extraction;
    - (ii) the name of the audit firm;
    - (iii) the type of audit opinion that was issued on the annual financial

statements, i.e. unmodified, qualified, disclaimer or adverse; and in the instance of a modified opinion an extract of the exact modification paragraph from the auditor's report; and

- (iv) details of any of the following paragraphs contained in the auditor's report on the annual financial statements:
  - (aa) material uncertainty relating to going concern;
  - (bb) emphasis of matter;
  - (cc) a reportable irregularity (as defined in the Auditing Profession Act); and
  - (dd) a material inconsistency in information included in a document that contains the annual financial statements; and
- (v) a statement that the annual financial statements are available on request from the issuer, including details of the contact person.

### **Results announcement**

6.50 Results must be released by way of an announcement and JSE cloudlink. The announcement must contain the following information:

- (a) A statement that:
  - (i) the results are available through the following JSE cloudlink and issuer's weblink; and
  - (ii) any investment decisions should be based on the results as the information in the announcement does not provide all of the details;
- (b) In respect of annual reports, details of the date, time and venue for the annual general meeting and a statement that, whilst the annual financial statements are available through the JSE cloudlink, the additional information in terms of 11.38 is only available through the issuer's weblink;
- (c) The information in 6.35(d) and (e), if the information has not been announced previously. This provision does not apply to quarterly results;
- (d) If annual reports are announced, following the release of condensed financial statements:
  - (i) a statement that there are no changes to any of the information in those previous results or a statement that there are changes; and
  - (ii) in the event of changes, a statement that the details are available through the JSE cloudlink. Those details must include a description of the changes and the circumstances that led to the changes. The details must be provided for each line item in the financial statements and/or notes impacted by the change and the quantum involved. If there is more than one change, each item must be dealt with separately and the cumulative impact of the change should also be included; and
- (e) If annual reports are announced following the release of annual financial statements or summary financial statements:
  - (i) in the event of changes to the previous results, 6.50(d)(ii) applies; and
  - (ii) if the auditor issued a new audit report, a statement to this effect highlighting any changes to the previous issued report.

## **Procedure for non-compliance**

- 6.51 The release of results without the required auditor's reports referred to in 6.47 and 6.48 is not permitted. The procedure below shall apply to an issuer that fails to comply with 6.43 - 6.45:
- (a) 14 days after failure to comply with 6.43 and 6.45 and the first day after failure to comply with 6.44 –
    - (i) the listing will be annotated on the trading system with a “RE” to indicate that it has failed to comply; and
    - (ii) the JSE will release an announcement, advising that the issuer has not submitted its results and cautioning holders of securities of the consequences referred to in (b) below.
  - (b) the listing of the issuer will be suspended, in terms of Section 1, if the issuer has not complied with –
    - (i) 6.43 or 6.45 by the end of the fourth month after the end of the period; and
    - (ii) 6.44 by the end of the fifth month after the financial year end.

## **Modified auditors report**

- 6.52 Where a modified auditors' report has been issued on results released through a results announcement.
- (a) The issuer's listing on the JSE trading system will be annotated with:
    - (i) an “E” when the auditors' report contains an emphasis of matter paragraph;
    - (ii) a “G” when the auditors' report contains paragraph on material uncertainty relating to going concern;
    - (iii) a “Q” when the auditors' report is qualified;
    - (iv) an “A” when the auditor's report contains an adverse opinion; and
    - (v) a “D” when the auditors' report contains a disclaimer of opinion.
  - (b) In the instance of 6.52(a)(iv) and (a)(v), the JSE will consider the suspension and possible subsequent removal of the issuer's listing in terms of Section 1.

## **Disclosure of beneficial interests in securities**

- 6.53 Issuers must establish and maintain a register of the disclosures made in terms of section 56 of the Act.
- 6.54 An issuer that has received a notice regarding share dealings, in terms of section 122 of the Act, must, within 48 hours after receipt of such notice, announce the information required in terms of the Act. No such announcement is required in respect of notices received by the issuer and which relate to a disposal of less than 1% of the relevant class of securities, in terms of section 122(3) of the Act.

## **Cash company**

- 6.55 A cash company classification may lead to suspension and removal of listing in terms of 8.12.

## **Pyramids**

- 6.56 The listing of existing pyramid companies, as at the date of approval of these pyramid provisions on 13 January 2026, remain unaffected.
- 6.57 An issuer must approach the JSE as soon as it complies with the definition of a pyramid company. Once the JSE determines that the issuer is a pyramid company, it will be classified as a pyramid company.
- 6.58 Upon classification, the issuer will be afforded a period of two years to remedy the classification as a pyramid company, provided the issuer:
- (a) presents an undertaking, with a plan, to the JSE to diversify its business over the next two years with the aim to be declassified as a pyramid company;
  - (b) announces quarterly updates in respect of the above undertaking and include a warning statement in terms of 6.59; and
  - (c) states that it has been classified as a pyramid company in all communications to shareholders, including notices of meetings, circulars, announcements and annual reports.
- 6.59 If an issuer remains classified as a pyramid company after a period of two years, from the date of classification, its listing may be removed by the JSE in terms of Section 1.
- 6.60 The JSE will declassify an issuer as a pyramid company when it no longer meets the definition of a pyramid company, and the issuer must then release an announcement.

## **Meetings**

### **Announcement of annual/general meeting and written resolution details**

- 6.61 An issuer must release an announcement regarding the date, time and venue of its annual/general meeting within 24 hours after the notice of meeting has been delivered to shareholders.
- 6.62 If proposing written resolutions, the issuer must release an announcement with details of the written resolutions within 24 hours after the written resolutions have been delivered to shareholders.

### **Disclosure of voting results of annual/general meetings/written resolutions**

- 6.63 An issuer must release an announcement within 48 hours after each meeting or conclusion of voting in respect of a written resolution, providing details of the voting results. The announcement must include the following:
- (a) the resolution/s proposed;
  - (b) the shares voted in person or by proxy disclosed as a number and a percentage (in relation to the total issued share capital of that class of the applicant issuer);
  - (c) the shares abstained disclosed as a percentage (in relation to the total issued share capital of that class of the applicant issuer); and
  - (d) the votes carried for and against each resolution, disclosed as a percentage (in relation to the total number of shares voted at the meeting in respect of (b) above).

To the extent that the number of shares in (b) and (c) differ for each resolution, details must be provided per resolution.

- 6.64 The announcement in terms of 6.63 above, must include details of any resolutions added, withdrawn or amended in respect of the annual/general

meeting.

### **Demand to call a shareholders meeting**

- 6.65 On receipt by an issuer of a valid demand to call a shareholders' meeting in terms of section 61 (3) of the Act (or for a foreign applicant issuer with a primary listing in terms of similar statute) or 2.75(b), the issuer must immediately:
- (a) notify the JSE; and
  - (b) release an announcement.
- 6.66 Subject to the Act or for a foreign applicant issuer with a primary listing on the JSE in terms of similar statute:
- (a) the issuer must issue a notice of meeting within ten business days from the date of receipt of the request to call a shareholders' meeting; and
  - (b) the date of the meeting must not exceed 25 business days from the date the notice of meeting is issued.

### **Proxy forms**

- 6.67 (a) A proxy form must be included with the notice convening a meeting of holders of securities.
- (b) For the purpose of resolutions proposed in terms of the Requirements wherein any votes are to be excluded from that resolution, any proxy given by a holder of securities to the holder of such excluded vote shall be excluded from voting for the purposes of that resolution.

### **Share certificates**

- 6.68 Where share certificates are issued, which are required to be distinguishable from existing listed securities, a copy of the proposed certificate approved by the transfer secretary must be submitted to the JSE.

### **Securities registered in the name of nominee companies**

- 6.69 Where an issuer intends entering into a transaction or scheme that may, in its effect, discriminate between shareholders holding securities in dematerialised form through a CSDP or broker nominee company ("the nominee company") and shareholders holding securities directly in certificated form in such issuer, the issuer is to ensure that the central securities depository provides it with a list of dematerialised beneficial shareholders on the relevant record date, in order to ensure that all shareholders in the issuer are treated fairly. This approach must be applied to all corporate actions and the issuer must ensure that the ratio of entitlement is applied to the beneficial securities holders within a nominee company

### **Change of transfer secretaries**

- 6.70 If there is a change in the transfer secretaries:
- (a) a notice of the change, with all relevant details, must be sent to all registered holders;
  - (b) an announcement of the changes must be released at least two weeks before the effective date of the change; and
  - (c) the issuer must advise the JSE of the change and must include details of

the new transfer secretaries.

## **Directors**

### **Changes to the board and company secretary**

6.71 An issuer must announce any change, including the effective date, in respect of the following, as soon as practically possible:

- (a) the appointment of a new director (including capacity being executive, non-executive or independent non-executive) or company secretary;
- (b) the resignation, removal, retirement or death of a director or company secretary; and/or
- (c) changes to any important functions or executive responsibilities of a director, which will include changes to board sub-committees.

If the effective date is not known it must be disclosed in the announcement and must be announced once known.

6.72 Where a director is reappointed after retirement through rotation in terms of Section 5, it will not be regarded as a change requiring notification.

6.73 In the announcement on the appointment of a director above, the board must confirm that a fit and proper assessment has been undertaken on the director and that the board is satisfied with the outcome.

### **Directors and company secretary declaration**

6.74 All newly appointed directors of the issuer must complete a director's declaration on appointment in terms of Schedule 1, which must be submitted to the JSE by the issuer within fourteen days of appointment. The issuer must announce the positive statements in the declaration that has bearing on the director, save that personal information, qualifications and experience need not be announced (the "integrity information") within one business day from receipt of the information. If there are no positive statements, a general negative statement must be made in relation to the declaration. The integrity information to be announced will be limited to a period of five years before the date of appointment.

6.75 Each director must notify the issuer and the JSE without delay of any changes to the integrity information. Any changes must be announced by the issuer, within one business day after receipt of the integrity information by the director.

6.76 Newly appointed company secretaries must submit the company secretary declaration (available on the JSE Forms Portal), within fourteen days of appointment.

## **Dealing in Securities**

6.77 An issuer must announce details of all dealings in securities of the issuer (including off market dealings) held beneficially, whether directly or indirectly, by or on behalf of:

- (a) a director;
- (b) company secretary;
- (c) prescribed officer;
- (d) director and company secretary of a major subsidiary; and

(for purposes of 6.81 – 6.89 collectively referred to as "director")

(e) any associates of the above.

6.78 The announcement must contain:

- (a) the name and capacity of the director. If an associate, the name and the relationship;
- (b) details of the interest in the dealing;
- (c) the nature of the dealing, and whether undertaken on or off-market;
- (d) the date of the dealing;
- (e) the price, number, total value and class of securities. If no price is attributable to the dealing (e.g. donations), a deemed value based on the prevailing market price must be disclosed. Aggregation and averaging of prices are not allowed, however in instances of various trades with variable prices during the course of a day, the volume weighted average price must be disclosed together with the highest and lowest trading prices for the day;
- (f) in the case of options or any other similar right or obligation, the option strike price, strike dates and periods of exercise and/or vesting;
- (g) where securities of the issuer are used as security, guarantee, collateral or otherwise granting a charge, *lien* or other encumbrance, the announcement must disclose the nature, term and amount of the financial obligation as well the number, value and class of securities offered as security, guarantee, collateral or otherwise; and
- (h) whether clearance has been given in terms of 6.83. In the case of dealings by associates, this requirement does not apply.

6.79 Dealings include:

- (a) any sale, purchase or subscription of securities in the issuer (including in terms of a rights offer, capitalisation award or scrip dividend);
- (b) any agreement to sell, purchase or subscribe for securities relating to the issuer (irrespective of whether shares or cash flows);
- (c) any donations of securities relating to the issuer;
- (d) any dealing in derivatives, including warrants, single stock futures, contracts for difference or any other derivatives issued in respect of the issuer's securities. It should be noted that, if shares are sold and the equivalent exposure is purchased through a single stock future or any other derivative, both legs will be deemed to be dealings. The closing out of a single stock future or other derivative is also a dealing. The rolling-over of a single stock future that is merely an extension of an existing position is not a dealing;
- (e) the acceptance, acquisition, disposal, or exercise of any option (including but not limited to options in terms of a share incentive/option scheme) to acquire or dispose of securities;
- (f) any purchase or sale of nil or fully paid letters, however excluding following full or partial entitlements as a shareholder through means of a renounceable rights offer (excess applications permitted), non-renounceable rights offer, capitalisation issues, scrip dividends and dividend reinvestment, and receiving the subsequent allocation of such securities pursuant to such entitlements;
- (g) the acceptance, acquisition or disposal of any right or obligation, present or future, conditional or unconditional, to acquire or dispose of securities;
- (h) using securities of the issuer as security, guarantee, collateral or otherwise

granting a charge, *lien* or other encumbrance over the securities of the issuer. A dealing will be deemed to be present at each of the following trigger events –

- (i) at the time of agreement of such arrangement;
  - (ii) at the time when a right or discretion afforded to a lender is being exercised; and
  - (iii) at the time an existing arrangement is being amended or terminated;  
or
- (i) any other dealing that will provide direct or indirect exposure to the share price of the issuer. Cash settled share appreciation rights granted to directors in the ordinary course of business do not constitute a dealing.

6.80 The director must disclose to the issuer all information in 6.79, without delay and, in any event, by no later than three business days after dealing. The issuer must in turn announce such information without delay and, in any event, by no later than 24 hours after receipt of such information from the director concerned.

### **Dealings in prohibited periods**

- 6.81 A director may not deal in any securities relating to the issuer during a prohibited period, whether or not the director has knowledge of price sensitive information.
- 6.82 The JSE may waive compliance with 6.81 where the director has no discretion in the dealing. The JSE must be consulted for a ruling and if a waiver is granted the announcement must clearly explain the reasons why the director had no discretion to deal.

### **Clearance to deal**

- 6.83 A director may not deal in any securities in the issuer without receiving clearance in advance from the chairman or other designated director. When the chairman intends to deal in securities in the issuer, he/she must inform the board or a designated director in advance and receive the required clearance. The JSE may waive this requirement where the director has no discretion in the transaction.
- 6.84 A director must not be given clearance to deal in any securities in the issuer during a prohibited period.
- 6.85 A written record must be maintained by the issuer of any request received from a director in terms of 6.83 and of any clearance given. A director may request confirmation from the issuer that such request and clearance, if any, have been recorded.

### **Dealings by associates of directors and investment managers**

- 6.86 A director must advise the following parties of the name of the issuer(s) of which he/she is a director:
- (a) any associate of his/her; and/or
  - (b) any investment manager dealing on his/her behalf or associates, whether on a discretionary basis or not.
- 6.87 A director must advise all of his/her associates that they must notify him/her immediately after they have dealt in securities relating to the issuer(s) in order to comply with the dealings provisions.

- 6.88 A director must advise his/her investment manager that they may not deal in any securities relating to issuer(s) of which he/she is a director unless it obtains his express consent.
- 6.89 The dealings provisions do not override the FMA and should not be construed as additional defences or exclusions from having to comply with the FMA.

### **Dealings by share incentive schemes**

- 6.90 The provisions of 6.78 to 6.89 apply *mutatis mutandis* to any dealings by the issuer or a scheme (including a non-dilutive scheme) involving securities relating to the scheme, save for in the following circumstance:
- (a) the instruction to deal was given by a participant of the scheme (other than a director), where shares in the issuer have vested in favour of the participant in terms of the scheme;
  - (b) the scheme is merely facilitating the dealing on behalf of the participant;
  - (c) the participant takes the risk of any profit or loss in respect of the dealing; and
  - (d) the trustees of the scheme, any other party responsible and the issuer do not exercise any election/decision in respect of such dealing, other than following and acting on the specific instructions of the participant.

The JSE may adjust the timing on announcements.

### **Exercise of options to subscribe for securities (including options in terms of executive and staff share schemes)**

- 6.91 Applications for listing/s of shares resulting from options must be made in terms of application available on the JSE Forms Portal. Application for listing of shares in terms of executive and staff share schemes may either be for block listings or for specific allotments. Subsequent issues of securities in terms of the scheme will be subtracted from the initial block until that block is exhausted, after which a further block listing will be required.

### **Business Rescue**

- 6.92 If the issuer is placed in business rescue in terms chapter 6 of the Act, it must immediately release an announcement.
- 6.93 The issuer must as soon as possible notify the JSE, whether it is able to:
- (a) maintain the appointment of a sponsor and auditor;
  - (b) announce price sensitive information in terms of the Requirements, to allow shareholders to make an informed investment decision; and
  - (c) subject to 6.95 and 6.96 below, comply with the Requirements with respect to transactions and corporate actions.
- 6.94 If the issuer is unable to make positive statements in respect of the above, its listing may be suspended in terms of Section 1.
- 6.95 An issuer in business rescue will not be required to obtain shareholders' approval for transactions and corporate actions, unless required by the Act.
- 6.96 If an issuer is a holding company and a subsidiary is placed in business rescue, 6.95 will equally apply to transactions and corporate actions at the subsidiary level.

## Court applications

6.97 Issuers must immediately notify the JSE of any application in terms of section 163 of the Act.

### Appendix 1 to Section 6: Publication of information

Reference	Information	Submission to the JSE	Deliver to shareholders	Publish in press in	Announce
	All announcements except those specifically detailed in this appendix	No	No	Yes	Yes
66.26	Trading statement	No	No	No	Yes
66.43	Condensed financial statements	No	No	Yes	Yes, available through the JSE cloudlink
66.43	Annual financial statements	Yes	No	No	Yes, available through the JSE cloudlink
66.43	Summary financial statements	No	No	No	Yes available through the JSE cloudlink
66.44	Annual reports	Yes	No	No	Yes, available through the JSE cloudlink
66.45	Interim Results	No	No	Yes	Yes, available through the JSE cloudlink
66.46	Quarterly Results	No	No	No	Yes, available through the JSE cloudlink
66.65	Notices regarding annual general/general meetings	Yes	Yes	No	Yes
66.39	Change of auditors	Yes	No	No	Yes
66.71	Changes to the boards of directors	No	No	No	Yes
66.77	Directors dealings in securities	No	No	No	Yes
67.23	Dividend announcement	No	No	No	Yes
Section 8	Circulars	Yes	Yes	No	No
Section 10	PLS and RLP	Yes	Yes	Yes (full or abridged)	Yes
612.7(g)	Annual compliance report prepared pursuant to section 13G(2) of the BEE Act.	Yes	No	No	Yes (only a notice of availability referring to the website of the issuer)
Schedule 2	MOI	Yes	Yes	No	No

## Section 7 Corporate Actions

### Scope of Section

This Section deals with corporate actions, save for transactions which are dealt with in Sections 8 and 9.

The corporate actions covered under this section are:

- 7.1 General
- 7.3 Acquisition issues and vendor consideration placings
- 7.9 Alteration of share capital
- 7.14 Change of name
- 7.19 Dividends, capitalisation issues and scrip dividends
- 7.26 Issues for cash
- 7.41 Odd lot offers
- 7.49 Options and convertible securities
- 7.57 Payments to securities holders
- 7.64 Redemption of listed redeemable securities
- 7.70 Repurchase of equity securities
- 7.99 Rights and claw back offers
- 7.112 Transfer of sector
- 7.114 Voluntary liquidation

### General

- 7.1 All corporate actions must adhere to the corporate action timetables and be approved by the JSE, save as otherwise specified. The JSE must be consulted in advance on any complex corporate actions, including the impact on the corporate action timetables.
- 7.2 All circulars must include details of the actions required by certificated and dematerialised shareholders in relation to the corporate actions event and voting.

### Acquisition issues and vendor consideration placings

#### Specific requirements

- 7.3 Approval for listing will only be granted for an acquisition issue for a *bona fide* acquisition and not for a circumvention of securities holders' rights of pre-emption.
- 7.4 A vendor consideration placing must not be undertaken at a price lower than:
  - (a) a 10% discount to the 30 business day weighted average traded price prior to the date that the placing is approved by the board; or
  - (b) a 10% discount to the 3 business day weighted average traded price prior to the date of the placing.

A placing price below the minimum prices in 7.4 may be undertaken if approved by shareholders in general meeting through an ordinary resolution, excluding the votes of the vendor, its associates and other parties participating in the placing.

### Announcement

- 7.5 Refer to the applicable announcement obligations for transactions in terms of Sections 8 (Transactions), Section 9 (Related Party Transactions), Section 13

(Property Entities), Section 14 (Mining and Oil/Gas) and Section 15 (Investment Entities and SPACs).

### **Contents of circular**

- 7.6 For the contents of the circulars, refer to Sections 8 (Transactions), Section 9 (Related Party Transactions), Section 13 (Property Entities), Section 14 (Mining and Oil/Gas) and Section 15 (Investment Entities and SPACs), as the case may be.
- 7.7 A vendor consideration placing in terms of 7.4 does not require a circular.

### **Submission to the JSE**

- 7.8 The following must be submitted to the JSE:
- (a) the circular, if applicable;
  - (b) the signed acquisition agreement;
  - (c) the application for listing (available on the JSE Forms Portal);
  - (d) the exchange control approval, if applicable; and
  - (e) any experts' consents appearing in the circular.

### **Alteration of share capital**

#### **Specific requirements**

- 7.9 Alteration of share capital includes amendments to authorised share capital, amendments to rights attaching to shares, sub-divisions and consolidations.
- 7.10 Any alteration to the share capital of the applicant issuer, whether issued or not, must be approved by shareholders through a special resolution in terms of the Act.
- 7.11 A circular or announcement of an increase in share capital, sub-division and consolidation does not require JSE approval but must be approved by the sponsor.

### **Contents of circular**

- 7.12 The following must be included in the circular:
- (a) details of the special resolution in terms of the Act to be approved by shareholders;
  - (b) the rationale and effective date for the alteration of share capital;
  - (c) the ratio, if applicable;
  - (d) a statement that the JSE has granted approval for the amendment of the issuer's listing, if relevant; and
  - (e) the before and after share capital structure of the issuer, if applicable.

### **Submission to the JSE**

- 7.13 The following must be submitted to the JSE:
- (a) the circular;
  - (b) if an increase in authorised share capital, the application (available on the JSE Forms Portal);
  - (c) confirmation that the special resolution in terms of the Act was filed with

- the Commission;
- (d) the exchange control approval, if applicable.

## **Change of name**

### **Specific requirements**

- 7.14 An issuer proposing to change its name must obtain approval from the JSE first and then seek shareholders' approval in terms of the Act.
- 7.15 An application to the JSE must include:
- (a) the new name;
  - (b) the proposed new abbreviated name, being no more than nine letters in length; and
  - (c) a copy of the name reservation from the Commission.
- 7.16 The former name of the issuer must be shown on announcements, circulars, notices of meetings and the new share certificate (in brackets under the new name), for a period of at least one year from the date of the name change.

### **Announcement**

- 7.17 Release an announcement in terms of the corporate action timetables.

### **Submission to the JSE**

- 7.18 The following must be submitted to the JSE:
- (a) the circular or notice of general meeting.
  - (b) the application; and
  - (c) confirmation that the special resolution in terms of the Act was filed with the Commission, by no later than the finalisation date in terms of the corporate action timetables.

## **Dividends, capitalisation issues and scrip dividend**

### **Dividends and interest**

- 7.19 The declaration of dividends, interest and other similar payments ("distribution payments") by an issuer must be announced immediately or simultaneously with the results announcement.
- 7.20 A decision not to declare distribution payments, which decision is price sensitive, must be announced immediately.

### **Specific requirements**

- 7.21 A capitalisation issue must not be presented in a manner *in lieu* of the declaration of a dividend and where holders of securities are not entitled to elect to receive a cash payment.
- 7.22 A circular for a capitalisation issue/scrip dividend does not require JSE approval, but must be approved by the sponsor.

### **Announcement**

- 7.23 The announcement must include the following, if applicable:

- (a) if a cash disbursement, a statement whether the distribution is a reduction of contributed tax capital or a dividend (as defined in the Tax Act);
- (b) if a capitalisation issue or dividend (including dividend in specie), a statement whether the issue is distributed from capital or income reserves;
- (c) local dividend tax rate represented as a percentage;
- (d) gross local dividend amount represented as cents per share;
- (e) net local dividend amount represented as cents per share;
- (f) non-reclaimable foreign withholding dividend tax rate represented as a percentage;
- (g) dividend reclaimable tax rate applicable overseas represented as a percentage;
- (h) issued share capital as at declaration date in terms of the corporate action timetables;
- (i) closing market price of the distribution in specie as at deemed payment date which shall be no later than the close of SENS on record date;
- (j) company registration number; and
- (k) company tax reference number.

### **Contents of circular**

7.24 The following must be included in the circular:

- (a) the reason for the capitalisation issue or scrip dividend;
- (b) the class and the par value (if any) of the securities involved;
- (c) if applicable, a form of election, whereby the shareholder may elect to receive cash in substitution for the whole or part of the capitalisation issue or scrip dividend entitlement and *vice versa*;
- (d) whether any directors, prescribed officers and/or company secretary of the issuer will receive securities from the capitalisation issue or scrip dividend;
- (e) if applicable, the last day on which shareholders must make their election;
- (f) a statement on any tax implications for both resident and non-resident shareholders;
- (g) if a scrip dividend, a statement in bold and upper case, on the front page, drawing shareholders' attention to the entitlement to be received if no election is made, being shares or cash;
- (h) the ratio in which the capitalisation securities will be issued and allotted to shareholders of the issuer;
- (i) the relevant corporate action timetable;
- (j) if a capitalisation issue, disclosure of the amount to be capitalised and whether the issue is distributed from capital or income reserves (if applicable); and
- (k) if a dividend (including *in specie* dividend), as defined in the Tax Act, disclosure of the details in the required announcement above.

### **Submission to the JSE**

7.25 The following must be submitted to the JSE:

- (a) the circular;

- (b) the application for listing (available on the JSE Forms Portal), which must be received by the finalisation date in terms of the corporate action timetables;
- (c) exchange control approval, if applicable;
- (d) if a scrip dividend or capitalisation issue, a resolution by the board that the issuer has passed the solvency and liquidity test in terms of the Act and that, since the test was performed, there have been no material changes to the financial position of the issuer or its group; and
- (e) the board resolution authorising the capitalisation issue or scrip dividend.

## Issues for cash

### General

- 7.26 An issuer proposing to issue equity securities for cash must first offer those securities to existing holders of equity securities *pro rata* to their holdings unless a specific or general authority to issue shares for cash is obtained in terms of the Requirements.
- 7.27 Equity securities which are the subject of the issue must be of a class already in issue or represent securities or rights that are convertible into a class already in issue.
- 7.28 An issue of equity securities for cash (which includes an issue for the extinction of a liability, obligation or commitment, restraint, or settlement of expenses) must be approved by equity securities holders in general meeting through:
- (a) a specific authority in terms of 7.33; or
  - (b) a general authority in terms of 7.38.
- 7.29 Approval from holders of equity securities is not required for a once-off issue for cash provided:
- (a) the dilution is equal to or less than 0.25% (calculated by taking the number of equity securities to be issued and dividing it by the number of listed equity securities, excluding treasury shares prior to the issue); and
  - (b) the price at which the equity securities are issued must be equal to or at a premium to the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue is agreed between the issuer and the party subscribing for the securities (the JSE should be consulted for a ruling if the applicant's securities have not traded in such 30 business day period).
- 7.30 Price stabilisation can be undertaken in terms of Schedule 6.
- 7.31 Where any issue for cash constitutes an "affected transaction" as defined in the Act, the transaction must be referred to the Panel.
- 7.32 If an issuer wishes to issue treasury shares, such issue must comply with the issues for cash provisions as if it were a fresh issue of equity securities.

## Specific issue

### Specific requirements

- 7.33 An issuer must obtain approval in a general meeting through an ordinary resolution. Parties and their associates participating in the issue must be excluded from voting.

7.34 Issuers may undertake an accelerated specific issue, through an expedited approval process and prescribed circular (available on the JSE Forms Portal).

### **Announcement**

7.35 The issuer, after it has agreed the terms, must immediately release an announcement containing details of the issue, including:

- (a) the number or maximum number and price of the equity securities to be issued;
- (b) if applicable, the discount to the weighted average traded price of the equity securities over the 30 business days prior to the date that the issue is agreed;
- (c) the name of the subscriber, including beneficial owner (beneficial ownership must only be disclosed if known to the issuer and with the consent of the party to disclose). If consent for the disclosure of beneficial ownership has been refused, such refusal must be submitted to the JSE and a statement to that effect must be included in the announcement. If a related party, confirmation of that fact and the nature of the related party;
- (d) subject to 7.36(c), if the issue is to a related party, a statement by the board that the issue is subject to the inclusion of a statement in the circular by the independent members of board whether the issue is fair insofar as the equity securities holders (excluding the related party and its associates) of the issuer are concerned;
- (e) total consideration to be received and intended use of funds; and
- (f) a detailed narrative on the impact of the issue on the financial statements.

### **Contents of circular**

7.36 The following must be included in the circular, which must be sent to equity securities holders within 60 days of publication of the announcement:

- (a) the notice of general meeting, including the required resolution;
- (b) the announcement information in 7.35;
- (c) if the issue is to a related party and the price at which the equity securities are issued is at a discount to the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue is agreed between the issuer and the party subscribing for the securities (the JSE should be consulted for a ruling if the applicant's securities have not traded in such 30 business-day period), a statement by the independent members of the board whether the issue is fair insofar as the equity securities holders (excluding the related party, its associates) of the issuer are concerned;
- (d) if the issue relates to the issue of options/convertible securities that exceeds the discount limitation in 7.49(b) below, a statement must be included by the independent members of board confirming whether the issue is fair insofar as the equity securities holders (excluding the related party/ies and associates) of the issuer are concerned; and
- (e) the following general information:

<b>Paragraphs in Section 10</b>	<b>Nature of statement</b>
A2	Name, address and incorporation
A3	Directors and management

A4	Prospects
A5	Share capital of the company
B7.1	Directors' interests in securities
B11	Market value of securities
B21	Responsibility statement
B22	Expenses
B25	Documents available for inspection

### Submission to the JSE

7.37 The following must be submitted to the JSE:

- (a) the circular or notice of general meeting;
- (b) the application for listing (available on the JSE Forms Portal);
- (c) exchange control approval, if applicable; and
- (d) any experts' consents appearing in the circular.

### General issue: Specific requirements

7.38 An issuer must obtain approval in a general meeting through an ordinary resolution and comply with the following:

- (a) the equity securities must be issued to public shareholders and not related parties, provided related parties may participate in terms of the bookbuild process described in (b);
- (b) related parties are permitted to participate in a general issue through a bookbuild process provided:
  - (i) the general authority approval by shareholders expressly affords the ability to the issuer to allow related parties to participate in a general issue through a bookbuild process;
  - (ii) related parties may only participate with a maximum bid price at which they are prepared to take-up shares or at book close price. In the event of a maximum bid price and the book closes at a higher price the relevant related party will be "*out of the book*" and not be allocated shares; and
  - (iii) equity securities must be allocated equitably "*in the book*" through the bookbuild process and the measures to be applied must be disclosed in the announcement launching the bookbuild;
- (c) the general authority must represent a specified number of securities, excluding treasury shares, being less than 30% of the applicant's listed equity securities as at the date of the notice of general meeting, provided that:
  - (i) the general authority shall be valid until the issuer's next annual general meeting or for 15 months from the date on which the general authority was approved, whichever period is shorter, subject to any other restrictions set out in the authority; and
  - (ii) in the event of a sub-division or consolidation during the general authority period, the existing general authority must be adjusted accordingly to represent the same ratio; and
- (d) the maximum discount at which equity securities can be issued is 10% of

the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue is agreed.

### **Announcement**

- 7.39 The issuer must release an announcement under a general authority once it has issued, within the period of the general authority, on a cumulative basis, 5% or more of the issued share capital (excluding treasury shares), prior to that issue, including:
- (a) the number and price of securities issued;
  - (b) the average discount to the weighted average traded price of the equity securities over the 30 business days prior to the date that the issue is agreed;
  - (c) in respect of the issue of options/convertible securities in 7.49, a detailed narrative on the impact of the issue on the financial statements;
  - (d) total consideration to be received and the intended use of the funds

### **Contents of circular**

- 7.40 An issuer seeking a general authority must prepare a circular or include a resolution in a notice of annual general meeting, addressing the specific requirements for a general issue in 7.38.

### **Odd lot offers**

#### **Specific requirements**

- 7.41 An odd-lot offer is an offer where the issuer proposes to reduce administrative costs associated with a large number of odd-lot holders.
- 7.42 Odd lot holdings comprise of:
- (a) less than 100 securities; or
  - (b) 100 or more securities, provided the costs of disposing of such securities equals or exceeds the total value thereof.
- 7.43 An odd lot offer must have a two-way election whereby holders may:
- (a) elect to retain their odd-lot holding; or
  - (b) elect to sell their odd-lot holding.
- 7.44 A deemed acceptance resulting from 7.43(b), being the default action if securities holders do not make any election in terms of 7.43, will only be permitted where the MOI is amended or makes provision for the deemed acceptance of odd lots and where the odd lot offer has been approved by shareholders in general meeting through an ordinary resolution.
- 7.45 The issuer must obtain the relevant authority to repurchase securities in terms of this Section.

### **Announcement**

- 7.46 Release an announcement in terms of the corporate action timetables.

### **Contents of circular**

- 7.47 The following must be included in the circular:
- (a) details of the resolutions to be approved by shareholders;

- (b) the reasons for the odd lot offer;
- (c) the election alternatives; and
- (d) a statement in bold and upper case, on the front page, drawing holders' attention to the sale of the odd lot holdings if no election is made.

### **Submission to the JSE**

7.48 The following must be submitted to the JSE:

- (a) the circular;
- (b) the application for removal (available on the JSE Forms Portal);
- (c) exchange control, if applicable; and
- (d) a resolution by the board that the issuer has passed the solvency and liquidity test in terms of the Act and that, since the test was performed, there have been no material changes to the financial position of the issuer or its group.

### **Options and convertible securities**

7.49 Where options/convertible securities, excluding executive and staff share schemes, are granted/issued for cash, the issuer must:

- (a) obtain a specific authority from equity securities holders to issue options/convertible securities in terms of 7.33; or
- (b) obtain a general authority from equity securities holders to issue options/convertible securities in terms of 7.38. The resolution must expressly allow for the issue of options/convertible securities, and the strike price may not exceed a 10% discount to the weighted average traded price of such equity securities measured over the 30 business days at the date of issue of the options/convertible securities.

### **Extensions of listed options: Specific requirements**

7.50 Extensions to listed options must be approved by holders of securities or the directors, and the JSE.

### **Announcement**

7.51 An announcement must be released detailing the extension of the exercise method and date, including the listing date. The announcement must be released at least six weeks prior to the option's original expiry date.

### **Contents of circular**

7.52 The circular must state the method for the extension on the option.

7.53 If the power of extension has been delegated to the directors, a notification must be sent to securities holders with the details of the extension and the authority under which the extension was made.

### **Submission to the JSE**

7.54 The following must be submitted to the JSE:

- (a) the circular or notification;
- (b) an application, stating:
  - (i) the number of options to be extended;

- (ii) the period of the extension;
- (iii) the amounts of the nominal and issued capital and the number of the securities issued;
- (iv) that all options issued have been included in the application for listing; and
- (v) a copy of the relevant board resolution authorising the extension.

### **Expiry of listed options or other conversion rights**

- 7.55 Notice must be given to the JSE at least one month before the expiry date of the option or conversion rights stating:
- (a) the date on which the options or conversion rights expire and requesting the removal of the options from the List as and from the close of business on the date of expiry; and
  - (b) that all registered option holders, or registered holders of the securities with conversion rights, have been notified of the date on which the option or conversion rights expire and that, after that date, the option or conversion rights will have no value. This notification should be announced at least six weeks prior to the expiry date.
- 7.56 Application must be made for the listing of securities issued on the exercise of options and conversion rights.

### **Payments to securities holders**

#### **Specific requirements**

- 7.57 Issuers wishing to make payments to their securities holders must comply with all relevant provisions of the Act and specifically with section 46 of the Act.
- 7.58 A *pro rata* payment to all securities holders will not require the approval of securities holders.
- 7.59 Any payment to securities holders which is not *pro rata* will be regarded as a specific payment and must be approved by securities holders in a general meeting, which approval is not required in respect of cash dividends, scrip dividends or capitalisation issues.
- 7.60 Approval from securities holders in general meeting is required, where the securities to be distributed are unlisted or will become unlisted when the issuer effects a distribution in specie by way of an unbundling (either by way of *pro rata* or specific payment).

#### **Announcement**

- 7.61 An announcement must include:
- (a) the date of the general meeting;
  - (b) the terms of the payment, including the intended payment date and source (capital or income payment);
  - (c) an explanation, including supporting information (if any), of the impact of the payment on the financial statements; and
  - (d) that a circular will be issued with the above details.

#### **Contents of circular**

- 7.62 The following must be included in the circular, which must be sent to securities

holders within 60 days of publication of the announcement:

- (a) in relation to the payment, the:
  - (i) reason and the intended method of payment;
  - (ii) source (capital or income payment); and
  - (iii) terms of payment;
- (b) an explanation, including supporting information (if any), of the impact of the payment on the financial statements;
- (c) a statement by the board that the issuer complies with the solvency and liquidity test in terms of the Act, as at the date of the approval of the circular;
- (d) the following general information:

Paragraphs in Section 10	Nature of statement
A5	Share capital of the company
A19	Material change
B6	Major shareholders
B7.1	Directors' interests in securities
B21	Responsibility statement
B22	Expenses

- (e) a statement giving the directors' opinion on the payment, a recommendation as to how securities holders should vote and an indication as to how the directors intend to vote their shares.

### Submission to the JSE

7.63 The following must be submitted to the JSE:

- (a) the circular;
- (b) any application for listing (available on the JSE Forms Portal);
- (c) exchange control approval, if applicable;
- (d) any experts' consents appearing in the circular; and
- (e) the board resolution approving the specific payment and confirmation that the issuer has met the solvency and liquidity test in terms of the Act, as at the date of the approval of the circular, and that there have been no material changes to the financial position of the issuer and its group.

### Redemption of listed redeemable securities

#### Specific requirements

7.64 The redemption must be effected in terms of the MOI of the issuer.

#### Announcements

7.65 Any early redemptions of the issuer's securities, other than equity securities, must be announced when an aggregate of 3% of the initial number of the relevant class of securities has been redeemed and for each 3% thereafter. Such announcement must be made as soon as possible and, in any event, by not later than 08h30 on the second business day following the day on which the relevant threshold is reached or exceeded.

7.66 The announcement must state the number of securities redeemed (if applicable, since the most recent announcement) and the number of securities remaining.

### **Contents of circular**

7.67 The following must be included in the circular to holders of the redeemable securities:

- (a) a summary of the salient features, dates, rationale and action required;
- (b) details of exchange control approval obtained, if applicable;
- (c) the taxation implications of the redemption;
- (d) a detailed narrative on the impact of the redemption on the financial statements; and
- (e) the market value of securities in terms of B11 in Section 10.

7.68 The JSE may waive the requirement for a circular where the redemption does not contain any options.

### **Submission to the JSE**

7.69 The following must be submitted to the JSE:

- (a) the circular, if applicable;
- (b) application for removal of the securities to be redeemed, and the effective date;
- (c) exchange control approval, if applicable; and
- (d) any experts' consents appearing in the circular.

## **Repurchase of equity securities**

### **General**

7.70 A repurchase in terms of the Act or a repurchase in terms of the laws of a foreign incorporated issuer, constitutes a repurchase in terms of the Requirements.

7.71 An issuer proposing to repurchase equity securities can undertake a *pro rata* repurchase from existing equity securities holders, *pro rata* their holdings, or obtain a specific or general repurchase authority in terms of the Requirements.

7.72 Approval of security holders is not required for:

- (a) a *pro rata* repurchase from all its equity securities holders; and
- (b) intra-group repurchases from wholly-owned subsidiaries, share incentive schemes in terms of Schedule 9 and/or non-dilutive share incentive schemes controlled by the issuer, where such equity securities are to be cancelled.

7.73 A repurchase of equity securities can take place in terms of an authority through:

- (a) a specific authority in terms of 7.77; or
- (b) a general authority in terms of 7.84.

7.74 The repurchase provisions do not apply to:

- (a) repurchases entered into on behalf of *bona fide* third parties, either by the issuer or any other member of its group on arm's length terms; or
- (b) any repurchases by an issuer which is a financial services company (a company that is an authorised user as defined in the FMA, a long-term

insurer as defined in the Long-term Insurance Act 1998, as amended, a short-term insurer as defined in the Short-term Insurance Act 1998, as amended and/or a bank as defined in the Banks Act 1990, as amended) of its own equity securities or a repurchase by a subsidiary (which is a financial services company) of an issuer of the issuer's equity securities on an arm's length basis and held by such financial services company for the benefit of or to hedge the financial services company's obligations to third parties and/or as a component of a financial services product made available to clients of that financial services company in the normal course of business. Such equity securities purchased will not be treated as treasury shares.

- 7.75 When there are equity securities convertible into the class to be repurchased, a separate meeting of the holders of such equity securities must be held and their approval must be obtained by ordinary resolution before the issuer undertakes the proposed repurchase, unless the terms of those equity securities provide for the issuer to repurchase those equity securities.
- 7.76 Authorisation for repurchases must be given by the MOI of the issuer and the repurchase must comply with the Act.

#### **Specific authority: Specific requirements**

- 7.77 An issuer must obtain approval in a general meeting through an ordinary resolution. Parties and their associates participating in the repurchase must be excluded from voting.
- 7.78 The authority shall be valid until such time as the approval is amended or revoked by ordinary resolution.
- 7.79 A specific repurchase includes the grant of an option where the issuer may or is obliged to repurchase its equity securities in future and includes a specific offer (being an offer to specific equity securities holders).
- 7.80 If the issuer has announced that it will make a specific repurchase, it must pursue the repurchase, unless the JSE determines otherwise on application.

#### **Announcement**

- 7.81 The issuer, after it has agreed the terms, must immediately release an announcement, including:
- (a) the reason for, and method by which the issuer intends to repurchase its equity securities;
  - (b) details of the equity securities holder/s, including beneficial owner (beneficial ownership must only be disclosed if known to the issuer and with the consent of the party to disclose), the number of securities held before the repurchase, the number of equity securities to be repurchased and the price to be paid. If consent for the disclosure of beneficial ownership has been refused, such refusal must be submitted to the JSE and a statement to that effect must be included in the announcement. If a related party, confirmation of that fact and the nature of the related party;
  - (c) a detailed narrative on the impact of the repurchase on the financial statements;
  - (d) the date on or period over which the repurchase is to be made;
  - (e) the source of funds to be utilised;
  - (f) the date of the general meeting at which the authority will be sought;
  - (g) subject to 7.82(c), if the repurchase is from a related party, a statement by

the board that the repurchase is subject to the inclusion of a statement in the circular by the independent members of board whether the repurchase is fair insofar as the equity securities holders (excluding the related party and its associates) of the issuer are concerned;

- (h) whether the shares will be held as treasury shares or cancelled;
- (i) the total number of treasury shares held after the repurchase; and
- (j) a statement that a circular containing details of the above will be sent to shareholders.

### Contents of circular

7.82 The following must be included in the circular, which must be sent to equity securities holders within 60 days of publication of the announcement:

- (a) the announcement information in 7.81, save for 7.81(j);
- (b) a statement by the board that it has authorised the repurchase and that the issuer and its subsidiaries have passed the solvency and liquidity test in terms of the Act and that since the test was performed, there have been no material changes to the financial position of any company of the group;
- (c) if the repurchase is from a related party, and the price at which the equity securities are purchased is at a premium to the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the repurchase is agreed between the issuer and the party selling the securities (the JSE should be consulted for a ruling if the applicant's securities have not traded in such 30 business-day period), a statement by the independent members of the board whether the repurchase is fair insofar as the equity securities holders (excluding the related party, its associates) of the issuer are concerned; and
- (d) the following general information:

Paragraphs in Section 10	Nature of statement
A5	Share capital
A19	Material change
B6	Major shareholders
B7.1	Directors' interests in securities
B21	Responsibility
B22	Expenses
B25	Documents available for inspection

### Submission to the JSE

7.83 The following must be submitted to the JSE:

- (a) the circular;
- (b) the application for removal of securities (available on the JSE Forms Portal);
- (c) exchange control, if applicable;
- (d) any experts' consents appearing in the circular; and
- (e) the board resolution approving the repurchase and confirming compliance with the solvency and liquidity test in terms of the Act.

## **General authority**

### **Specific requirements**

- 7.84 An issuer must obtain approval in a general meeting through an ordinary resolution.
- 7.85 The authority shall be valid until the issuer's next annual general meeting or for 15 months from the date of the authority, whichever period is shorter.
- 7.86 Repurchases cannot be made at a price greater than 10% above the weighted average of the market value for the securities for the five business days immediately preceding the date of the repurchase.
- 7.87 The repurchase must be made through the order book operated by the JSE trading system and done without any prior understanding or arrangement between the company and the counter party (reported trades are prohibited). The issuer must only appoint one agent to make any repurchases.
- 7.88 Securities acquired under the authority must not, in the aggregate in any one financial year exceed 20% of that issuer's issued share capital (as at the beginning of the financial year) of that class, excluding treasury shares.
- 7.89 An issuer or its subsidiary may not repurchase securities during a prohibited period unless they have in place a repurchase programme. The issuer must instruct only one independent agent, which makes its investment decisions in relation to the repurchase, prior to the commencement of the prohibited period to execute the repurchase programme. The repurchase programme must be submitted to the JSE prior to the commencement of the prohibited period and must include:
- (a) the name of the independent agent;
  - (b) the date of appointment;
  - (c) the commencement and termination date; and
  - (d) a statement that the quantities of securities to be traded during the relevant period are fixed.

### **Announcements**

- 7.90 An issuer must release an announcement when the issuer has cumulatively repurchased 3% of the class in issue at the date the authority was granted, excluding treasury shares, and for each 3% in aggregate thereafter. Such announcement must be made as soon as possible but no later than 08h30 on the second business day following the day on which the relevant threshold is reached or exceeded, and must include:
- (a) the date(s) of repurchase(s);
  - (b) the highest and lowest prices paid;
  - (c) the number and value of securities repurchased;
  - (d) the extent of the authority outstanding, by number of securities and percentage (using the number of securities in issue before any repurchases were made);
  - (e) the source of funds utilised;
  - (f) a statement by the board, after considering the effects of the repurchase, that it has complied with solvency and liquidity test in terms of the Act;
  - (g) a statement that the repurchase was made through the JSE order book;
  - (h) an explanation of the impact of the repurchase on the financial

- information;
- (i) the number of treasury shares held after the repurchase;
  - (j) the date on which the securities will be cancelled and the listing removed, if applicable; and
  - (k) in the event that the repurchase/purchase was made during a prohibited period through a repurchase programme, a statement confirming that the repurchase was made through a repurchase programme in terms of the Requirements.

### Contents of circular

7.91 The following must be included in the circular or notice of general meeting:

- (a) the resolution being subject to 7.84 to 7.88;
- (b) a statement of the board of its intention regarding the utilisation of the authority;
- (c) a statement by the board that it has authorised the repurchase after considering the effect of the maximum repurchase and that the issuer and its subsidiaries have passed the solvency and liquidity test in terms of the Act, and that since the test was performed, there have been no material changes to the financial position of any company of the group;
- (d) the following general information:

Paragraphs in Section 10	Nature of statement
A5	Share capital
A19	Material change
B6	Major shareholders
B21	Responsibility statement

### Miscellaneous repurchase provisions

#### Announcement of intra-group repurchases

7.92 An issuer must release an announcement, immediately after intra-group repurchases have been concluded, including:

- (a) the date/s and total number of securities repurchased;
- (b) whether the securities are repurchased from either a wholly-owned subsidiary/ies, share incentive scheme/s pursuant to Schedule 9 and/or non-dilutive share incentive schemes controlled by the issuer;
- (c) confirmation whether the securities will be cancelled;
- (d) the price paid for the repurchased securities; and
- (e) the balance of the number of treasury shares held.

#### Appraisal rights

7.93 Securities repurchased in terms of section 164 of the Act will not be regarded as a repurchase in terms of the Requirements.

7.94 The issuer must within 48 hours of the repurchase:

- (a) submit the application for removal of listing of securities (available on the JSE Forms Portal), and confirm that the securities have been repurchased in terms of section 164 of the Act; and

- (b) on the same day as the application to the JSE, announce the effective date of the removal and the number of securities that will be removed (expressed in a number and a percentage of the issued share capital of the issuer) including:
  - (i) the price paid for the securities;
  - (ii) the identity of the securities holders; and
  - (iii) a statement that the repurchase was made in respect of section 164 of the Act.

## **Purchase of securities other than equity securities**

### **Notification of decision to repurchase**

- 7.95 Where an issuer intends to make an offer to all holders in respect of all or part of their holdings, to repurchase any of its securities other than equity securities, it must:
- (a) while the offer is open, ensure that no dealings in the relevant securities are carried out by the issuer or its group, until the offer has either been submitted to the JSE or abandoned; and
  - (b) notify the JSE of its decision to proceed with the offer to repurchase.

### **Announcement of repurchases, early redemptions and cancellations: Other than equity securities**

- 7.96 Any repurchases, early redemptions or cancellations of the issuer's securities, other than equity securities, must be announced when an aggregate of 3% of the initial number of the relevant class of securities has been purchased, redeemed or cancelled and for each 3% in aggregate of the initial number of that class acquired thereafter. Such announcement must be made as soon as possible and, in any event, by not later than 08h30 on the second business day following the day on which the relevant threshold is reached or exceeded. The announcement must state the number of securities purchased, redeemed or cancelled since the most recent announcement, the number of the class of securities that remain outstanding, and when the securities repurchased are to be cancelled and the listing removed, if applicable.

### **Period between repurchase and notification**

- 7.97 In circumstances where the repurchase is not being made pursuant to an offer announced in accordance with 7.95 and the repurchase results in the issuer reaching or exceeding a relevant threshold as specified in 7.96, no further repurchases may be effected until after notification in compliance with 7.96 has been made.

### **Convertible securities**

- 7.98 In the case of securities that are convertible into, exchangeable for, or carry a right to subscribe for equity securities, unless a partial offer is made to all holders of that class of securities on the same terms, repurchases must not be made at a price more than 10% above the five business day weighted average price of the securities immediately preceding the date of repurchase.

## **Rights offers and claw back offers**

### **Specific requirements**

- 7.99 A rights offer can be:
- (a) a renounceable rights offer; or
  - (b) a non-renounceable rights offer, provided the maximum discount that securities can be offered at does not exceed 10% of the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue was determined by the issuer.
- 7.100 The provisions for rights offers apply equally to claw-back offers.

#### **Letters of Allocation – Renounceable Rights Offer**

- 7.101 LAs must be listed, renounceable and in dematerialised form.
- 7.102 The following must be included in the LA:
- (a) the salient details of the corporate action must be printed on the front page;
  - (b) the instructions in respect of acceptance and payment, sale and renunciation and registration; and
  - (c) where excess securities are made available, the application form must be printed in a different colour to the LA.
- 7.103 Forms of instruction in respect of LAs must be sent to certificated holders, in terms of which: Form A (Instruction to Sell) and Form B (Form of Renunciation) must require the signature of the offeree(s); Form C (Registration Application Form) must require the signature of the renounee(s); and Form D (Documents of Title) must not require a signature.

#### **Underwriting**

- 7.104 If the rights offer is not underwritten, it must not be conditional on a minimum subscription being received.
- 7.105 If underwritten, the:
- (a) applicant issuer must obtain sworn affidavits from at least two directors of the underwriter confirming to the applicant issuer that it has the financial resources to comply with its obligations in terms of the underwriting agreement;
  - (b) board must make due and careful enquiry to confirm that the underwriter can comply with its commitments in terms of the offer; and
  - (c) underwriting commission payable to a shareholder must not be greater than the current market rate payable to independent underwriters. The board must provide the JSE with evidence of the reasonableness of the commission payable.

#### **Excess security applications**

- 7.106 A rights offer may include the right to apply for excess securities, subject to such right being transferable upon renunciation of the LA.
- 7.107 Excess securities should be allocated equitably, taking into account:
- (a) the current holdings prior to the application;
  - (b) the number of securities taken up in terms of the rights offer; and
  - (c) the number of excess securities applied for.

#### **Announcement**

- 7.108 Release an announcement in terms of the corporate action timetables.

## Contents of circular

7.109 The following must be included in the circular:

- (a) whether the rights offer is renounceable or not;
- (b) the purpose of the rights offer;
- (c) the terms of the rights offer, the amount to be raised and the number of securities that are proposed to be issued;
- (d) the class and the par value (if any) of the securities involved;
- (e) whether any directors, prescribed officers and/or company secretary of the issuer aim to follow their rights;
- (f) a statement on any tax implications for both resident and non-resident shareholders;
- (g) the ratio in which the securities will be issued and allotted in terms of the rights offer to shareholders.
- (h) the corporate action timetables;
- (i) if underwritten,
  - (i) details of the underwriter, including beneficial owner (beneficial ownership must only be disclosed if known to the issuer and with the consent of the party to disclose). If consent for the disclosure of beneficial ownership has been refused, such refusal must be submitted to the JSE and a statement to that effect must be included in the circular;
  - (ii) the names of the directors of the underwriter, if a company;
  - (iii) the bankers to the underwriter;
  - (iv) the underwriting commission; and
  - (v) a statement by the board that they have made due and careful enquiry to confirm that the underwriter can comply with its obligations in terms of the underwriting agreement;
- (j) details regarding the proposed listing of the LAs, the subsequent listing of the new securities and the amount payable in respect of listing fees;
- (k) details regarding the LAs such as:
  - (i) acceptance;
  - (ii) renunciation; and
  - (iii) payment (payment must be made in South African currency);
- (l) a statement regarding exchange controls as agreed to by the South African Reserve Bank; and
- (m) description of business and an explanation, including supporting information (if any), of the intended use of the funds.

7.110 The following additional information must be included in the circular:

Paragraphs in Section 10	Nature of statement
A2	Name, address and incorporation
A3	Directors and management
A4	Prospects
A5	Share capital of the company
B7.1	Directors' interests in securities

B11	Market value of securities
B21	Responsibility statement
B22	Expenses
B25	Documents and consents to be available for inspection

### **Submission to the JSE**

- 7.111 The following must be submitted to the JSE :
- (a) the circular or PLS;
  - (b) if applicable, the underwriting agreement and the sworn affidavits;
  - (c) the application for listing (available on the JSE Forms Portal);
  - (d) the provisional LAs;
  - (e) exchange control approval, if applicable; and
  - (f) any experts' consents appearing in the circular or PLS.

### **Transfer of Sector**

- 7.112 An issuer may make application to the JSE for a change of sector subject to the process available on the JSE Procedures Portal (available on the JSE website) and the corporate action timetables.

### **Announcement**

- 7.113 Release an announcement in terms of the corporate action timetables.

### **Voluntary liquidation**

- 7.114 An issuer entering into voluntary liquidation must obtain approval in a general meeting and deliver a circular to shareholders, including:
- (a) a summary of the mechanics of the liquidation distribution and the payment procedure to be adopted;
  - (b) exchange control rulings/ guidelines;
  - (c) the taxation implications of the distribution; and
  - (d) the effect on net asset value, net tangible asset value, earnings and headline earnings per share.
- 7.115 If approved by shareholders, an application must be submitted to the JSE for the removal of the listing in accordance with the corporate action timetable.

## Section 8 Transactions

### Scope of Section

This Section deals with transactions, principally acquisitions and disposals, by issuers and their subsidiaries.

Additional requirements relating to transactions are set out in Section 9 (Transactions with Related Parties), Section 13 (Property Entities) and Section 14 (Mining and Oil/Gas) and Section 15 (Investment Entities and SPACs).

- 8.1 General
  - 8.2 Categorisation
  - 8.12 Cash company
  - 8.13 Category 2 requirements
  - 8.18 Category 1 requirements
  - 8.27 Reverse take-over
  - 8.29 Take-overs and the panel
  - 8.34 Issues by subsidiaries
  - 8.36 Listing of subsidiary companies or assets
- Appendix to Section 8 – Preparation and contents of circular

### General

- 8.1 A transaction by an issuer:
- (a) includes:
    - (i) a transaction by its subsidiary; and
    - (ii) the grant or acquisition of an option to acquire or dispose of assets as if the option had been exercised, provided that where the right to exercise is solely at the issuer's discretion, the transaction must be categorised on exercise of the option. If at the issuer's discretion, only the premium/consideration for the option must be categorised at the date of such grant or acquisition; and
  - (b) excludes:
    - (i) an issue of securities (other than an issue by subsidiaries in terms of 8.34 - 8.36);
    - (ii) a transaction to raise finance, which does not involve the acquisition or disposal of assets, and is not with a related party;
    - (iii) a transaction with or between wholly owned subsidiaries; and
    - (iv) a transaction in the ordinary course of business where:
      - (aa) subject to 8.2, the categorisation percentage calculated in terms of 8.5 is less than 30% for main board issuers and less than 50% for main board issuers in the general segment and ALT<sup>x</sup> issuers; or
      - (bb) the issuer or its subsidiary is a financial institution (as defined in the Financial Sector Regulation Act, No. 9 of 2017) and where funds are used (such as policyholders funds or trust property) which are not held primarily for the benefit of its shareholders and the transaction is not with a related party.

- 8.2 The JSE must determine whether a transaction is in the ordinary course of business and in its assessment, the JSE will have regard to:
- (a) the nature of business of the transacting parties;
  - (b) the incidence of similar transactions;
  - (c) the size measured against similar transactions;
  - (d) whether the transaction contributes to the issuer's existing income arising in the ordinary course of the issuer's activities;
  - (e) whether the transaction contributes to costs that relate directly to the income contemplated in (d) above; and
  - (f) whether the transaction is in the ordinary course of business for both transacting parties.

### **Categorisation**

- 8.3 A transaction is categorised by assessing its size relative to that of the issuer.
- 8.4 The categorisation is expressed as a percentage. The categories of transactions are:
- (a) Category 2: 5% or more but less than 30%; and
  - (b) Category 1: 30% or more or if the consideration is not subject to any maximum.

### **Categorisation calculation**

- 8.5 The categorisation percentage must be calculated before the announcement of terms, excluding treasury shares, and is calculated as follows:
- (a) consideration:  
the consideration measured against the market capitalisation of the issuer;  
or
  - (b) dilution:  
the number of listed securities issued measured against those currently in issue; or
  - (c) settled partly in cash and shares:  
the categorisations percentages in (a) and (b) above must be aggregated.
- 8.6 In circumstances where:
- (a) the categorisation produces an anomalous result; and/or
  - (b) the transaction components are not included at fair value,  
the JSE may require a valuation on the transaction values or use other relevant indicators of size to determine the categorisation.

### **Calculation of consideration**

- 8.7 When calculating:
- (a) consideration that is to be settled in securities to be listed, the consideration will be the aggregate market value of those securities before the announcement of terms;
  - (b) consideration that is to be settled in cash, the consideration is the amount paid to the vendor/s. The JSE may require the inclusion of further amounts

such as the discharge of any liabilities, whether actual or contingent, of the seller/s as part of the transaction;

- (c) a deferred consideration payable, the consideration is the maximum possible consideration; and
- (d) consideration that is to be settled through a new class of listed equity securities, the consideration will be the issue price of such securities or, if no price is attributable thereto, the expected aggregate market value.

### **Indemnities and similar arrangements**

8.8 Any agreement with a party, outside the issuer's group:

- (a) where the issuer agrees to discharge liabilities, costs, expenses, commissions or losses incurred by that party, whether actual or contingent;
- (b) which is exceptional; and
- (c) where the maximum liability is unlimited,

will constitute a category 1 transaction. Items not deemed exceptional are indemnities that are customarily given with sale and purchase agreements and indemnities given to advisers against liabilities to third parties for providing advisory services, are not exceptional.

### **Aggregation of transactions**

8.9 Transactions (other than ordinary course of business transactions) entered into during the 12 months prior to the date of the latest transaction must be aggregated with the latest transaction to determine the categorisation of the latest transaction. Aggregation is determined by adding the categorisation percentage/s at the time of the previous transaction/s with the categorisation percentage of the latest transaction. A previous category 1 transaction will not be aggregated, unless it results in a reverse take-over when taken into account, in which case the reverse take-over requirements must be applied.

8.10 Transactions will only be aggregated if they:

- (a) are entered into with the same party or its associates;
- (b) involve the acquisition or disposal of securities or an interest in one company or asset; or
- (c) lead to substantial involvement in a business activity that did not form a part of the issuer's/group's principal activities.

8.11 Where aggregation results in a category 1 transaction, shareholders' approval is required in respect of the latest transaction only.

### **Cash company**

8.12 If a disposal results in the creation of a cash company, the following will apply:

- (a) if within twelve months after classification as a cash company, the issuer fails to enter into an agreement and make an announcement relating to the acquisition of assets that satisfy the listing criteria in Section 2, its listing may be suspended;
- (b) should a cash company fail, within six months of suspension, to obtain approval from the JSE for a circular relating to the acquisition of assets, its listing may be removed; and
- (c) where a cash company is utilised for a reverse takeover, the reconstituted

company must comply with the listing criteria in Section 2.

## Category 2 requirements

- 8.13 As soon as possible after the terms of a category 2 transaction have been agreed, the issuer must release an announcement containing the following details:
- (a) particulars of the transaction, including:
    - (i) the subject of the transaction;
    - (ii) if an acquisition, the name of the seller and beneficial owner (beneficial ownership must only be disclosed if known to the issuer and with the consent of the party to disclose). If consent for the disclosure of beneficial ownership has been refused, such refusal must be submitted to the JSE and a statement to that effect must be included in the announcement;
    - (iii) if a disposal, the name of the purchaser and beneficial owner (beneficial ownership must only be disclosed if known to the issuer and with the consent of the party to disclose). If consent for the disclosure of beneficial ownership has been refused, such refusal must be submitted to the JSE and a statement to that effect must be included in the announcement;
    - (iv) the effective date;
    - (v) the conditions precedent; and
    - (vi) any other significant terms of the agreement;
  - (b) a description of the business carried on by the subject of the transaction;
  - (c) the consideration, including any deferred consideration, and terms of settlement;
  - (d) the value of the net assets that are the subject of the transaction;
  - (e) the profits attributable to the net assets that are the subject of the transaction;
  - (f) the rationale for the transaction;
  - (g) in the case of a disposal, the application of the sale proceeds;
  - (h) in the case of a disposal, if securities formed part of the consideration received, a statement as to whether such securities are to be sold or retained; and
  - (i) in the case of a property entity, the information required for announcements in 13.4.
- 8.14 Issuers must release the announcement even if it is not possible to include all the details required or if there are outstanding conditions precedent. If details are omitted, issuers must release a cautionary announcement and then announce the omitted details once they have been established.
- 8.15 Categorisation calculations must be submitted to the JSE together with the announcement. The JSE may request a copy of the transaction agreement.
- 8.16 If a company acquired becomes a subsidiary, its MOI must comply with Schedule 2. Confirmation of adherence must be included in the announcement in terms of 8.13.
- 8.17 If a transaction results in an issue of securities, then the issuer must consider 10.3 as regards RLP.

## Category 1 requirements

- 8.18 As soon as possible after terms of a category 1 transaction have been agreed, the issuer must comply with the requirements for a category 2 transaction and state within the announcement that:
- (a) the transaction is subject to shareholders' approval; and
  - (b) a circular to shareholders, containing a notice of general meeting, will be issued within 60 days. The JSE may extend this period.
- 8.19 The category 1 circular must comply with the requirements relating to circulars in Section 10 and must include:
- (a) the category 2 transaction information in 8.13;
  - (b) the information required by the Appendix to this Section in relation to category 1 circulars;
  - (c) details of:
    - (i) any service contracts of proposed directors of the issuer as a result of the transaction; and
    - (ii) any amendments to the service contracts and/or remuneration of existing directors of the issuer, as a result of the transaction;
  - (d) where goodwill is involved, a statement regarding the issuer's accounting policy towards goodwill, as well as the reasons for such goodwill payment;
  - (e) a statement giving:
    - (i) the directors' opinion on the transaction; and
    - (ii) the directors' recommendation as to how shareholders should vote at the general meeting to approve the transaction and an indication as to how the directors intend to vote their shares, if applicable;
  - (f) pro forma effects on:
    - (i) the statement of financial position and the net assets and net tangible assets per share of the issuer; and
    - (ii) the statement of comprehensive income and earnings and headline earnings per share of the issuer, including, if applicable, diluted earnings and diluted headline earnings per share;
  - (g) in the case of a transaction involving property where, on an aggregated basis, these assets represent 50% or more of total asset value measured against the statement of financial position of the subject matter for the category 1 transaction:
    - (i) the information required in 13.16; and
    - (ii) a valuation report in terms of 13.13, unless 13.12 applies; and
  - (h) in the case of a transaction involving mineral or oil/gas assets, the information required in 14.3.

## Supplementary notification

- 8.20 The JSE must be advised immediately and a supplementary announcement made as soon as possible, after the transaction announcement but before the shareholders meeting, if the issuer becomes aware that:
- (a) there has been a material change affecting any matter contained in an earlier announcement; or
  - (b) a material new matter has arisen which would have been required to be

disclosed in an earlier announcement had such information been known at that time;

- (c) “material” for purposes of (a) and (b) above means:
  - (i) a change of 10% or more to the pro forma financial effects of the transaction; or
  - (ii) any other matter that could influence an investor’s assessment of the transaction.

8.21 The supplementary announcement must:

- (a) provide details of the change or new matter; and
- (b) contain a statement that, save as disclosed, there has been no material change or new matter since publication of the previous announcement.

8.22 If a change to the transaction requires re-categorisation into a higher category, and therefore requires shareholders’ approval or additional regulation, a supplementary announcement must be made as soon as possible.

8.23 If the matter in 8.20 is identified after the release of a category 2 announcement or after the shareholders’ meeting, a supplementary announcement is required if the matter constitutes price sensitive information.

### **Supplementary circulars**

8.24 The JSE must be advised immediately and a supplementary circular published if, at any time after a circular has been published and before the relevant shareholders meeting, the applicant becomes aware of the matters in 8.20 above.

8.25 If a change to the transaction requires re-categorisation into a higher category, and therefore requires shareholders’ approval or additional regulation, a supplementary circular must be prepared as soon as possible.

8.26 Supplementary circulars must:

- (a) provide full details of the change or new matter;
- (b) contain the responsibility statement required in B21 of Section 10; and
- (c) contain a statement that, save as disclosed, there has been no significant change or new matter since publication of the previous circular.

### **Reverse take-over**

8.27 The announcement of a reverse take-over must contain a warning statement of the uncertainty as to whether the JSE will allow the listing to continue following the acquisition.

8.28 The issuer must prepare a category 1 circular and PLS as though the issuer is a new applicant. If not provided to shareholders within 60 days of the announcement, the JSE may suspend the listing. The JSE may extend this period. The circular must clearly state that the JSE will grant continued listing to the issuer if shareholders approve the acquisition.

### **Take-overs and the panel**

8.29 Any announcement concerning a possible take-over must be approved by the Panel prior to its release.

8.30 A copy of the Panel’s approval must be submitted to the JSE in respect of any documentation that is issued to shareholders.

8.31 Any transaction regulated by the Panel must comply with:

- (a) the relevant corporate action timetables, unless otherwise agreed by the JSE; and
- (b) the pro forma financial information provisions in terms of Section 11, to the extent that such information is included in the documentation sent to shareholders.

8.32 The JSE will review the documentation to ascertain whether it has any other implications in terms of the Requirements, however will only approve those matters mentioned in 8.31.

### **Profit warranties**

8.33 Where the issue of securities is the subject to a profit warranty, such securities may only be issued once the agreed profit warranty required has been achieved and the issuer's auditor has confirmed to the JSE that the profit warranty has been met.

### **Issues by subsidiaries**

8.34 An issue of shares for cash in a subsidiary (listed or unlisted) of an issuer must be categorised in accordance with this Section.

8.35 When a subsidiary undertakes an offer for subscription by way of a rights offer, the rights offer must be categorised in accordance with this Section by assessing its size relative to that of the issuer, taking into account (i) whether the issuer follows its rights (full or partial), (ii) whether the other shareholders follow their rights and (iii) the total effect of the dilution in the subsidiary. The categorisation must be discussed with the JSE. Any shares that are renounced by the listed holding company in favour of its shareholders pro rata to their holdings are not required to be categorised.

### **Listing of subsidiary companies or assets**

8.36 When, in connection with the listing of a subsidiary company:

- (a) a listed holding company intends making an offer of securities in such subsidiary;
  - (b) the subsidiary intends issuing shares for cash to persons other than wholly owned entities within the listed holding company's group; or
  - (c) the subsidiary has an offer for subscription by way of a rights offer,
- the offer/issue/rights offer must be categorised in accordance with this Section.

8.37 Any shares that are renounced by the listed holding company to its shareholders need not be categorised in accordance with this Section.

### **Appendix to Section 8 – Preparation and contents of circular**

- 1 The working capital statement and, where relevant, information on group prospects and any profit forecast, must be prepared on the basis that the acquisition or disposal has taken place.
- 2 When issuing securities, disclosure regarding major shareholders and directors' interests in securities must be provided on the existing issued share capital and as enlarged, by the securities for which listing is sought.
- 3 Where a circular and a PLS is required, a single document may be issued.
- 4 If securities are being issued as consideration and a category 1 circular is required, then listing will not be granted for those securities until shareholders'

approval is obtained.

- 5 The transaction circular must comply with the requirements relating to circulars in Section 10 and must include the information below. The table below sets out the information required (denoted by \*) to be included in a category 1 circular (in addition to that required by 8.19) in respect of the issuer and the subject of the transaction.

<b>Paragraphs in Section 10</b>	<b>Description</b>	<b>Issuer</b>	<b>Undertaking the subject of the transaction</b>
A2	Name, address and incorporation	*	*
A3	Directors' remuneration and benefits	*#	
A4	Group prospects	*	*
A8	Material contracts		*
A10	Details of material loans	*#	*
A19	Material change		*
B6	Major shareholders	*	
B7.1	Directors' interests in securities	*	
B7.2	Directors' interests in transactions	*#	
B15	Litigation		*
B17	Statement as to working capital	*	
B21	Responsibility statement	*	
B22	Expenses	*	*
B24	Experts' consents	*	
B25	Documents and consents to be available for inspection		*
8.19(f) and 11.8	Pro forma financial information	*	
11.29	Auditor's report		*
11.1(b)	Report of historical financial information		*
	All agreements associated with the transaction of which the issuer and/or its subsidiaries are a party	*	

# These items in the table must only be included in a category 1 circular if the proposed transaction directly results in any change in respect of such disclosure items, if not, an appropriate negative statement must be included.

## Section 9

### Transactions with Related Parties

#### Scope of Section

This Section deals with transactions with parties related to an issuer.

- 9.1 General
- 9.3 Small related party transactions
- 9.4 Related party transaction
- 9.5 Independent fairness opinion
- 9.6 Ordinary course of business transactions
- 9.11 Contents of circular

#### General

9.1 The following definitions apply:

- (a) “related party” means:
  - (i) a material shareholder;
  - (ii) a director, the chief executive officer of the issuer or its holding company, or any party upon whose directions or instructions the directors of the issuer or its holding company are accustomed to act;
  - (iii) an adviser to the issuer, with a beneficial interest, direct or indirect, in the issuer or its associates;
  - (iv) a prescribed officer of the issuer;  
Items (i)-(iv) above include, acting in that capacity, within 12 months before the date of the transaction.
  - (v) the extended family of any person in (ii) above;
  - (vi) the asset manager or management company of a property entity and investment entity, and each of their controlling shareholders, including anyone whose assets they manage;
  - (vii) an associate of any of the above.
- (b) a “related party transaction” includes a transaction in terms of Section 8, an agreement or any variation or novation of an existing agreement, between an issuer, or any of its subsidiaries and:
  - (i) a related party; or
  - (ii) any other person, the purpose and effect of which is to benefit a related party,
- (c) a “related party transaction” excludes, a transaction, where:
  - (i) the issuer has no equity securities listed;
  - (ii) the categorisation is 0.25% and below;
  - (iii) securities are issued to a related party as a vendor consideration placing in terms of 7.4;
  - (iv) it is an agreement with a related party regarding:
    - (aa) the grant of credit, loan or guarantee by a related party on normal commercial terms and on an unsecured basis;
    - (bb) an employment benefit of a director;

- (cc) the indemnification and directors' insurance in terms of section 78 of the Act;
- (dd) financial assistance for subscription of securities pursuant to section 44 of the Act; and
- (ee) the underwriting of shares by a related party where the fees are market related, as confirmed by the independent directors of the issuer.

9.2 The JSE may require confirmation from the board that, to the best of its knowledge and belief, no nominee shareholders are acting in concert with any other person in relation to the related party transaction.

### **Small related party transactions**

9.3 A small related party transaction is a transaction with a related party where the categorisation percentage exceeds 0.25% but is less than or equal to 5%. The issuer must:

- (a) announce the transaction in terms of 9.4(a) and include details where the agreement is open for inspection for a period of 14 days and a statement from the independent directors on the corporate governance processes that were followed to approve the transaction, and that:
  - (i) the related party transaction was concluded on an arm's length basis, including key assumptions and factors taken into account in reaching the conclusion;
  - (ii) that the transaction is fair to shareholders (excluding the related party and its associates); and
- (b) comply with 9.4, if the transaction is not fair.

### **Related party transaction**

9.4 The issuer must:

- (a) release an announcement, as soon as possible after the terms have been agreed, including:
  - (i) the category 2 information in terms of Section 8;
  - (ii) the name of the related party;
  - (iii) the interest of the related party in the transaction; and
  - (iv) the rationale for the transaction and expected benefits for the issuer;
- (b) submit the agreement/s to the JSE;
- (c) send a circular to its shareholders, containing the notice of general meeting and the information in 9.11 within 60 days from the announcement. The JSE may extend this period;
- (d) include a statement in the circular from the independent directors on the corporate governance processes that were followed to approve the transaction, and whether:
  - (i) the related party transaction was concluded on an arm's length basis, including key assumptions and factors taken into account in reaching the conclusion;
  - (ii) the transaction is fair to shareholders (excluding the related party and its associates); and
  - (iii) shareholders should vote in favour of the transaction; and

- (e) obtain the approval from its shareholders, prior to the transaction or as a condition, by ordinary resolution excluding the votes of related parties and their associates.

### **Independent fairness opinion**

- 9.5 If the board elects to obtain an independent fairness opinion on a voluntary basis and wishes to make the opinion available in the market, it must comply with Schedule 5.

### **Ordinary course of business transactions**

- 9.6 Related party transactions with a director and/or any associate of a director will not be classified as ordinary course of business for an issuer in terms of 8.1(b) and 8.2.
- 9.7 Ordinary course of business transactions with related parties with a categorisation of 5% or more must be announced as soon as possible after terms have been agreed.
- 9.8 The announcement must include details of the:
- (a) ordinary course of business transaction. The price may be excluded if commercially sensitive; and
  - (b) corporate governance processes that were followed by the board to approve the transaction, including an opinion from the independent directors that the transaction is in the ordinary course of business and concluded on an arm's length basis.

### **Restrictive funding arrangements**

- 9.9 If a related party participates in the restrictive funding arrangement shareholder approval will be required and 9.11 applies.

### **Aggregation**

- 9.10 Related party transactions with the same related party or its associates entered within a 12-month period must be aggregated, unless approved by shareholders or announced in terms of 9.3 and 9.4.

### **Contents of circular**

- 9.11 A circular must comply with Section 10 and must include:
- (a) the information required below in relation to the issuer:

<b>Paragraphs in Section 10</b>	<b>Nature of statement</b>
A2	Name, address and incorporation
A19	Material change
B6	Major shareholders
B21	Responsibility statement
B22	Expenses
B24	Experts' consents
B25	Documents available for inspection
8.19(f) and 11.8	Pro forma financial information

- (b) where the related party is a director, or an associate of a director, of the issuer (or its holding company) the information below:

<b>Paragraph in Section 10</b>	<b>Nature of statement</b>
B7.1 and 7.2	Directors' interests in securities and transactions

- (c) the information in 9.4(a), (d) and (e);
- (d) a statement that the related party and its associates will be taken into account in determining a quorum, but that their votes will not be taken into account in determining the results of the voting;
- (e) for a category 1 transaction, the information required in a category 1 circular;
- (f) for a transaction involving immovable freehold or leasehold property, the information required in terms of 13.16;
- (g) for a transaction involving mineral or oil/gas assets, the information required in terms of 14.3; and
- (h) for a related party transaction as a result of an agreement, details of the date, parties, nature/type of agreement and the relevant terms.

## Section 10

### Pre-Listing Statements, Revised Listing Particulars and Circulars

#### Scope of Section

This Section deals with the requirements for a PLS, RLP and circulars.

- 10.1 Methods of Listing
  - 10.2 PLS, RLP and circulars
  - 10.10 General: PLS, RLP and circulars
  - 10.16 PLS: Specific requirements
- Appendix 1 to Section 10: Disclosure for a PLS

#### Methods of Listing

- 10.1 An applicant issuer can seek a listing on the JSE by way of:
  - (a) an introduction;
  - (b) an offer for sale and subscription; or
  - (c) a placing.

#### PLS, RLP and circulars

- 10.2 An applicant seeking a listing on the JSE must prepare a PLS in terms of this Section, save for fast-track secondary listings in terms of Section 2.
- 10.3 An issuer must prepare RLP where 50% or more of the securities already listed are issued for an acquisition within any three-month period.
- 10.4 The provisions of a PLS equally apply to RLP.
- 10.5 Circulars for corporate actions in terms of Section 7 and transactions in terms of Sections 8 and 9, must include the disclosures as referenced to in those Sections.
- 10.6 The provisions dealing with a PLS and circulars must be complied with in terms of (Section 2 ALT<sup>x</sup>, Weighted Voting Shares and Preference Shares), Section 13 (Property Entities), Section 14 (Minerals and Oil/Gas) and Section 15 (Investment Entities and SPACs).
- 10.7 An applicant issuer must have an operational website to comply with the disclosure obligations imposed by the Requirements.
- 10.8 The documents to be submitted to the JSE for a new listing are set out in Section 12.
- 10.9 Pre-issued trading and price stabilisation may be undertaken in terms of Schedule 6.

#### General: PLS, RLP and circulars

- 10.10 A PLS and circular must:
  - (a) provide full information to holders of securities and investors to allow them to make an informed investment decision;
  - (b) not omit material information;
  - (c) not include false or misleading statements; and
  - (d) be approved by the JSE and comply with the corporate action timetables.
- 10.11 The following applies to a PLS and circular:

- (a) must be prepared in English;
  - (b) the information must be clear, factual and be presented in a chronological and easily understandable format;
  - (c) pictures and graphs may be included provided they directly support the information presented;
  - (d) the information must be current as at the issue date of the document or as near to such date as practicable. If not, an explanation must be provided;
  - (e) the JSE may require that prominence be given to certain information;
  - (f) the JSE may require disclosure of additional information it considers necessary for holders of securities and investors to make an informed investment decision;
  - (g) the directors of the applicant issuer must take responsibility for the contents;
  - (h) information prepared in terms of the Requirements may be incorporated by reference, provided the information must be disclosed under a heading identifying the information available on the applicant issuer's website and made available through a secure electronic manner at the election of the person requesting inspection for a reasonable period of time (being not less than 14 days);
  - (i) must be delivered to all holders of shares issued by the issuer, at the cost of the issuer; and
  - (j) a heading drawing attention to the importance of the document and advising holders of securities that if they are in any doubt as to what action to take, to consult appropriate independent advisers.
- 10.12 Disclosure in RLP and a circular can be substituted with the relevant information in the issuer's current results provided the required information is incorporated by reference.
- 10.13 If a JSE circular is sent to the beneficial owners of any particular class of security, the issuer must make available a copy of such circular to the beneficial owners of all other listed classes of securities in such issuer (through a secure electronic manner at the election of the person requesting inspection for a reasonable period of time), unless the contents of such circular is considered irrelevant to them by the board.

**Omission of information PLS and circular: General disclosure and material contracts**

- 10.14 The JSE may on application allow for the omission of information or a material contract if:
- (a) the information is of minor importance and will not influence any assessment of the financial position, changes in equity, results of operations or cash flows;
  - (b) disclosure would be contrary to the public interest and omission thereof is not likely to mislead investors about any important/material facts and/or circumstances; or
  - (c) disclosure would be seriously detrimental to the applicant issuer or would constitute an invasion of the applicant issuer's rights to privacy.
- 10.15 The application to the JSE must:
- (a) identify the information concerned and/or provide a copy of the material

- contract, and the reasons for the omission; and
- (b) state why, in the opinion of the applicant issuer, it complies with the grounds above.

## **PLS**

### **Specific requirements**

#### ***PLS disclosure***

- 10.16 A PLS must include the information contained in the Appendix to this Section.
- 10.17 Foreign applicants must comply with the required PLS disclosures. Although certain of the required disclosures emanate from the Regulations, the obligation of disclosure is imposed by the JSE.
- 10.18 The following requirements apply to a PLS:
- (a) the cover page must include the following:
- (i) the share capital in terms of A5 of the Appendix;
  - (ii) details of the issue in terms of A15 – A18 of the Appendix;
  - (iii) the responsibility statement in terms of B21 of the Appendix;
  - (iv) the names of the applicant, sponsors, auditor and transaction adviser/s;
  - (v) if also a prospectus, confirmation that approval from the Commission was granted and the date;
  - (vi) if the PLS to be issued is made conditional upon shareholders' approval, the following statement must be made:  
*“This pre-listing statement has been prepared on the assumption that the ordinary/special resolutions proposed in the Notice of General Meeting forming part of the circular to which this pre-listing statement is attached will be passed at the General Meeting of shareholders to be held on [...].”*
- (b) negative statements must be made for all required disclosures in terms of the Appendix that are not applicable or where no equivalent information is available. Where information required does not fit exactly due to applicant issuer's sphere of activity or legal form, the information must be adapted so that equivalent information is disclosed;
- (c) where another company is to become part of an applicant issuer's group, that company and its subsidiaries must be treated as part of the applicant issuer's group for the purpose of the PLS; and
- (d) if an offer to shareholders forms part of a transaction, which has been recommended by the board of the offeree, the issuer must include a working capital statement in respect of the proposed enlarged group in terms of B17 of the Appendix and details of material loans in terms of A10 of the Appendix as if the offer has become unconditional (“combined basis”). If not recommended by the board, the information must be presented on the issuer's group alone. The JSE will allow the statements on a combined basis to be provided in a later announcement, circular or supplementary PLS, within 30 days after the offer is declared unconditional.

### **Publication and announcement of a PLS**

- 10.19 The PLS must be announced in terms of the corporate action timetables after

approval by the JSE and published in the press in full or abridged form.

- 10.20 Announcements relating to a PLS must state where copies of the PLS can be obtained.

### **Introduction**

- 10.21 The PLS must state the following on the cover page:  
“This PLS is not an invitation to the public to subscribe for securities, but is issued in compliance with the JSE Listings Requirements, for the purpose of providing information to the public with regard to the company.”
- 10.22 An applicant may not seek the listing of securities by way of an introduction if there are any pre-existing intentions by any holder(s) (other than public shareholders) to dispose of a material number of their securities at or immediately after listing. The applicant must satisfy the JSE in respect hereof in so far as it has knowledge of any such intention(s).

### **Announcement: Introduction**

- 10.23 The announcement must include the following:
- (a) the number and description of the securities to be listed;
  - (b) the name, date of incorporation and registration number of the applicant;
  - (c) the general nature of the main business or proposed main business carried on or to be carried on by the applicant and its subsidiaries;
  - (d) the names and business addresses of the directors of the applicant;
  - (e) a statement that the PLS can be inspected at its registered office, and in Johannesburg, and/or through a secure electronic manner at the election of the person requesting inspection for a reasonable period of time (being not less than 14 days);
  - (f) if the press announcement is not a full PLS, a statement of such fact; and
  - (g) a positive statement by the board of the applicant issuer confirming that it meets the level of free float.

### **Announcement: Offers for sale or subscription and placing**

- 10.24 The applicant must release an announcement in terms of 10.23, save that 10.23(g) is not applicable and must be replaced with the following:
- (a) where all the securities that are the subject of an offer are intended to be offered only to the holders of securities of the applicant, with or without the right to renounce in favour of other persons:
    - (i) the issue price of such securities;
    - (ii) the ratio in which such securities will be offered to the holders of securities entitled to accept the offer; and
    - (iii) the last day to trade to ensure registration on the record date, in terms of the corporate action timetables; and
  - (b) the last day for subscription.
- 10.25 The announcement dealing with the outcome of the offer, subscription or placing before the date of listing must include a positive statement by the directors of the applicant issuer that the required level of free float has been achieved.

### **Underwriting and minimum subscription**

- 10.26 An offer for sale or subscription need not be underwritten.
- 10.27 If an offer for subscription is not underwritten for a new applicant, the offer must be conditional upon the minimum subscription being received that will fulfil the purpose of the offer. A statement to this effect must be made on the cover page of the PLS and in the section dealing with the minimum subscription required.
- 10.28 In respect to existing issuers, if the offer is not underwritten, it must not be conditional on a minimum subscription being received.
- 10.29 If the offer is underwritten the following must be complied with:
- (a) the issuer must ensure that the underwriter submits sworn affidavits, by at least two of its directors, confirming that it has the financial resources to comply with its commitments of the underwriting; and
  - (b) the PLS/circular must include a statement by the directors of the applicant that they have made due and careful enquiry to confirm that the underwriter can comply with its commitments in terms of the offer.
- 10.30 Any underwriting commission paid to a holder/s of securities of the applicant issuer must not exceed the current market rate payable to independent underwriters. The applicant must present evidence to the JSE proving the reasonableness of such underwriting commission.

### **Over-subscriptions**

- 10.31 In the event of an over-subscription, the formula for the basis of allotment must be calculated in such a way that a person will not, in respect of his application, receive an allocation of a lesser number of securities than any other subscriber applying for the same number or a lesser number of securities. Random allocations are allowed only where prior approval has been granted by the JSE. Where a listing is over-subscribed or cancelled and persons are owed subscription refunds in terms of applications made, the sponsor must ensure that the subscription monies are refunded to such persons on the day of listing or on the day following the decision to cancel the listing, together with all interest earned on such monies calculated from the date of receipt of such monies by the party concerned.

### **Material objections**

- 10.32 The sponsor and the applicant issuer must immediately notify the JSE of any material objections received regarding the listing of the applicant during the period from the release date of the listing announcement and up to the submission of the Part II documents in terms of Section 12.

### **Supplementary PLS**

- 10.33 The JSE must be notified immediately and a supplementary PLS published if, at any time after a PLS has been published and before dealings in securities commences, the applicant becomes aware that:
- (a) there has been a material change affecting any matter contained in the PLS; or
  - (b) a material new matter has arisen which would have been required to be disclosed in the original PLS had such information been known at that time;
  - (c) “material” for purposes of (a) and (b) above means:
    - (i) a change of 10% or more to the pro forma financial effects; or

- (ii) any other matter that could influence an investor's assessment of the applicant issuer.

10.34 Supplementary PLS must:

- (a) provide full details of the change or new matter;
- (b) contain the responsibility statement; and
- (c) contain a statement that, save as disclosed, there has been no material change and no material new matter that has arisen since publication of the original PLS.

10.35 In relation to an acquisition issue, if the consideration for the acquisition or offer is revised, resulting in the issue of a greater number of shares than for which application for listing will be made, a supplementary PLS may be required.

10.36 In relation to an offer that involves the exchange of securities for securities of another company, and the offer consideration is revised to include a new class of security for which an application for listing is to be made, only additional information applicable to the issue of the new class of securities must be contained in a supplementary PLS.

10.37 The supplementary PLS must be announced as soon as possible after approval by the JSE.

## Appendix 1 to Section 10: Disclosure for a PLS:

### Part A

Item	Disclosure mandated with reference to the Regulations	Regulation
A1	General statement of required information	54
A2	Name, address and incorporation	57
A3	Directors, other office holders, or material third parties	58*
A4	History, state of affairs and prospects of company	59, excluding 3(g) and (4)
A5	Share capital of the company	60
A6	Options or preferential rights in respect of shares	61
A7	Commissions paid or payable in respect of underwriting	62
A8	Material contracts	63#
A9	Interest of directors and promoters	64
A10	Material loans to the applicant issuer	65(2)(a)
A11	Material loans advanced by the applicant issuer	65(2)(b)
A12	Shares issued or to be issued otherwise than for cash	66
A13	Property acquired or to be acquired	67
A14	Amounts paid or payable to promoters	68
A15	Purpose of the offer	70
A16	Time and date of the opening and of the closing of the offer	71

A17	Particulars of the offer	72
A18	Minimum subscription	73
A19	Report by directors as to material changes	75
A20	Statement as to listing on stock exchange	76

Notes:

\* Remuneration disclosure in terms of 58(3)(b) must also be disclosed in terms of section 30(4)-(6) of the Act.

# Must include restricted funding arrangements.

Financial information must be disclosed in terms of Section 11.

The meaning of “*material*” and “*promotor*” for purposes of the above disclosures have the meaning in terms of the Requirements and not the Act.

Although prospectus disclosures relate to an offer, the above disclosure will equally apply to listing on the JSE without an offer.

Compliance with the above does not make a PLS a prospectus, as a prospectus requires further adherence to the Act.

The information provided must be current as at the last practicable date in relation to the preparation of the PLS or circular.

## Part B

### Financial information

- B1.1 Subject to B1.4, a report on historical financial information in terms of Section 11.
- B1.2 Pro forma financial information, for post balance sheet events, in terms of Section 11.
- B1.3 Profit forecasts and estimates, if applicable, in terms of Section 11.
- B1.4 In relation to a new listing, if there is no profit requirement in the listing criteria, inclusion of an audited statement of financial position.
- B1.5 In relation to a new listing, details of any emphasis of matter contained in the auditor’s report.

### Corporate governance

- B2 Disclosure of the corporate governance provisions in Section 5. The disclosure of the application of the King Code may be incorporated by reference.

### Director’s declarations

- B3 Disclosure of all the integrity information in 6.74 in the director’s declarations for each director.

### Public shareholders

- B4 If a listing in terms of an introduction, a positive statement by the board of the applicant confirming that the listing criteria relating to free float has been achieved.

### Controlling shareholders

- B5.1 The name/s of the controlling shareholder/s of the applicant known to the board.
- B5.2 Details of any change in controlling shareholder/s of the applicant as a result of the issue, if applicable.

### Major shareholders other than directors

- B6 The name of any major shareholder/s (not being directors). Where securities are

issued, the disclosure must reflect the position before and after listing.

### **Directors' interests in securities and transactions**

- B7.1 Details of the direct and indirect beneficial interests held by the directors (and associates), including a director who has resigned during the last 18 months, in the securities of the applicant. Any change in such interests occurring between the end of the preceding financial year and the date of the PLS must also be disclosed. Where securities are issued, the disclosure must reflect the position before and after listing.
- B7.2 Details regarding the nature and extent of any material beneficial interests, whether direct or indirect, of directors of the group, including a director who has resigned during the last 18 months, in transactions that were effected by the applicant:
- (a) during the current or immediately preceding financial year; or
  - (b) during an earlier financial year and remain in any respect outstanding or unperformed; or
  - (c) an appropriate negative statement.

### **Authorisations and alteration to share capital**

- B8.1 A statement advising who controls the issue or disposal of the authorised but unissued securities.
- B8.2 A statement of the resolutions, authorisations and approvals in relation to the securities to be listed.
- B8.3 A summary of any consolidations or sub-divisions of securities during the preceding three years.

### **Other Listings**

- B9 A statement as to what other classes of securities are listed and on which stock exchange(s), if applicable.

### **Dividends**

- B10.1 The time limit (if any) after which entitlement to dividends lapses and an indication of the person in whose favour the lapse operates.
- B10.2 The fixed date\ (if any) on which entitlement to dividends arises.
- B10.3 Details of any arrangement under which future dividends are waived or agreed to be waived.

### **Market value of securities**

- B11 Where the securities for which application is being made are of a class that is already listed, a table of the aggregate volumes and values traded and the highest and lowest prices traded in those securities for each month over the twelve months prior to the date of issue of the PLS/circular and for each day over the 30 days preceding the last practicable date prior to the date of issue of the PLS/circular.

### **Simultaneous issues**

- B12 If, simultaneously or almost simultaneously with the issue of securities for which application is being made, securities of the same class are issued, or to be issued, details must be provided of such issues and the number of securities concerned.

### **Over-subscriptions**

- B13 Details of any intention to grant any preference on allotment to any party.

### **Social mandate, laws of incorporation and MOI**

- B14.1 A statement by the social and ethics committee of the applicant that it has fulfilled its mandate in terms of the Regulations and that there are no instances of material non-compliance to disclose. Any material non-compliance must be disclosed. A foreign applicant must make a similar statement in respect of compliance with its corporation laws to the extent that similar obligations exist.
- B14.2 A statement must be made by the board of the applicant that the applicant is:
- (a) in compliance with the provisions of the Act or relevant laws of incorporation. A foreign applicant, must refer to its relevant laws of incorporation; and
  - (b) operating in conformity with its MOI.

### **Litigation**

- B15 Details on any legal or arbitration proceedings in the previous 12 months, pending or threatened, of which the applicant issuer is aware, that may have or have had, a material effect on the group's financial position.

### **Material risks**

- B16 Details of all material risks specific to the applicant, its industry and/or its securities. Generic disclosure must be avoided and material risk disclosure must start with the risks considered to be the most significant.

### **Statement as to working capital**

- B17.1 A statement by the board of the applicant issuer that, in their opinion, the working capital available to the applicant and its subsidiaries, if any, is sufficient for the group's present requirements, that is, for at least the next 12 months from the date of issue of the PLS, or, if not and the issuer has securities already listed, how it is proposed to provide the additional working capital considered by the issuer to be necessary.

The JSE will not require a working capital statement to be made by an issuer whose business is entirely or substantially that of banking, insurance or the provision of similar financial services, provided that the JSE is satisfied that:

- (a) the inclusion of such a statement would not provide significant information for investors; and
  - (b) the issuer's solvency and capital adequacy are suitably regulated by another regulatory body.
- B17.2 The working capital statement should be prepared on the group, as enlarged by the acquisition of any assets.
- B17.3 The applicant must comply with the requirements of Schedule 3.

### **Material assets**

- B18 Details of material assets acquired by the applicant issuer or any of its subsidiaries during the three years preceding the PLS/circular, including:
- (a) the names of the vendors and beneficial owners (beneficial ownership must only be disclosed if known to the issuer and with the consent of the party to disclose). If consent for the disclosure of beneficial ownership has been refused, such refusal must be submitted to the JSE and a statement to that effect must be included in the PLS;
  - (b) the consideration paid (including goodwill) and whether settled in cash or securities;
  - (c) details of the following:

- (i) whether any guarantees of book debts or other assets were provided by the vendor;
- (ii) whether warranties typical for sale transactions were provided by the vendor;
- (iii) restraint of trade terms, including any restraint payments and/or any other restrictions;
- (d) details how any accrued taxes prior to the date of acquisition will be settled; and
- (e) confirmation whether the assets have been transferred to the applicant issue or not.

### **Non-Property Entities**

- B19 In relation to non-property entities where properties, on an aggregated basis, represent 50% or more of the total asset value of the applicant issuer measured against the pro forma statement of financial position:
- (a) the information required in 13.16; and
  - (b) a valuation report in terms of 13.13, unless 13.12 applies.

### **Substantial mineral or oil/gas assets**

- B20 In relation to applicant issuers with substantial mineral or oil/gas assets disclosure for a PLS and category 1 circular in terms of 14.3.

### **Responsibility statement**

- B21.1 A directors' responsibility statement as follows:  
"The directors, whose names are given in paragraph ... on page ... of this document collectively and individually accept full responsibility for the accuracy of the information given and certify that to the best of their knowledge and belief there are no facts that have been omitted which would make any statement false or misleading, and that all reasonable enquiries to ascertain such facts have been made and that the pre-listing statement/circular contains all information required by law and the JSE Listings Requirements".
- B21.2 The JSE may require responsibility to be extended to additional persons that have made statements in, or have made contributions to, the PLS and circular, in which case the responsibility statement above must be amended accordingly.
- B21.3 The PLS and circular must be signed by every director of the applicant (or by his agent or attorney). If responsibility has been extended to other person/s, such person/s must also sign the responsibility statement and disclose which portions they take responsibility for.
- B21.4 If the PLS relates to securities issued in connection with a recommended take-over of an issuer (offeree) and the directors accept responsibility for the information given on the issuer in the PLS, then the directors of the offeror may accept responsibility only for the rest of the information in the PLS (the above responsibility statement must be amended accordingly).

### **Expenses**

- B22 Details of expenses in relation to advisors, including but not limited to attorneys, sponsors, corporate advisors, auditors and underwriters, and the preparation of the PLS/circular, paid/payable to each party, the amount and services rendered.

### **Sponsors**

- B23.1 Details of any conflicts of interest, along with the procedures to avoid/manage such conflicts.

B23.2 Disclosure of the number of securities, value and terms of securities held or will be held in the applicant issuer.

**Expert's consents**

B24 Where a PLS/circular includes a report made by an expert, a statement that the expert has given and has not withdrawn his/her written consent to the issue of the PLS/circular.

**Documents available for inspection**

B25 Documents relating to the applicant and its major subsidiaries, as applicable, must be able to be inspected at its registered office, and in Johannesburg, and/or through a secure electronic manner at the election of the person requesting inspection for a reasonable period of time (being not less than 14 days), including:

- (a) the MOI;
- (b) any trust deed or agreement affecting the governance of the applicant or the interests of shareholders;
- (c) all material contracts;
- (d) the latest CPR and/or QRE report, if applicable;
- (e) copies of service agreements with directors, managers or secretary/ies; underwriters, vendors and promoters entered into during the last three years;
- (f) all reports, letters, financial statements, valuations and statements by an expert; and
- (g) the audited annual financial statements since the incorporation of the applicant or for the preceding three years, whichever is the lesser, together with all notes, certificates, or information required by the Act.

## Section 11

### Financial Information

#### Scope of Section

This Section deals with the content of financial information for PLS and circulars.

- 11.1 Report of historical financial information
- 11.2 Pro forma financial information
- 11.19 Profit forecasts and estimates
- 11.29 Auditor's reports
- 11.32 Contents of financial information
- 11.36 Minimum contents of annual financial statements
- 11.38 Additional content for annual report

#### Report of historical financial information

##### General

- 11.1 A report of historical financial information must be prepared:
  - (a) on a new applicant (including reverse take-over) issuing a PLS;
  - (b) on the subject of a category 1 transaction; and
  - (c) on the subject of any acquisition/disposal (exceeding 50% measured against anticipated market capitalisation of new applicant at date of listing/value of the category 1 subject) made by the new applicant/category 1 subject in the current or preceding financial year.

##### Assurance

- 11.2 The following assurance must be prepared:
  - (a) an audit opinion on the financial year immediately preceding the issue of the PLS/circular;
  - (b) either an audit opinion or a review conclusion for the financial year(s), prior to the financial year immediately preceding the issue of the PLS/circular; and
  - (c) a review conclusion on interim financial information.

The above also applies when a report of historical financial information is prepared on a voluntary basis.

##### Specific requirements

- 11.3 The report of historical financial information is the responsibility of the board and this fact must be stated.
- 11.4 The report of historical financial information must:
  - (a) be prepared in accordance with IFRS and the SA financial reporting requirements;
  - (b) be presented in consolidated form for two years up to and including the financial year immediately preceding the issue of the PLS/circular and for three years when required in terms of 11.1(a);
  - (c) include interim financial information (to be presented for the first six

months after the latest financial year end), if at the date of the PLS/circular, more than nine months have elapsed since the end of the last financial year. Comparative results are not required;

- (d) include the latest financial statements, where more than fifteen months have passed since the latest period for which annual financial statements were prepared;
- (e) include headline earnings per share and diluted headline earnings per share for each class of share, expressed in cents for the last financial year for purposes of 11.1(a) and the interim period where 11.4(c) is applicable for a new applicant;
- (f) include commentary incorporating a general review of the business and all matters material to the state of affairs, financial position, changes in equity, results of operations and cash flows of the applicant issuer/subject of the transaction; and
- (g) be prepared in accordance with the accounting policies of the applicant issuer when issuing a PLS.

11.5 In terms of 11.1(a), if the PLS does not include the latest annual/interim financial statements, the results must be published in terms of the Requirements, irrespective of the listing date or whether previously disclosed.

11.6 If the financial information was not historically prepared in terms of IFRS, it must be converted to IFRS for purposes of 11.1(a). The third year may be presented in accordance with the original accounting framework. Shareholders must be warned about the potential lack of comparability of the information and advised to review the IFRS conversion notes to obtain a full understanding of any potential differences.

### **Foreign companies and transactions**

11.7 When a report of historical financial information is required for a category 1 transaction subject and/or a substantial acquisition/disposal of a category 1 subject, and the historical financial information of a foreign company has not been prepared in compliance with IFRS and/or the SA financial reporting requirements, the following must be disclosed:

- (a) the reasons for such non-compliance;
- (b) the accounting standards and legislation under which the historical financial information has been prepared; and
- (c) a comprehensive reconciliation to IFRS of the effect of such non-compliance on the information required in terms of 11.4(a).

### **Pro forma financial information**

#### **General**

11.8 Pro forma financial information:

- (a) included in any announcement or document requiring submission to the JSE must comply with 11.9 to 11.18; and
- (b) is the responsibility of the board and this fact must be stated.

11.9 Pro forma financial information must:

- (a) be prepared in terms of the Requirements and The Guide on Pro forma Financial Information issued by SAICA;

- (b) for a corporate action, illustrate how the reported financial information might be affected had it been undertaken at the commencement of the period, or in the case of a pro forma statement of financial position, at the date reported on;
- (c) be presented in columnar form and show the unadjusted financial information and pro forma adjustments separately;
- (d) identify the basis upon which it is prepared and the source of all information and adjustments;
- (e) be aligned with the format and accounting policies adopted by the issuer; and
- (f) state the purpose for which it has been prepared, that it is prepared for illustrative purposes only and that because of its nature, it may not fairly present the issuer's financial position, changes in equity, results of operations or cash flows.

### **Assurance**

- 11.10 The auditor must provide assurance that the compilation of pro forma financial information was prepared on the basis required by the Requirements. Announcements, other than those dealing with the results for the financial year-end, are exempt from this obligation.

### **Specific requirements**

- 11.11 The unadjusted information of the issuer must be derived from the most recent:
- (a) published condensed/summary/annual financial statements or published interim results;
  - (b) previously published report of historical financial information;
  - (c) previously published pro forma financial information reported on in accordance with 11.10; or
  - (d) profit forecast (published and reported on in terms of this Section or Section 13) for statement of comprehensive income purposes.
- 11.12 The unadjusted information of the subject matter is to be derived from the most recent:
- (a) issued audited annual financial statements or issued interim results;
  - (b) issued profit forecast (issued and reported on in terms of this Section or Section 13) for the statement of comprehensive income purposes;
  - (c) unpublished financial statements provided that:
    - (i) the issuer is satisfied with the quality of the financial statements and a statement is included confirming this;
    - (ii) shareholders are warned about the source of the information; and;
    - (iii) an audit opinion or review conclusion is obtained where the financial statements are included and/or used for purposes of pro forma financial effects in a circular relating to an acquisition from a related party.
- 11.13 The adjustments to align the accounting policies of the subject with that of the issuer must be disclosed.
- 11.14 Where a pro forma statement of comprehensive income or cash flow statement is presented, the information of the issuer and the subject matter must cover similar

periods of the same length.

- 11.15 All adjustments must be:
- (a) clearly shown and explained;
  - (b) directly attributable to the transaction concerned and not relating to future events or decisions;
  - (c) factually supportable;
  - (d) supported by notes to explain the adjustments as well as inclusion of:
    - (i) any assumptions on which the adjustments are based;
    - (ii) the range of possible outcomes where there is significant uncertainty;
    - (iii) the sources of the amounts concerned;
    - (iv) where relevant, how adjustments have been aggregated; and
  - (e) for the statement of comprehensive income or cash flow statement, clearly identify adjustments that have a continuing effect on the issuer and those that do not.
- 11.16 Adjustments cannot be made or omitted on grounds that it does/does not have a continuing effect.
- 11.17 No adjustments may be made for post statement of financial position events except:
- (a) as provided for in IFRS on Events After the Reporting Period;
  - (b) for the corporate action for which the pro forma financial information is being presented;
  - (c) for any previously published financial effects; and
  - (d) if it would be misleading not to make an adjustment for the corporate action, and in such instance, details must be provided as to why the issuer believes it would be misleading not to make such adjustment.
- 11.18 Pro forma earnings and headline earnings per share information must be in compliance with IFRS and the definition of headline earnings. Where the transaction includes the issue of securities, the calculation must be based on the weighted average number of issued securities adjusted as if the issue had taken place at the beginning of the period.

## **Profit forecasts and estimates**

### **General**

- 11.19 The following provisions apply equally to forecasts or estimates of profits or losses, cash flows or net asset values (collectively defined as “profits or losses”) of an applicant issuer or entity that is or will become a material part of an issuer’s group.
- 11.20 Any statement/information on the prospects of an applicant issuer, or an entity that is or will become a material part of an applicant issuer’s group, must be clear and unambiguous.
- 11.21 A profit forecast is a form of words which:
- (a) indicates a minimum or maximum figure for the likely level of profit/losses for the current financial period and/or future periods; or
  - (b) states a number, percentage or range for the likely level of profits/losses

for the current financial period and/or future periods; or contains data from which a calculation may be made.

- 11.22 A profit estimate relates to a financial period ended for which no financial information has yet been published.
- 11.23 Future targets or objectives will not be interpreted as a profit forecast/estimate provided it does not relate to the current/next reporting period.

### **Assurance**

- 11.24 For purposes of 11.21(b) and 1.22, the auditor must provide the appropriate assurance on a profit forecast/estimate included in a PLS/circular as to whether:
- (a) it has been accurately presented and compiled on the basis stated;
  - (b) all material matters are adequately disclosed;
  - (c) it is presented on a basis consistent with the accounting policies of the issuer/entity; and
  - (d) specifically for a forecast, all material assumptions are disclosed and are reasonable.
- 11.25 For purposes of 11.21(a) or where a profit forecast/estimate is included in an announcement or any communication with shareholders, it must either:
- (a) be signed off by an auditor in terms of 11.24; or
  - (b) include a warning that it has not been reviewed and reported on by the issuer's auditor.

The JSE reserves the right to request sign-off by the auditor in accordance with 11.24.

### **Specific Requirements**

- 11.26 A profit forecast or estimate must:
- (a) be the responsibility of the board and this fact must be stated;
  - (b) be prepared in terms of IFRS;
  - (c) refer to the relevant line items in previously published financial statements;
  - (d) be to the end of the financial period or alternatively must be for a period for which the results will be published;
  - (e) must be compiled using accounting policies applied by the issuer;
  - (f) include the material assumptions which must:
    - (i) be segregated between assumptions that directors can influence and those that are exclusively outside the influence of the directors;
    - (ii) be readily understandable by investors; and
    - (iii) be specific about all aspects and the uncertainty attached to each aspect.
- 11.27 A profit estimate may only be subject to assumptions in exceptional circumstances and such assumptions must be explained.
- 11.28 A dividend forecast must be treated as a profit forecast where the issuer has a policy of correlating dividends to earnings or the forecast implies a forecast of profit.

## **Auditor's reports**

- 11.29 An auditor's report must be:
- (a) addressed to the board of the issuer; and
  - (b) dated on the same date the board authorises the issue of the announcement for publication or the PLS/circular is submitted to the JSE for formal submission.
- 11.30 The auditor shall conduct the engagement in accordance with ISA and relevant guidance issued by the IRBA.
- 11.31 A statement must be included in the PLS/circular that the auditor has given and not withdrawn its written consent to the issue of the PLS/circular, containing the auditor's report.

## **Contents of financial information**

### **Condensed financial statements, summary financial statements and interim results**

- 11.32 Condensed financial statements and summary financial statements must:
- (a) be prepared in accordance with the framework concepts and the measurement and recognition requirements of International Financial Reporting Standards, and for a South African company, the SA financial reporting requirements (as applicable); and
  - (b) contain the information required by IAS 34: Interim Financial Reporting, and a statement confirming that it has been so prepared.
- 11.33 Interim results must:
- (a) be prepared in accordance with IAS 34: Interim Financial Reporting and for a South African company, the SA financial reporting requirements (as applicable) and a statement confirming that it has been so prepared;
  - (b) disclose where there is a material change to the initial estimates of a contingent consideration payable or receivable in terms of an acquisition or disposal, as used in the pro forma financial effects calculations;
  - (c) for mineral companies, include summary information of any material changes to the information disclosed in compliance with 11.38(g) for the prior year/period ended, or an appropriate negative statement where there have been no material changes; and
  - (d) for a property entity include the information in 13.23.
- 11.34 The condensed financial statements, summary financial statements and interim results must include:
- (a) a statement confirming that the accounting policies are consistent with those of the previous annual financial statements, or include details of the changes; and
  - (b) headline earnings and diluted headline earnings per share for the current reporting period and the immediately preceding comparable period, together with an itemised reconciliation between headline earnings and the earnings used in the calculation of earnings per share.

## **Change of financial year**

- 11.35 If a change in the financial year is proposed, the JSE must be notified by the applicant issuer and consulted as to the period/s to be covered by the interim report.

## Minimum contents of annual financial statements

11.36 The annual financial statements must be:

- (a) consolidated;
- (b) prepared in accordance with the applicable national law; and
- (c) prepared in accordance with International Financial Reporting Standards and the SA financial reporting requirements where applicable (see Section 3).

11.37 The following must be disclosed in the annual financial statements:

- (a) the responsibility statement referred to in 5.9;
- (b) headline earnings per share and a diluted headline earnings per share for the current and preceding financial year together with an itemised reconciliation between headline earnings and earnings;
- (c) directors' interests, including directors who have resigned during the reporting period:
  - (i) the aggregate direct and indirect beneficial interests of directors (and his/her associates) and the direct and indirect interest of each director's holding in the share capital of the issuer, including the director's holdings which are subject to security, guarantee, collateral or otherwise in terms of 6.78(g). All changes in interests occurring between the end of the financial year and the date of approval of the annual financial statements must be disclosed or alternatively, a negative statement; and
  - (ii) comparative figures for the previous year must be presented;
- (d) the interest of each major shareholder, other than a director, or alternatively, a negative statement;
- (e) information on public shareholders, excluding (d) of the definition:
  - (i) the number of public securities holders for every class of listed securities; and
  - (ii) the percentages of each class of securities held by public and non-public shareholders;
- (f) for the issuer and its subsidiary companies' share incentive schemes, summarised details and terms of options/awards in issue at the beginning of the financial period, cancelled or issued during the financial period and in issue at the end of the financial period, the number of securities that may be utilised for purposes of the scheme at the beginning of the financial period, changes in such number during the financial period and the number of securities available for utilisation for purposes of the scheme at the end of the financial period;
- (g) individual directors' remuneration and benefits, including directors who have resigned during the reporting period, in A3 of Section 10 for the current and immediately preceding financial year;
- (h) material changes to initial estimates of a contingent consideration payable/receivable, in terms of an acquisition or disposal, as used in any previously published pro forma financial effects;
- (i) details of all issues of securities made during the year, distinguishing between general and specific issues, and including, the number of securities issued, the issue price and, in the event of a specific issue to non-public shareholders, to whom they were issued;

- (j) details of repurchases by an issuer/subsidiary of its own equity securities (in accordance with section 48 of the Act) during the period under review:
  - (i) the total number of equity securities repurchased detailing the:
    - (aa) number repurchased by a subsidiary;
    - (bb) number reverted to authorised but unissued equity securities of the issuer in accordance with section 35(5) of the Act and distinguishing between the number acquired by the issuer from treasury shares; and
    - (cc) average price paid for the repurchased equity securities.
- (k) for a property entity, the information set out in 13.24;
- (l) for an investment entity, the information set out in 15.8;
- (m) any restrictive funding arrangements undertaken by an issuer and/or any of its subsidiaries including the following details:
  - (i) the restriction(s) on specified events attaching to the funding arrangement;
  - (ii) the funding provider(s); and
  - (iii) the amount of the funding.

The information in 11.37(a), (d), (e), (k), (l) and (m) can be presented outside of the information on which the auditor issues their audit opinion.

### **Additional content for annual reports**

11.38 The following must be disclosed in the annual report:

- (a) application of the King Code:
  - (i) the implementation of the King Code through the King Code application and disclosure regime, which may be incorporated via a weblink; and
  - (ii) a narrative on the non-binding advisory votes in terms of 5.7(k), dealing with (1) who the issuer engaged with and the manner and form of engagement and (2) the nature and steps taken to address objections;
- (b) the information regarding trading statements in 6.27;
- (c) the corporate governance information in 5.2 (capacity of directors) and 5.4 (brief CV), 5.7(d) (chief executive officer and chair), (e) (financial director), (f) (company secretary), (g) (board committees), (h) (audit committee), (i) (balance of power), (j) (diversity at board level) and (k) (remuneration policy and implementation report);
- (d) a narrative dealing with compliance with the laws of establishment and the MOI of the issuer in terms of 14.2 in Section 10;
- (e) material risks in terms of B16 in Section 10, which may be incorporated via a weblink.
- (f) if the results for the period differ by 10% or more from any forecast/estimate previously published by the issuer for its own results or in the case of a property entity results published in terms of 13.5(a), an explanation of the difference must be provided;
- (g) for mining companies, the information in terms of 14.10;
- (h) the separate financial statements of the listed company for a South African

- company;
- (i) disclosure on the weighted voting share structure in terms of 2.76(b) – (f), if applicable; and
  - (j) the reason for the resignation/termination of auditor, if applicable.

### **Compliance with IFRS**

- 11.39 The JSE and SAICA formed the Financial Reporting Investigations Panel (the “FRIP”) to consider complaints and advise the JSE in relation to compliance by issuers with IFRS and the JSE’s required accounting practices (in terms of the Requirements). The JSE may receive advice from the FRIP, as required by the JSE from time to time.
- 11.40 Where the JSE finds that an issuer has not complied with IFRS and/or the JSE’s required accounting practices (in terms of the Requirements), the JSE may:
- (a) censure such issuer in accordance with the provisions contained in Section 1;
  - (b) instruct such issuer to publish or re-issue any information the JSE deems appropriate; and/or
  - (c) refer any such non-compliance to SAICA, the IRBA or any other relevant professional body.

## Section 12

### Approval and Documents to be Submitted to the JSE

#### Scope of Section

This Section deals with approvals and the documents required to be submitted to the JSE.

- 12.1 General
- 12.2 Approval process
- 12.3 Documents to be submitted: new applicants
- 12.4 Documents to be submitted
- 12.5 Exchange control approval
- 12.7 General submissions to the JSE

#### General

- 12.1 The following applies to submissions to the JSE:
- (a) all documents submitted by applicant issuers to the JSE remain the property of the JSE and are not returnable;
  - (b) documentation requiring JSE approval must be submitted to the JSE for approval before being announced, placed on a website and/or sent to shareholders;
  - (c) the JSE will only provide its approval based on final form documents, unless the JSE agrees otherwise; and
  - (d) any documents requiring signature by the applicant issuer, must be signed by a director of the applicant issuer.

#### Approval process

- 12.2 The procedure for approval of documentation by the JSE is available on the JSE Procedures Portal (available on the JSE website).

#### Documents to be submitted: new applicants

- 12.3 Applicants seeking a listing must submit the Part I and II documents as prescribed (available on the JSE Forms Portal).

#### Documents to be submitted

- 12.4 The following documents must be submitted to the JSE:
- (a) PLS/RLP and pre-listing announcement;
  - (b) rights offers and claw-back offers;
  - (c) odd-lot offers;
  - (d) capitalisation issues, scrip dividend and cash dividend elections;
  - (e) issue of shares for cash, including options/convertible securities;
  - (f) repurchase of securities;
  - (g) payments to securities holders;
  - (h) pre-issue trading and price stabilisation;
  - (i) transactions;

- (j) removal of listings;
- (k) redemption of securities and conversion of securities;
- (l) change of name;
- (m) increase in authorised share capital, subdivision/consolidation of securities;
- (n) transfer of sector or board, including general/prime segment;
- (o) unbundlings;
- (p) all offers (including a scheme of arrangement) regulated by the Panel;
- (q) MOI/amendments;
- (r) Schedule 9 share schemes/amendments;
- (s) liquidations and judicial management; and
- (t) all events in the corporate action timetables.

### **Exchange control approval**

- 12.5 If an event requires the approval from the Financial Surveillance Department of the South African Reserve Bank (“SARB”), the JSE will only provide its approval once SARB approval has been submitted to the JSE.
- 12.6 The SARB must provide approval for the following events:
- (a) the listing of a bank and/or bank holding company;
  - (b) the issue of bearer securities;
  - (c) restructures, mergers and changes in control where non-residents are involved;
  - (d) the listing of a quoted South African company on a foreign stock exchange;
  - (e) the listing of an external company on the JSE;
  - (f) the listing of warrants;
  - (g) the issue of hedge securities;
  - (h) the delisting of a company listed on the JSE;
  - (i) the declaration of a dividend in specie or special dividend, for any purpose;
  - (j) the elimination of “odd lot” minority shareholders through the mechanism of consolidations and/or subdivisions of share capital; and
  - (k)
    - (i) the listing of the following debt securities require prior Exchange Control approval:
      - (aa) Zero Coupon Bonds;
      - (bb) Stripped Treasury Certificates;
      - (cc) Foreign Currency or Index Linked Debt Instruments; and
      - (dd) Asset Backed Securities;
    - (ii) the listing of the following debt securities do not require prior Exchange Control approval:
      - (aa) Government, Municipal and Public Utility Stocks;
      - (bb) Treasury Bills, Parastatal Project Bills, Bankers Acceptances, Promissory Notes and Negotiable Certificates of Deposit; and

- (cc) any other debt instrument not mentioned above, provided that the coupon or interest rate does not exceed the local prime rate plus 3 percent per annum where the instrument is also available to non-residents and emigrants of the Republic.

The above list is not exhaustive and may be amended from time to time.

### **General submissions to the JSE**

12.7 Issuers are required to submit the following to the JSE:

- (a) director's declarations;
- (b) company secretary declarations;
- (c) change of registered address or transfer secretaries;
- (d) change in sponsor;
- (e) annual financial statements and annual report;
- (f) notice of general and annual general meetings; and
- (g) the publication of the annual compliance report prepared in terms of section 13G(2) of the BEE Act, unless exempted by the JSE.

## Section 13 Property Entities

### Scope of Section

This section applies to property entities.

- 13.1 General: New Listings
- 13.2 Transaction specific requirements
- 13.5 Contents of PLS and circulars
- 13.23 Continuing obligations
- 13.26 REITs

### General: New Listings

- 13.1 Applicant issuers must evidence:
  - (a) legal title to all significant properties; and
  - (b) adequate and appropriate experience of the executive directors and/or asset manager in relation to the type of properties earmarked for investment.

### Transaction specific requirements

- 13.2 The percentage ratio to trigger a category 2 transaction for a property transaction in 8.4(a) is 10%.
- 13.3 For a category 1 transaction involving property, an issuer can elect to present either:
  - (a) historical and pro forma financial information in terms of Section 11; or
  - (b) a forecast in terms of 13.8 and a pro forma statement of financial position for:
    - (i) an acquisition, in terms of 13.10; or
    - (ii) a disposal in terms of Section 11.

### Transaction announcements

- 13.4 Transaction announcements:
  - (a) must also include the property specific information in 13.16(a)(i), (c)(i) - (ii) and (e)(i) - (iii); and
  - (b) may include a forecast for the profits attributable to the net assets in terms of 8.13(e) provided it covers the periods in 13.8(a) and includes the:
    - (i) revenue disclosures of 13.8(c)(i) - (iv); and
    - (ii) warning statement of 11.25(b).

### Content of PLS and circulars

- 13.5 In addition to the provisions for a PLS, the following must be included:
  - (a) if a forecast has been elected, the financial information in terms of 13.7 - 13.9 instead of Section 11;
  - (b) property portfolio information in 13.15;
  - (c) property specific information in 13.16;

- (d) manager information in 13.17 - 13.20;
  - (e) a statement of confirmation of legal title to all significant properties and that the evidence in 13.1(a) is open for inspection in terms of Section 10; and
  - (f) for valuations required by 13.11 a statement by the directors that the valuer is independent in terms of the independence indicators of 13.14 and that there are no material changes in circumstances that affect the valuation since the effective date of the valuation.
- 13.6 In addition to the provisions for category 1 circulars, the following must be included on the subject:
- (a) the financial information in 13.3;
  - (b) the information in 13.5(f), 13.15(b) and 13.16;
  - (c) the information in 13.17 - 13.20 where asset manager agreements are acquired, entered into or amended; and
  - (d) details of any benefit arising from existing asset manager agreements.

### **Financial information**

- 13.7 An applicant issuer seeking a listing based on a forecast in terms of Section 2 must produce:
- (a) historical financial information for one financial period, being its latest financial year or interim results (if 11.4(c) is applicable), with an audit opinion; and
  - (b) a pro forma statement of financial position in terms of 13.10 and is exempt from preparing a pro forma statement of comprehensive income.

### **Forecast**

- 13.8 The forecast statement of comprehensive income must:
- (a) be prepared for the current financial year and for a period of 12 months thereafter;
  - (b) comply with 11.19 - 11.23;
  - (c) include separate disclosure for each period of:
    - (i) rental and non-rental revenue;
    - (ii) revenue linked to rental guarantees;
    - (iii) contracted, near-contracted and uncontracted rental;
    - (iv) short-term rental for each of the categories in 13.8(iii) above;
    - (v) assumptions made for new rentals and renewals, including reversionary rates;
    - (vi) each category of expenditure that accounts for 10% or more of the total expenditure; and
  - (d) include the amount of forecast distribution, with a reconciliation to attributable earnings.
- 13.9 An applicant issuer must obtain an assurance report on the forecast in terms of Section 11.

### **Pro forma statement of financial position**

- 13.10 A consolidated pro forma statement of financial position must be prepared applying the following:
- (a) it must comply with 11.8 to 11.18;
  - (b) if the subject matter is a company, the information must be extracted from audited financial information and the notes must provide details of the auditor of the underlying entity and any modifications contained in their audit report;
  - (c) if the applicant issuer accounts for its properties at fair value in terms of IFRS, it must apply that policy to the pro forma financial information and include the related disclosures of IAS 1 and IFRS 13;
  - (d) an auditor's report on the pro forma financial information must be prepared in compliance with 11.29 - 11.31; and
  - (e) an auditor must also issue a review conclusion on the assets and liabilities being acquired, as reflected in the adjustment column where:
    - (i) the review engagement must be performed in terms of the IRBA guide for property entities listed on the JSE; and
    - (ii) the review conclusion must indicate that the auditor has no reason to believe that the assets and liabilities are not prepared, in all material respects in accordance with the accounting policies adopted by the applicant issuer and the recognition and measurement criteria of IFRS and includes all relevant IFRS disclosures.

## **Valuation reports**

- 13.11 A valuation report must be prepared by an independent registered valuer, subject to 13.12:
- (a) for a new listing, on all of the significant properties of the applicant issuer; and
  - (b) for a transaction, on the property that is the subject of a category 1 transaction.
- 13.12 A valuation report is not required on a property if the:
- (a) PLS/category 1 circular includes historical or forecast financial information reflecting at least 12 months of rental revenue for that property, supported by an average vacancy level of less than 10%; and
  - (b) rental agreements for at least 90% of the rental revenue in 13.12(a) are not with related parties, the applicant issuer or its subsidiaries.
- 13.13 The valuer performing a valuation must:
- (a) be independent in terms of 13.14 and include a positive statement to that effect in their valuation report;
  - (b) be a registered professional valuer or associate valuer in terms of the Property Valuers Professional Act, No 47 of 2000 (or similar legislation in the case of a foreign valuer); and
  - (c) submit a valuation report with an effective valuation date not more than 9 months before the date of the report (which must be dated on formal submission to the JSE). The valuation must be updated if there are material changes in circumstances that affect the valuation within this period.
- 13.14 A valuer will not be regarded as independent, if the valuer:
- (a) is the applicant issuer, its subsidiary or associate, or asset manager;

- (b) controls the applicant issuer or their asset manager;
- (c) is an employee of the applicant issuer or their asset manager;
- (d) has an investment or interest in the applicant issuer or their asset manager which is material to the valuer; or
- (e) earned or will earn fees of more than 20%, measured over a 12 month period, from the applicant issuer or their asset manager.

### **Property portfolio information**

13.15 Property portfolio information must be presented for all financial periods presented and includes the following:

- (a) both by rentable area and revenue, the:
  - (i) geographical profile;
  - (ii) sectoral profile, reflecting the different characteristics of the properties;
  - (iii) tenant profile, grouped into appropriate risk categories, together with the definition of and reason for the categories; and
  - (iv) the rental expiry profile per sector;
- (b) for each sector calculated on rentable area, the:
  - (i) vacancy profile;
  - (ii) in the case of a building, its grading;
  - (iii) weighted average monthly rental;
  - (iv) weighted average escalation profile; and
- (c) the average annualised property yield per sector calculated as operational net income divided by the value attributable to each property.

### **Property specific information**

13.16 Property specific information includes the following:

- (a) physical attributes:
  - (i) location;
  - (ii) existing use;
  - (iii) age of the assets attached to the land; and
  - (iv) the date of expected commencement and completion for properties under development;
- (b) legal attributes:
  - (i) registered description;
  - (ii) town planning conditions;
  - (iii) statutory/regulatory contraventions or a negative statement;
  - (iv) tenure (i.e. freehold or leasehold, providing the term);and
  - (v) type of lease agreements;
- (c) economic indicators, for all financial periods presented:
  - (i) rentable area by sector;
  - (ii) weighted average rental per rentable area. For single-tenant

- properties, the figure can be aggregated for all of the single tenant properties;
- (iii) vacancy rate;
- (iv) details of any grading of a building; and
- (v) any other matters that could materially impact the value of the property;
- (d) other attributes:
  - (i) consideration for the property, either in total or separately per property if identified as such, and material direct transaction expenditure;
  - (ii) effective date of the transaction; and
- (e) if a valuation has been prepared, even on a voluntary basis:
  - (i) the name and qualifications of the valuer;
  - (ii) the effective date and amount of the valuation;
  - (iii) a statement as to whether or not the valuer is independent in terms of 13.14, and if not clearly disclosing their relationship to the issuer, and whether or not they are a registered valuer, and if so with whom;
  - (iv) the valuation framework/s applied; and
  - (v) the disclosure provisions of IFRS 13 for the valuation.

### **Manager information**

- 13.17 The following information on the asset manager:
- (a) name, legal status, business address and material shareholders;
  - (b) relevant experience and appointments to other listed property entities;
  - (c) the significant terms of the asset management agreement; and
  - (d) the asset management agreement must be available for inspection in terms of Section 10;
- 13.18 The following information on the asset manager and its directors:
- (a) beneficial interest in the securities of the applicant issuer;
  - (b) beneficial interest in any property held or to be acquired by the applicant issuer, including any tenant relationships; and
  - (c) the information required in terms of A9 of Section 10 in the context of the asset manager and its directors.
- 13.19 For the subsidiaries and holding company of the asset manager and promoters the information in 13.18(a) and (b).
- 13.20 The following information relating to any property manager of individual properties:
- (a) name and details of its directors;
  - (b) description of its functions; and
  - (c) the agreement must be available for inspection in terms of Section 10.

### **Asset management agreement**

- 13.21 An external asset management agreement being entered into, amended or

renewed must:

- (a) be approved by a majority of disinterested shareholders where the circular must include the information in 13.17 - 13.19; and
- (b) provide for the right of disinterested shareholders to vote on the cancellation of the asset management agreement in general meeting before its expiry date.

Disinterested shareholders means all shareholders other than shareholders and their associates who are party to or have an interest in the asset management agreement.

### **Collective investment schemes in property**

13.22 A collective investments scheme in property must comply with all aspects of the Requirements unless they are prohibited from doing so through statute. The Requirements must be interpreted as follows:

- (a) **“participatory interest”** replaces “share”;
- (b) **“participatory interest holder”** replaces “shareholder”;
- (c) **“deed”** (as approved by the CIS Registrar) replaces “memorandum of incorporation”;
- (d) **“CISIP manager”** replaces **“asset manager”**, where CISIP manager is the person authorised in terms of the Collective Investment Schemes Control Act, No. 45 of 2002 (or similar legislation if a foreign issuer) to administer the collective investment scheme in property; and
- (e) **“directors of the CISIP manager”** replaces **“directors”** and any board committees/responsibilities fall on the CISIP manager.

### **Continuing obligations**

#### **Results**

13.23 In any results announcement for which a forecast has been published on the applicant issuer or an acquisition in terms of this Section, the issuer must:

- (a) confirm that the forecast has been materially achieved; and
- (b) provide details of, and an explanation for, any material deviation.

#### **Annual financial statements**

13.24 Annual financial statements must include the following:

- (a) property portfolio information in 13.15, but comparative information can be omitted if it was previously presented and is unaffected by any restatements;
- (b) property specific information in 13.16(a)(i),(ii) and (c)(i),(ii); and
- (c) details of a REITs risk management policy in 13.27(c).

#### **Dealings in securities**

13.25 The requirements of 6.77 – 6.89 apply equally to the asset manager and its directors.

#### **REITs**

## **Criteria for REIT status**

- 13.26 The directors must confirm that the applicant issuer:
- (a) will, to the best of their knowledge (after making all reasonable enquiries to ascertain such facts), qualify for a tax deduction of distributions under section 25BB(2) of the Tax Act for the current or future financial year end;
  - (b) has a gearing ratio not exceeding 60% as reflected in either its:
    - (i) latest audited or reviewed consolidated financial statements; or
    - (ii) pro forma statement of financial position in terms of 13.10, if this reflects more recent information;
- 13.27 The directors must ensure that:
- (a) the applicant issuer complies with the distribution provisions in 13.28;
  - (b) any acquisitions or new borrowings (excluding amounts that replace existing liabilities) will not cause the gearing ratio to exceed 60%; and
  - (c) a risk management policy is adopted and adhered to, which must:
    - (i) be in accordance with industry practice; and
    - (ii) specifically prohibit the applicant issuer from entering into any derivative transactions that are not in the normal course of their business.

## **Distribution obligations**

- 13.28 A REIT:
- (a) must make a cash distribution of at least 75% of each financial year's distributable profits to its shareholders by no later than four months after its financial year end, subject to the relevant solvency and liquidity test as defined in the Act and applied in section 46 of the Act, where distributable profit is:
    - (i) gross income, as defined in terms of the Tax Act;
    - (ii) less deductions and allowances that are permitted to be deducted by a REIT in terms of the Tax Act, other than the qualifying distribution, (as defined in terms of section 25BB of the Tax Act because qualifying distributions form part of distributable profit); and
  - (b) must procure that its subsidiaries that are property entities incorporated in the Republic will comply with (a).

## **Continuing obligations**

- 13.29 To retain REIT status the:
- (a) directors must confirm compliance with 13.27; and
  - (b) issuer must:
    - (i) qualify for a tax deduction of an amount equal to its distributions under section 25BB(2) of the Tax Act for the immediately preceding financial years; and
    - (ii) not have failed the REIT tax test in either of its last two financial year ends.
- 13.30 The issuer must submit a declaration to the JSE with its annual report, signed by each of the directors and company secretary, confirming compliance with

13.26(a) and 13.29 for the preceding financial year end.

13.31 An announcement:

- (a) must state that the issuer has REIT status with the JSE;
- (b) dealing with distributions must specify
  - (i) that the distribution is regarded as a taxable dividend for income tax purposes in the hands of local tax residents and a taxable dividend for dividends tax purposes for foreign tax residents; and
  - (ii) for which financial period the distribution relates to;
- (c) must be released without delay containing details of the implications thereof if the issuer:
  - (i) failed the REIT tax test or believes that it will not qualify for a tax deduction of distributions under section 25BB(2) of the Tax Act;
  - (ii) has breached any of the obligations in 13.27; or
  - (iii) has a gearing ratio of more than 60%.

### **Removal of REIT status**

13.32 An issuer may at any time apply to have its REIT status removed, in which case it must release an announcement as soon as the:

- (a) directors have taken the removal decision, stating the reasons; and
- (b) application has been processed by the JSE.

13.33 Where an issuer fails to comply with 13.29 and 13.30 the:

- (a) issuer must release an announcement advising the market of this fact; and
- (b) JSE will remove its REIT status.

13.34 Reapplication for REIT status can only be made after:

- (a) 18 months from the date of removal in terms of 13.32; or
- (b) 30 months from the date of removal in terms of 13.33.

### **Applicability of the REIT provisions to CISIP's**

13.35 In order to receive REIT status a CISIP must:

- (a) comply with 2.11(a) - (d) and (f), 13.26(a) and 13.27(c);
- (b) provide evidence of registration as a CISIP from the CIS Registrar;
- (c) confirm that the CISIP Deed has been approved by the CIS Registrar; and
- (d) ensure that the trustees also sign all JSE documents.

13.36 A CISIP is exempt from the distribution and gearing ratio provisions in 13.26(b), 13.27(b), 13.28 and 13.31(c)(i)(iii) and must instead ensure compliance with its deed and the Collective Investment Schemes Control Act, No. 45 of 2002.

13.37 The following additional requirements apply to a CISIP:

- (a) the trustees of the CISIP must also sign all JSE related declarations; and
- (b) the consequence of any breaches of its deed or the Collective Investment Schemes Control Act, No. 45 of 2002 is that a CISIP can lose its REIT status, which fact must also be addressed as part of 13.31(c).

## Section 14 Minerals and Oil/Gas

### Scope of Section

This Section deals with mining and/or oil/gas activities. Certain provisions apply equally to applicant issuers with substantial mineral or oil/gas assets.

- 14.1 General
- 14.3 Contents of PLS and category 1 circulars
- 14.4 CPR and QRE Reports
- 14.10 Contents of annual report: Mining and exploration
- 14.11 Applicant issuers with substantial mineral or oil/gas assets

### General

- 14.1 The JSE has adopted the SAMREC, SAMVAL and SAMOG codes and these codes must be applied by applicant issuers undertaking mining, exploration and oil/gas activities, and to a certain extent by applicant issuers with substantial mineral or oil/gas assets.
- 14.2 The applicant issuer must evidence legal title to undertake exploration, mining and/or oil/gas activities.

### Contents of PLS and category 1 circulars

- 14.3 In addition to the provisions for a PLS and circulars in Section 10, the following information must be included:
  - (a) a CPR or QRE report on all mining, exploration and oil/gas assets of the applicant issuer or the subject of a category 1 transaction. In respect of minerals, an executive summary of the CPR can be included in terms of (b) below provided the CPR is incorporated by reference. The full CPR must be made available on the applicant issuer's website until such time an updated CPR is published;
  - (b) the executive summary must cover the following:
    - (i) purpose;
    - (ii) project outline;
    - (iii) location map indicating area of interest;
    - (iv) legal aspects and tenure, including any disputes or impediments;
    - (v) geological setting description;
    - (vi) exploration programme and budget;
    - (vii) key environmental issues;
    - (viii) mineral resource and mineral reserve statement;
    - (ix) reference to the risk disclosure in the CPR;
    - (x) statement by the CP that the summary is a true reflection of the CPR; and
    - (xi) summary valuation table. Where the cash flow approach has been applied, the valuation summary must include the discount rate(s) applied to calculate the net present value(s) per share with reference to the CPR. If inferred mineral resource are used, show

the summary valuation with and without inclusion of such inferred resource;

- (c) details of any direct or indirect beneficial interest, which each director (and associates), CP, CV, QRE and related party, has or, within two years of the date of the PLS had in any mining, exploration and/or oil/gas assets and share capital of the applicant issuer;
- (d) details of any legal proceedings that may have an influence on the rights to undertake exploration, mining or oil/gas activities or a negative statement;
- (e) details of legal title to undertake exploration, mining and/or oil/gas activities; and
- (f) a statement by the board that the CP/CV/QRE is independent in terms of the independence indicators in terms of 14.13.

## **CPR and QRE Reports**

### **General**

- 14.4 The CP, CV or QRE must be independent from the applicant issuer. Independence is assessed in terms of 14.13.
- 14.5 A CPR and QRE report must include:
- (a) an effective date less than six months prior to the date of publication of the PLS or category 1 circular. If new material data becomes available after the effective date but prior to publication, the report must be updated; and
  - (b) a statement that all the provisions of this Section and of the applicable code have been complied with, and if any provision in the code was not applied, an explanatory statement must be made.
- 14.6 A CPR must also include:
- (a) a valuation section in terms of the SAMVAL code;
  - (b) details regarding expenditure incurred by the applicant issuer up to the date of the CPR:
    - (i) current exploration expenditure incurred;
    - (ii) committed planned exploration expenditure, not yet incurred; and
    - (iii) projected future exploration expenditure, if determinable.

### **RLP and CPR**

- 14.7 If RLP are required, a CPR is not required provided the issuer's annual report complies with the disclosure in terms of 14.10.

### **Confirmation by CP or QRE**

- 14.8 If the PLS or circular contains mineral resource and mineral reserve information, the CP or QRE must confirm to the JSE that the PLS or circular contains no contradictions with the CP or QRE report, prior to the JSE granting approval.

### **Announcements**

- 14.9 Any announcements by an issuer and issuers with substantial mineral or oil/gas assets, dealing with exploration results, mineral resources, mineral reserves or oil/gas activities must comply with the relevant codes in 14.1 and must include:
- (a) the name of the CP, CV or QRE, and that such person has approved the

- information; and
- (b) if the CP, CV or QRE is not independent of the issuer, clearly disclose the nature of the relationship or interest.

### **Contents of annual report: Mining and exploration**

14.10 In addition to complying with Section 11, the following additional information must be included in the annual report for the period under review:

- (a) Basis of disclosure:
- (i) The disclosure required below must be on an attributable beneficial interest basis.
  - (ii) Disclosure may be made on an aggregated attributable beneficial interest basis (“total basis”) where the required disclosure below has previously been disclosed by another issuer in compliance with Requirements. If disclosure is made on a total basis, then the attributable beneficial interest percentage must also be clearly stated.
  - (iii) Disclosure must comply with the SAMREC code and this Section.
  - (iv) Details of the CP (not required to be independent from the issuer), including the name, address, professional qualifications and relevant experience (including the name and address of the body recognised by SAMREC code of which the CP is a member) of the lead CP authorising release of the information disclosed below.
  - (v) Include a statement that they have written confirmation from the CP or lead CP, that the information disclosed is compliant with the SAMREC code and this Section and that it may be published in the form and context in which it was intended.
- (b) Where individual operations, projects or exploration activities are material, the following apply:
- (i) Mining issuers: 14.10(c) and 14.10(d)
  - (ii) Exploration issuers: 14.10(d)
- If any paragraph is not applicable, an explanatory statement must be made.
- (c) Mining: Disclosure of the following, where applicable:
- (i) a brief description of the geological setting and geological model
  - (ii) a brief description of the type of mining activities, including a brief history of the workings or operations;
  - (iii) production figures, including a comparison with the previous financial year/period;
  - (iv) a statement on the legal entitlement to the minerals being reported upon together with any known impediments;
  - (v) the estimated mineral resources and mineral reserves;
  - (vi) a description of the methods and the key assumptions and parameters by which the mineral resources and mineral reserves were estimated and classified;
  - (vii) a comparison of the mineral reserve and mineral resource estimates with the previous financial year/period’s estimates together with explanations of material differences;
  - (viii) whether or not the inferred mineral resource category has been

- included in feasibility studies and, if so, the impact of such inclusion;
- (ix) any material risk factors that could impact on the mineral resource and reserve statement;
  - (x) a statement by the directors on any legal proceedings or other material conditions that may impact on the company's ability to continue mining or exploration activities, or an appropriate negative statement;
  - (xi) appropriate locality maps and plans;
  - (xii) a summary of environmental management and funding; and
  - (xiii) a summary of the governance arrangements and internal controls that the issuer has put in place with respect to its estimates of mineral resources and mineral reserves and the estimation process.
- (d) Exploration: Disclosure of the following, where applicable:
- (i) a brief description of any exploration activities, exploration expenditures, exploration results and technical studies undertaken;
  - (ii) summary information of previous exploration work done by other parties on the property;
  - (iii) summary information on the data density and distribution;
  - (iv) exploration results not incorporated in the mineral resource and mineral reserve statement including the following, where applicable, or a qualified negative statement:
    - (aa) the relationship between mineralisation true widths and intercept lengths;
    - (bb) data and grade compositing methods and the basis for mineral equivalent calculations;
    - (cc) for poly-metallic mineralisation or multi-commodity projects, separate identification of the individual components;
    - (dd) the representivity of reported results;
    - (ee) other substantive exploration data and results;
    - (ff) comment on future exploration work;
    - (gg) the basic tonnage/volume, grade/quality and economic parameters for the exploration target; and
    - (hh) sample and assay laboratory quality assurance and quality control procedures.

### **Applicant issuers with substantial mineral or oil/gas assets**

- 14.11 The following provisions apply equally to the applicant issuers with substantial mineral or oil/gas assets:
- (a) the applicant issuers must evidence legal title to undertake mineral or oil/gas activities;
  - (b) contents of PLS and category 1 circulars in terms of 14.3; and
  - (c) announcements in terms of 14.9.
- 14.12 If undertaking mining or exploration activities, the contents of the annual report in terms of 14.10.

### **Independence of CP, CV and QRE**

- 14.13 A CP, CV or QRE will not be regarded as independent, if the CP, CV or QRE:
- (a) is the applicant issuer, its subsidiary, associate or division of the applicant issuer;
  - (b) controls the applicant issuer;
  - (c) is an employee of the applicant issuer
  - (d) has an investment or interest in the applicant issuer which is material to the CP/QRE; and/or
  - (e) receives a fee that is material in relation to the last 12 months.

### **JSE Readers Panel**

- 14.14 The JSE, in consultation with the SSC, have formed a panel known as the JSE Readers Panel to advise the JSE in relation to compliance by applicant issuers with the codes and this Section, as well as deal with any complaints.
- 14.15 In the event of non-compliance, the JSE may:
- (a) censure the applicant issuer in terms of Section 1;
  - (b) instruct the applicant issuer to publish or re-issue any information the JSE deems appropriate; and/or
  - (c) refer any such non-compliance to the relevant professional body of the CP/CV/QRE that signed-off on such information.

## Section 15 Investment Entities and SPACs

### Scope of Section

This Section deals with investment entities and SPACs.

- 15.1 Investment Entities
- 15.2 Contents of PLS
- 15.3 Transactions
- 15.7 Continuing Obligations
- 15.10 SPAC: General
- 15.13 Capital and escrow arrangements
- 15.14 Contents of PLS
- 15.15 Acquisition of viable assets
- 15.20 Continuing obligations

### Investment Entities

#### General

- 15.1 An investment entity must comply with the following:
- (a) the persons responsible for managing the investments must have adequate experience;
  - (b) there must be an adequate spread of portfolio risk;
  - (c) it must not, to a significant extent, speculate in securities;
  - (d) it must either have an existing investment portfolio or it can list with cash only;
  - (e) the investment manager, if appointed, must, at all times, have an investment in the subscribed capital of the applicant equal to at least 10%, unless the JSE decides otherwise after taking account of the relevant experience of the management company;
  - (f) the directors must demonstrate that they are able to act independently of any investment manager/s of the applicant. The majority of the directors of the applicant must not be employees of any professional advisers to the investment manager/s, or any other company in the same group as the applicant;
  - (g) it must express an intention that its income will be derived wholly or mainly from investments in shares or other securities, and neither the applicant, nor any of its subsidiaries, may conduct any trading activity that is material to its group;
  - (h) if investments are made in other companies or funds, which in turn invest in a portfolio of investments, it must ensure that the policies and objectives of the investee company or funds conform to the investment objective(s) of this Section; and
  - (i) it must be classified in the “Closed-Ended Investment” sub-sector of the FTSE Russell Industry Classification Benchmark.

#### Contents of PLS

- 15.2 The provisions of Section 10 apply, in addition to the following disclosures:
- (a) the investment policy;

- (b) whether investments will be limited to ten or less;
- (c) the investment portfolio, or proposed investment portfolio, including:
  - (i) the industrial or commercial sector; and
  - (ii) listed and unlisted investments;
- (d) investments not held in securities;
- (e) income derived from dividends, interest and other forms;
- (f) investments with a value of greater than 5% of the investment portfolio, and the ten largest investments, including:
  - (i) a description of the investment/s and interest held;
  - (ii) whether securities held are listed and on which stock exchange;
  - (iii) the cost of the investment;
  - (iv) the valuation amount, the valuation methodology/ies, details of the assumptions, a sensitivity analysis, the date of the valuation and the details of the valuer;
  - (v) the total income received during the year (explaining any abnormal income);
  - (vi) any extraordinary items; and
  - (vii) the proportionate underlying net assets attributable to the investment;
- (g) disclosure of any unrealised profits stating separately those between listed and unlisted investments; and
- (h) details of the manager which manages the investments, including material terms of appointment (including term and fees) and details of their investment experience.

## **Transactions**

- 15.3 Section 8 will not apply provided transactions are concluded in terms of the applicant's investment policy.
- 15.4 Subject to 15.5, all transactions must be categorised but will not require shareholders' approval. However, all transactions exceeding a categorisation of 10% must be announced in terms of Section 8. In respect of transactions less than 10%, issuers must consider the application of the general obligation of disclosure of price sensitive information in terms of 6.19 (applied individually or on a cumulative basis).
- 15.5 Section 9 will apply to related party transaction, even though concluded in terms of the investment policy.
- 15.6 Any transaction contemplated outside the scope of the investment policy will require an amendment of the policy first in terms of 15.9, in order to allow the transaction to fall within the scope of the policy.

## **Continuing Obligations**

### **Investment portfolio**

- 15.7 If listed with cash only, the issuer must disclose its investment portfolio to shareholders on a quarterly basis until such time that at least 50% of the investment portfolio has been established in investments other than cash or short dated securities.

## Annual financial statements

15.8 The issuer must report the information in 15.2 in its annual financial statements.

## Investment policy

15.9 All material changes to the investment policy or any proposed new policy must be approved by the JSE and shareholders in general meeting.

## SPAC

### General

15.10 A SPAC must complete an acquisition of viable assets within 36 months from the date of listing as a SPAC (the “acquisition window”).

15.11 Once the acquisition of viable assets has been completed, it must comply with the listing criteria for the main board or the ALTX (excluding for main board, the control requirement). On listing, the SPAC will be subject to the Requirements as an issuer in all respects.

15.12 A SPAC must comply with the following:

- (a) have an investment policy for the acquisition of viable assets, specifying the operating industry/ies;
- (b) an applicant may consider an acquisition of viable assets provided that the applicant has not entered into any formal and binding acquisition agreement/s. A call option agreement in relation to the acquisition of viable assets will be permitted where the applicant issuer has the right but not obligation to acquire viable assets post listing, subject to shareholders’ approval in terms of 15.15;
- (c) the directors may receive remuneration prior to the acquisition of viable assets;
- (d) it must determine the estimated operating expenses of the applicant in respect of the operational costs which will be incurred during the acquisition window;
- (e) the directors must have subscribed for shares in the applicant representing at least a 5% interest, on a collective basis, in the applicant on the date of listing. If the subscription is at a nominal value, the interest held by the directors must not exceed 20% of the applicant’s issued share capital on listing. The subscription shares of the directors must not be sold for a period of at least six months from the date the acquisition of viable assets have been completed by the applicant;
- (f) investors in a SPAC must be afforded a redemption right subject to the following:
  - (i) the directors of the applicant and their associates may not be afforded redemption rights;
  - (ii) the redemption price must be the initial listing subscription price, after applying the *pro rata* operating expenses and interest earned on the capital under escrow in terms of 15.13, up to the redemption right exercise date; and
  - (iii) an applicant may establish a limit as to the maximum number of securities with respect to which each eligible shareholder may exercise a redemption right, provided that such total limit may not be less than 10% of the issued share capital of the applicant on listing. Any redemption limit established by the applicant must

- apply equally to all shareholders entitled to a redemption right;
- (g) a SPAC must not have a weighted voting share structure; and
  - (h) the following provisions must be included in the applicant's MOI:
    - (i) a provision requiring shareholders' approval on any proposed acquisition of viable assets;
    - (ii) the redemption rights; and
    - (iii) if an acquisition of viable assets is not completed within the acquisition window, shareholders must be entitled to receive an amount equal to the aggregate amount held in escrow (net of any applicable taxes and expenses related to the distribution and voluntary liquidation), plus the interest earned, divided by the aggregate number of securities.

### **Capital and escrow arrangements**

15.13 The SPAC must comply with the following:

- (a) all capital raised by the SPAC must be held in escrow with an escrow agent;
- (b) the escrow agent must invest the capital in:
  - (i) investment grade bonds (being debt securities with a rating of "BBB" or above as rated by Standard and Poor's Corporation or an equivalent rating by any similar institution); or
  - (ii) bank deposits with a recognised bank;

The interest earned on the capital under escrow shall accrue in favour of the SPAC and accumulate in escrow.

- (c) the escrow agreement must provide for the following:
  - (i) the release of such amount that will be used to cover the operating expenses, and redemption rights, at the request of the board;
  - (ii) the release of the balance or portion of the capital to the SPAC once it receives approval for the acquisition of viable assets within the acquisition window; and
  - (iii) the termination of the escrow agreement and the distribution of the capital in escrow to shareholders in terms of 15.15(b) and 5.16; and
- (d) prior to an acquisition of viable assets being completed within the acquisition window, the JSE may permit a SPAC to raise additional capital for the acquisition of further assets by issuing further shares or units provided that:
  - (i) it is part of a rights offer; and/or
  - (ii) shareholders have granted approval of the further issue in accordance with the Requirements.

All additional capital raised must be held in escrow.

### **Contents of PLS**

15.14 The provisions of Section 10 apply, in addition to the following disclosures:

- (a) a statement that it is not carrying on any commercial and/or business operations at the time of application of listing;
- (b) the acquisition criteria for viable assets, including targeted operating

- industry/ies;
- (c) of any call option acquisition agreement, including:
    - (i) name of the parties and whether or not a related party;
    - (ii) call option exercise timeframe, post listing;
    - (iii) description of viable assets;
    - (iv) purchase consideration, if known; and
    - (v) any conditions precedent;
  - (d) the remuneration of the directors of the applicant for the period prior to the acquisition of viable assets;
  - (e) the estimated operating expenses of the applicant in respect of the operational costs which will be incurred during the acquisition window;
  - (f) the terms of the subscription by the directors and the restricted trade terms;
  - (g) confirmation that all capital raised have/will be paid directly into an account managed by an escrow agent;
  - (h) the redemption right mechanism and timing;
  - (i) in relation to conflicts of interest, the following details are required:
    - (i) all incentives (whether in cash and/or securities in the applicant, or otherwise) payable to directors of the applicant, including their associates, in the identification and pursuit of the acquisition of viable assets;
    - (ii) any service agreement/s in the identification and pursuit of the acquisition of viable assets, between the applicant and director/s of the applicant, including their associates;
    - (iii) any other fiduciary or contractual obligations by the directors of the applicant to other companies or entities that relate to the identification and pursuit of viable assets;
    - (iv) any other potential conflicts of interests between the applicant and the directors (including their associates); and
    - (v) the proposed governance measures to identify, avoid and/or manage potential conflicts of interests as identified in (i)-(iv) where the applicant pursues viable assets; and
  - (j) a statement that it shall not obtain any form of debt financing (excluding those of short-term trade or accounts payable used in the ordinary course of business) to settle any operating expenses, except to facilitate the acquisition of viable assets.

### **Acquisition of viable assets**

15.15 When acquiring viable assets, the following must be complied with:

- (a) the acquisition of viable assets must be approved in general meeting by a majority of disinterested directors, and the majority of disinterested shareholders of the SPAC at a general meeting; and
- (b) the notice of meeting above must also include a resolution on the proposed use of the residual capital not allocated for the proposed acquisition of viable assets for which the approval is being sought. Should shareholders not approve the retention of the balance of the capital after the acquisition has been approved, then such residual capital must be returned to shareholders within 60 calendar days after the date of the general meeting.

## **Failure to acquire Viable Assets**

- 15.16 If a SPAC has not acquired viable assets within the acquisition window, it must:
- (a) complete a distribution within 60 calendar days after the expiry of the acquisition window to all shareholders *pro rata* to their holdings. The distribution must be the maximum amount while still complying with the solvency and liquidity test as required in terms of the Act. All interest earned in escrow will form part of the distribution, excluding any taxes and expenses relating to the distribution and anticipated voluntary liquidation; and
  - (b) propose a special resolution in terms of the Act to shareholders in general meeting for the voluntary liquidation of the SPAC.
- 15.17 In the event that a SPAC has not completed an acquisition of viable assets within the acquisition window, the JSE may suspend the SPAC's listing following the expiry of the acquisition window. The JSE may remove the listing of the SPAC once the capital raised has been distributed to shareholders in terms of this Section.

## **Contents of acquisition circular**

- 15.18 The circular is not a PLS but the equivalent of a category 1 acquisition circular.
- 15.19 The circular must include the following:
- (a) compliance with the listing criteria for the main board or ALT<sup>x</sup>, considering the industry;
  - (b) the required net asset value and profit (if applicable) must reflect in the pro forma financial information prepared in terms of Section 11,
  - (c) any forecast information, if applicable, prepared to reflect the new combined issuer must comply with Section 11;
  - (d) the experience and expertise of the directors and senior management;
  - (e) working capital statement in terms of Section 10;
  - (f) corporate governance as applied to main board or ALT<sup>x</sup> in terms of Section 5;
  - (g) the current balance of proceeds raised on listing, including interest and any additional financing obtained by the applicant, if applicable, as held in escrow as at the time of the conclusion of the acquisition agreement;
  - (h) the balance of operating expenses, as at the time of the conclusion of the acquisition agreement;
  - (i) details on the governance process in respect of how the acquisition of viable assets was identified, evaluated and approved by the board;
  - (j) a statement on whether the acquisition criteria of viable assets complies with the disclosures in the PLS and whether there are any variations from such acquisition criteria;
  - (k) the redemption right mechanism;
  - (l) details of all incentives (whether in cash and/or securities in the applicant, or otherwise) received or to be received by the directors and their associates arising from the identification and acquisition of viable assets; and
  - (m) the details of potential conflicts of interests between the applicant and the directors of the applicant and their associates as disclosed in the PLS, as it

relates to the identification and acquisition of viable assets.

### **Continuing obligations**

15.20 The following must be complied with:

- (a) it will be subject to the corporate governance provisions in Section 5, with the exception of 5.7(d) and (i);
- (b) the investment policy for the acquisition of viable assets may not be amended unless a resolution is passed in general meeting by achieving a 75% majority of the votes cast to that effect;
- (c) it may not exceed the estimated operating expenses as disclosed in the PLS unless a resolution is passed in general meeting by achieving a 75% majority of the votes cast to that effect; and
- (d) it shall not be permitted to obtain any form of debt financing (excluding those of short-term trade or accounts payable used in the ordinary course of business to settle any operating expenses), except to facilitate the acquisition of viable assets.

## Schedules

- 1 Director's Declaration
- 2 Requirements for the MOI
- 3 Working Capital
- 4 Sponsors and Designated Advisers
- 5 Independent Fairness Opinion
- 6 Pre-issued Trading and Price Stabilisation
- 7 BEE Segment
- 8 Depositary Receipts
- 9 Requirements for share incentive schemes

### Schedule 1: Director's declaration

#### Personal details

Applicant issuer: .....

Effective date of appointment .....

Surname of director: .....

Any former surname: .....

First name: .....

Identity number: .....

Director function and capacity: .....

Physical address: .....

Postal address: .....

Telephone number (business): .....

E-mail address: .....

#### Qualifications and experience

- 1 Are you a director, or alternate director of any other company that is publicly listed or traded, or a partner in any partnership? If so, state the name of any such company or partnership, the nature of business where this is not indicated in the title, and the date you became a director or partner.  
.....  
.....
- 2 Provide details of your verifiable qualifications and relevant experience  
Verifiable Qualifications: .....
- Experience: .....
- .....  
.....  
.....
- 3 Are you being appointed as a director of an ALT<sup>x</sup> company? If yes, please confirm whether you have attended the ALT<sup>x</sup> Directors Induction Programme?  
.....

.....  
**Integrity information**

4 Have you ever been convicted of any offence resulting from dishonesty, fraud, theft, forgery, perjury, misrepresentation or embezzlement? If yes, provide details.

.....  
.....

5 Has any company been put into liquidation or been placed under business rescue proceedings or had an administrator or other executor appointed during the period when you were (or within the preceding 12 months had been) one of its directors, or alternate directors or equivalent position? If yes, provide details.

.....  
.....

6 Have you ever been adjudged bankrupt or sequestrated in any jurisdiction? If yes, provide details.

.....  
.....

7 Have you at any time been a party to a scheme of arrangement or made any other form of compromise with your creditors? If yes, provide details.

.....  
.....

8 Have you ever been found guilty in disciplinary or other proceedings or a judgement made against you, by an employer, statutory or regulatory body, recognised professional body or court of law? If yes, provide details.

.....  
.....

9 Have you ever been barred from entry into any profession or occupation? If yes, provide details.

.....  
.....

10 Have you at any time or has a company of which you were a director or alternate director or officer at the time of the offence, been convicted in any jurisdiction of any criminal offence, been found guilty of a civil or administrative offence, or an offence under legislation relating to the Act. If yes, provide full details.

.....  
.....

11 Have you ever been removed from an office of trust? If yes, provide full details.

.....  
.....

12 Have you ever been disqualified by a court from acting as a director of a company, or from acting in the management or conduct of the affairs of any company? If yes, provide full details.

.....  
.....

13 Has any court granted an order declaring you to be delinquent or placing you under probation in terms of Section 162 of the Act. If yes, provide full details.

.....

.....

I ..... director of (name of company).....

I .....director of (name of applicant issuer) .....("the issuer") declare that, to the best of my knowledge and belief (having taken all reasonable care to ensure that such is the case), the answers to all the above questions are true and I hereby give my authority to the JSE to disclose any of the foregoing particulars as the JSE may think fit.

I also acknowledge that the issuer, of which I am a director, has agreed to be bound by and to comply with the Requirements, and, in my capacity as a director, I undertake and agree to discharge my duties in ensuring such compliance whilst I am a director. The delegation of any of my duties to any sub-committee or anyone else will not absolve me of my duties and responsibilities in terms of the Requirements.

I further acknowledge that certain requirements contained in the Requirements, affect me directly as a director and, in my personal capacity, as well as in my capacity as a director, I undertake to be bound by and to comply with all such requirements whilst I am a director.

.....  
Signature

.....  
Date

**Schedule 2:  
Requirements for the MOI**

**General**

The MOI of an applicant must comply with this schedule and be approved by the JSE before listing.

The MOI must be in English.

All amendments to the MOI of an issuer must be approved by the JSE before being submitted for shareholders' approval in terms of the Act. Amendment to the MOI must be approved by a special resolution of ordinary shareholders in terms of the Act. The required voting percentage of at least 75% of voting rights may not be amended in terms of Section 65 (10). The application of Section 36 (3) is prohibited.

The provisions in this schedule are not exhaustive. The MOI must not contain any provisions that are unlawful, in conflict with the Requirements, prevents the enforcement of the Requirements, restrict free dealings in securities (unless otherwise required by statute) or unreasonable, in the JSE's opinion.

**Subsidiary MOI**

The MOI of a subsidiary or amendments thereto, do not require JSE approval.

The applicant issuer must ensure that the provisions of the MOIs of its subsidiaries do not frustrate the applicant issuer in any way from compliance with its obligations in terms of the Requirements.

Nothing contained in the MOI of a subsidiary of an applicant issuer shall relieve the applicant issuer from compliance with the Requirements.

If the MOI contravenes this schedule, the applicant issuer must amend its MOI and/or subsidiary's MOI accordingly.

**Contents of MOI for applicant issuers**

The MOI must comply with the following:

**1.1 Unissued securities**

Unissued equity securities must be offered to existing shareholders, pro rata to their shareholding, unless such securities are to be issued for an acquisition of assets. However, the MOI must provide that shareholders in general meeting may authorise the directors to issue unissued securities, and/or grant options to subscribe for unissued securities, as the directors in their discretion deem fit, provided that such corporate action(s) are subject to the Requirements.

**1.2 Transferability**

- (a) Securities for which listing is sought must be fully paid up and freely transferable, unless otherwise required by statute or at the discretion of the JSE.
- (b) All authorities to sign transfer deeds granted by holders of securities for the purpose of transferring securities that may be lodged, produced or exhibited with or to the company at any of its transfer secretaries shall, as between the company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the company may allow the same to be acted upon until such time as express notice of the revocation of the same shall have been given and lodged at the company's transfer secretaries at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notices, the company shall be entitled to give effect to any instruments signed under the authority to sign, and certified by any officer of the company, as being in order before the giving and lodging of such notice.

**1.3 Ratification**

The proposal of any resolution to shareholders in terms of sections 20(2) of the Act must be prohibited if the resolution would lead to the ratification of an act that is contrary to the Requirements, unless otherwise agreed with the JSE.

**1.4 Rules**

The directors' power to make, amend or repeal rules as contemplated in section 15 (3) of the Act is prohibited.

**1.5 Pari passu and voting**

- (a) Securities in each class for which listing is sought must rank pari passu in respect of all rights.
- (b) Every holder of an ordinary share must have one vote in respect of each share and must be entitled to vote at every general meeting, whether in person or by proxy.

**1.6 Preference shares**

- (a) The holders of preference shares, other than ordinary shares and any special shares created for the purposes of black economic empowerment in terms of the BEE Act and BEE Codes, must not vote on any resolution proposed by the issuer, save as permitted by 1.6(e). If voting is permitted, their votes may not carry any special rights or privileges and they shall be entitled to one vote for each security held, provided that their total voting right at such a general meeting may not exceed 24.99% of the total voting rights of all shareholders at such meeting.
- (b) If any amendment relates to the variation of any preferences, rights, limitations and other terms attaching to any other class of shares already in issue, that amendment must not be passed without a special resolution in terms of the Act, taken by the holders of shares in that class at a separate

meeting.

- (c) Preferences, rights, limitations or other terms of any class of shares must not be varied and no resolution may be proposed to shareholders for rights to include such variation in response to any objectively ascertainable external fact or facts as provided for in sections 37(6) and 37(7) of the Act.
- (d) If listing cumulative and/or non-cumulative preference shares, the following right must attach to such shares:

“No further securities ranking in priority to, or pari passu with, existing preference shares, of any class, shall be created without a special resolution in terms of the Act passed at a separate general meeting of such preference shareholders.”
- (e) The MOI may provide that holders of preference shares shall have the right to vote at any general meeting of the issuer–
  - (i) during any special period during which any dividend, any part thereof on such preference shares or any redemption payment thereon remains unpaid. The special period shall be the period commencing on a day specified in the MOI, not being more than six months after the due date of the dividend or redemption payment in question or, where no due date is specified, after the end of the financial year of the issuer in respect of which such dividend accrued or such redemption payment became due; and/or
  - (ii) in regard to any resolution proposed for the winding-up of the issuer or the reduction of its capital.

#### 1.7 **Scrip dividend and cash dividend elections**

The grant of the right of election must not be prohibited by the MOI.

#### 1.8 **Payments to securities holders**

Payments to securities holders must be made in terms of the Requirements and must not require capital be repaid upon the basis that it may be called up again.

#### 1.9 **Corporate actions**

The following corporate actions must be provided for in the MOI in terms of Section 6 of the Requirements:

- (a) Issue of shares for cash and options and convertible securities granted/issued for cash;
- (b) Repurchase of securities; and
- (c) Alteration of share capital, authorised shares and rights attaching to a class/es of shares.

#### 1.10 **Debt instruments**

The granting of special privileges to holders of debt securities is prohibited, such as attending and voting at general meetings and the appointment of directors.

#### 1.11 **Meetings**

The quorum at a general meeting is as prescribed by the Act, provided no lower percentage may be provided for in terms of section 64(2).

#### 1.12 **Written resolutions**

- (a) Main Board: Subject to the provisions of the MOI of the applicant issuer, the following resolutions may be proposed as written resolutions in accordance with section 60 of the Act:
  - (i) change of name;

- (ii) odd lot offers;
  - (iii) increase in authorised share capital; and
  - (iv) approval of amendments to the MOI.
- (b) ALT<sup>x</sup>: Subject to the provisions of the MOI of the applicant issuer, all resolutions in terms of the Requirements may be proposed as written resolutions in accordance with section 60 of the Act.

#### 1.13 **Lien upon securities**

Any power by the issuer to claim a lien on securities must be prohibited.

#### 1.14 **Transmission clause**

A provision to the effect that securities registered in the name of a deceased or insolvent holder shall be forfeited if the executor fails to register them in his own name or in the name of the heir(s) or legatees, when called upon by the directors to do so, will not be permitted.

#### 1.15 **Commission**

The issuer may not pay commission exceeding 10% to any person in consideration for their subscribing or agreeing to subscribe, whether absolutely or conditionally, for any securities of the company.

#### 1.16 **Directors**

- (a) The MOI may provide for the nomination of directors by any person who is named in the MOI, provided that any shareholder will have the right to nominate directors. Such a named person must not be entitled to appoint or remove any director/s. The appointment of all directors must be approved by shareholders at any general meeting. Main board issuers may not propose written resolutions for the appointment of directors
- (b) Should the number of directors fall below the minimum provided in the MOI/the Act, the remaining directors must, as soon as possible, and, in any event, not later than three months from the date that the number of directors falls below the minimum, fill the vacancies or call a general meeting for the purpose of filling the vacancies. A failure by the issuer to have the minimum number of directors during the three-month period does not limit or negate the authority of the board or invalidate anything done by the board or the issuer. After the expiry of the three-month period, the remaining directors shall only be permitted to act for the purpose of filling vacancies or calling general meetings of shareholders.
- (c) A director may be employed in any other capacity in the issuer or as a director or employee of a company controlled by, or itself a major subsidiary of, the issuer and, in such event, his appointment and remuneration in respect of such other office must be determined by a disinterested quorum of directors.
- (d) The directors may be paid all their travelling and other expenses, properly and necessarily incurred by them in and about the business of the issuer, and in attending meetings of the directors or of committees thereof; and, if any director is required to perform extra services, to reside abroad or be specifically occupied about the issuer's business, he may be entitled to receive such remuneration as is determined by a disinterested quorum of directors, which may be either in addition to or in substitution for any other remuneration payable.
- (e) The directors shall be entitled to elect a chair and to determine the period for which the chair shall hold office.
- (f) Life directorships and directorships for an indefinite period are prohibited.

### 1.17 **Dividends**

- (a) Dividends are declared by the directors in accordance with the Act and JSE corporate action timetables.
- (b) Dividends are payable to shareholders registered as at a date subsequent to the date of declaration or date of confirmation of the dividend, whichever is the later.
- (c) The company must hold all monies due to shareholders subject to the laws of prescription.

### 1.18 **Members registered address**

A provision in the MOI to the effect that members shall register an address in the Republic or in some other country, will be permitted.

### 1.19 **External companies**

- (a) Provision must be made for depositing proxy forms at the branch office in the Republic.
- (b) Where a non-electronic notice of general/annual general meeting, or annual financial statements, is to be delivered from the registered office of the company, at least 20 business days' notice of such meeting must be given to all shareholders entitled to thereto. Where such notice, is delivered electronically, by mail or otherwise from a branch office in the Republic, at least 15 business days' notice must of such meeting must be given to all shareholders entitled thereto.
- (c) Neither the directors nor the company are to be given power over the issue of securities to create any differences in rights between the holders of the same class of share in respect of the amount of calls to be paid and the time of payment of such calls, or in any other respect whatsoever.
- (d) Any amount paid up in advance of calls on any share shall carry interest only and shall not entitle the holder of the share to participate, in respect thereof, in a dividend subsequently declared.
- (e) Provision must be made for the payment of calls at the branch office in the Republic.
- (f) The directors may retain any dividend or bonus upon which the company has a lien and may deduct from dividends or bonuses all claims or sums of money that may be due on account of calls.
- (g) A provision that compels members to register an address in the foreign country of the external company is prohibited.

### 1.20 **Provisions applicable to secondary listed issuers**

The following provisions in the constitution of a secondary listed applicant issuer must be brought to the attention of the JSE:

- (a) The manner which the MOI may be amended;
- (b) 1.1: Unissued securities;
- (c) 1.2: Fully paid and transferable;
- (d) 1.5(a): Pari Passu;
- (e) 1.6(a): Preference shares vote limitation 24.99%.
- (f) 1.16(a): Nomination and appointment of directors.

The JSE may require additional disclosure(s) in the PLS in the event of material differences or if dealt with outside the scope of the constitution of the applicant issuer (e.g. local legislation).

- 1.21 The JSE must be notified of any expropriation rights in respect of securities; and
- 1.22 Confirmation must be provided to the JSE by the issuer, that it has arrangements in place with its transfer secretary to (i) mandate a compulsory one day Removal Process\* and (ii) introduce appropriate penalty measures where the Removal Process is not adopted and implemented by the transfer secretary.

Removal process means the process for the movement of shares between the South African share register and foreign share register.

### **Schedule 3: Working capital**

#### **Directors' responsibilities**

- 1.1 The directors of the applicant issuer are required to perform the following as a minimum:
- (a) the financial director must prepare a working capital pack and a qualifying quorum of the board, including the chairman of the audit committee ("the directors") must approve the working capital pack;
  - (b) the financial director must obtain written confirmation from facility providers confirming that all facilities are currently in place and that facility providers are not in the process of reviewing the facilities with a view to withdrawing them;
  - (c) if there are renewable clauses underlying the provision of the facilities, then the financial director must obtain confirmation from the providers that there is no reason why the facilities would not be renewed subject to any reasonable obligation being satisfied; and
  - (d) a resolution must be passed by the directors stating that the working capital available to the group is sufficient for its present requirements, that is, for at least the next twelve months from the date of issue of the relevant document. This resolution must be passed after due and careful enquiry has been made by the directors on the working capital requirements of the group for the next twelve months.

#### **Working capital pack**

- 1.2 The working capital pack must include the following:
- (a) a working capital forecast for at least the next 12 months (in compiling such working capital forecast it is a requirement that any other forecasts, such as income, expenditure, cash flows, statement of financial position and other items, are made that are necessary in preparing the working capital forecast);
  - (b) a reconciliation of working capital projections to the applicant issuer's current net cash/indebtedness position;
  - (c) a review of cash flow projections and future commitments;
  - (d) a review of contingent liabilities;
  - (e) a review of off-the-statement of financial position borrowings;
  - (f) a review of, and commentary on, facility agreements;
  - (g) an analysis of all key drivers impacting on the adequacy of the applicant issuer's working capital ("assumptions") and a discussion of all assumptions (historical and future) and their impact/potential impact on cash retained from/utilized by operating activities, cash generated by/utilised in investing activities and the cash effects of financing

- activities;
- (h) if the applicant issuer uses the auditors to produce the working capital pack then this must be stated in the working capital pack; and
  - (i) if the applicant issuer used the auditors to produce the working capital pack it should include details of the work performed by the directors to evaluate the work of the audit.

#### **Schedule 4: Sponsors and Designated Advisers**

This schedule applies to sponsors and DAs.

##### **Application**

- 1.1 Application to become a sponsor must be submitted in the format (available on the JSE Forms Portal).
- 1.2 An applicant must identify the key contact person for purposes of the application.
- 1.3 The relevant fees payable are available on the JSE website.

##### **Eligibility**

- 1.4 A sponsor must satisfy the JSE that it:
  - (a) is competent to discharge its responsibilities; and
  - (b) will discharge its responsibilities in terms of the Requirements.
- 1.5 A sponsor must have:
  - (a) clear and effective reporting lines with approved executives to ensure proper supervision;
  - (b) adequate staffing and resources to ensure the proper application of the Requirements;
  - (c) effective training and supervision in relation to the application of the Requirements and the Sponsor Code of Conduct; and
  - (d) identifying matters that may impact independence and/or conflicts of interests.
- 1.6 Subject to 1.8, a sponsor must have at least three staff members with established track record and experience in corporate finance, to the satisfaction of the JSE, who –
  - (a) are approved executives; or
  - (b) have passed the JSE examination for approved executives and have obtained practical experience in providing advice on the application of the Requirements under the supervision of an approved executive for the prescribed period in 1.9(b).

These individuals will be registered by the JSE as approved executives of the sponsor.
- 1.7 An approved executive application must be accompanied with the sponsor executive declaration (available on the JSE Forms Portal).
- 1.8 If the eligibility criteria above are not satisfied, the JSE may accept an applicant as a sponsor, but not a DA, provided it has:
  - (a) at least one approved executive;
  - (b) adequacy of staff; and

- (c) can demonstrate that it accepts its responsibilities and is competent to discharge its responsibilities in terms of the Requirements.

The JSE reserves the right to review such sponsor's status on notification of any staff changes within the sponsor.

### **Supervision and staff**

- 1.9 An approved executive responsible for supervision, must:
  - (a) at the commencement date provide the details of the candidate to the JSE;
  - (b) undertake supervision for a period of two years if the candidate is in possession of an academic degree or a period of five years if not; and
  - (c) at the completion of the supervision period confirm to the JSE that the candidate has completed the supervision and is a suitable candidate to be an approved executive.
- 1.10 If a candidate changes employment, supervision may be transferred to another approved executive. Before an approved executive takes on the candidate, full details of the candidate's previous experience and supervision progress must be obtained from the previous approved executive.

### **Continuing obligations**

- 1.11 The JSE must be informed immediately of any new events in the sponsor executive declaration or changes thereto, in relation to an approved executive.
- 1.12 Any approved executive or staff member that has a material interest in an applicant issuer, compared to personal wealth, must not be involved in providing advice to such applicant issuer.
- 1.13 If an approved executive changes employment, the JSE must be notified within 48 hours.
- 1.14 If the departure of an approved executive results in a sponsor no longer having the minimum number of approved executives, the sponsor must take steps to remedy the situation and keep the JSE informed.
- 1.15 If a sponsor or approved executive ceases to comply with this Schedule, the JSE must be notified immediately.
- 1.16 If a sponsor approved in terms of 1.8 has staff changes, the JSE must be notified.

### **Annual Compliance and fees**

- 1.17 Sponsors must submit an annual compliance certificate (available on the JSE Forms Portal), each time the annual subscription is payable to the JSE.
- 1.18 All approved executives must provide an affidavit to the JSE by no later than 31 January of each year confirming active involvement in providing advice on the application of the Requirements during the previous twelve months.
- 1.19 Failure to adhere to 1.17 and 1.18 may result in the removal of the sponsor or approved executive status.
- 1.20 If the sponsor annual subscription fees are not paid by 31 January each year, no submission will be accepted from the sponsor by the JSE until the fees have been paid in full.

### **JSE training**

- 1.21 The JSE may mandate training for approved executives on the Requirements that must be completed within certain periods specified by the JSE.

### **Sponsor Code of Conduct**

The Code of Conduct applies equally to sponsors and approved executives.

Sponsors should exercise the utmost integrity, competence, diligence, and confidentiality in their dealings with the JSE and their applicant issuers.

### **Fundamental principles**

The following fundamental principles should be applied:

- **Integrity and Objectivity:** Sponsors should remain transparent and honest in all professional and business relationships and should not allow bias, conflict of interest or undue influence of others to override their professional judgement.
- **Professional Competence and Due Care:** Sponsors have an ongoing duty to maintain their professional knowledge and skill at such a level as to ensure that their applicant issuer clients receive competent and professional service in line with up-to-date developments in professional and best practice, legislation and the Requirements. Sponsors should act diligently and in accordance with applicable technical and professional standards when rendering professional services.
- **Confidentiality:** Sponsors should respect the confidential nature of information acquired in the context of professional and business relationships. Such confidential information may not be used by sponsors for personal gain and should not be disclosed to third parties without due authority or unless there exists a legal obligation of disclosure.

### **Standards of professional conduct**

The following standards of professional conduct must be applied:

#### **A Professionalism**

- **Knowledge of the Law:** Sponsors must know and comply with all applicable laws, rules, regulations and codes (including the Requirements) of any government, regulatory organisation, licensing agency or professional association governing their professional activities. In the event where there is any conflict of these laws and/or rules, regulations or codes, sponsors and approved executives must comply with the more onerous of the law, rule, regulation or code.
- **Independence and Objectivity:** Sponsors must exercise reasonable care and judgment in order to achieve and maintain independence and objectivity in their professional dealings. Sponsors must not offer, solicit, or accept any gift, benefit, compensation or consideration that may reasonably be seen to compromise their independence or objectivity.
- **Faithful Representation:** Sponsors must not knowingly make any misrepresentations or omissions of fact in relation to the provisions of the Requirements. Sponsors must, without delay, notify the JSE in the event that they become aware of any such misrepresentations or omissions of fact by, or on behalf of, their applicant issuers (whether existing, former or prospective).
- **Misconduct:** Sponsors must not engage in any conduct involving dishonesty, fraud, deceit or the commission of any act that may reflect adversely on the JSE or on the professional reputation, integrity, or competence of the sponsor.

#### **B Integrity of capital markets**

- **Price Sensitive Information.** Sponsors in possession of price-sensitive information must not trade on or disclose this information to third parties (unless a legal obligation of disclosure exists).
- **False Markets.** In order to protect the integrity of the capital markets,

sponsors must refrain from prohibited market practices and false statements, as stipulated in the FMA, and take steps to make their applicant issuers aware of their responsibilities.

## **C Duties to clients**

- **Prudence and Care.** Sponsors should act with reasonable care.
- **Fair Dealing.** Sponsors must deal fairly and objectively with all clients when furnishing advice on the Requirements or engaging in other professional practices relating to their duties as sponsors.
- **Preservation of Confidentiality.** Sponsors must keep confidential all information pertaining to existing, former and prospective applicant issuers, unless:
  - The information relates to illegal activity on the part of the existing or former applicant issuer;
  - Disclosure of the information is required by law or in terms of the Requirements; or
  - The existing, former or prospective applicant issuer consents to the disclosure of the information.

## **Schedule 5: Independent Fairness Opinion**

### **Appointment**

- 1.1 It is the responsibility of the board to appoint an independent professional expert (the “expert”) in terms of this Schedule to prepare and publish a fairness opinion in terms of Section 1 and if the directors elect to obtain an opinion on a voluntary basis and wish to make the opinion available in the market.
- 1.2 The board must ensure that any director who is party to the transaction/corporate action (being the subject matter of the fairness opinion) is excluded from the process of mandating the expert and providing the recommendations to the board.
- 1.3 The board must determine the competency and independence of the expert. In support of these determinations the following must be submitted to the JSE, with the fairness opinion:
  - (a) confirmation of independence by the expert addressed to the directors;
  - (b) confirmation of competency by the expert addressed to the directors; and
  - (c) declaration by the issuer addressed to the JSE.

The prescribed forms are available on the JSE Forms Portal.

### **General**

- 1.4 The expert must opine on the fairness but may also opine on the reasonableness, provided detailed disclosure is provided. Fairness is based on quantitative issues and reasonableness on qualitative issues.
- 1.5 The date on which the opinion is issued must be the same as the date that the board authorises the submission to the JSE for formal approval.

### **Removal of Listing**

The following applies:

- 1.6 The expert must perform a valuation of the issuer as whole.
- 1.7 The expert is not prohibited from applying any discounts or premiums to such

valuation which they believe impact their valuation in order to opine as to whether the offer is fair or not.

- 1.8 The expert's opinion must include full disclosure of the valuation number both including and excluding any discount or premium applied. There must be separate disclosure of the details and value attributed to each of the different types of discounts or premiums that the expert has applied to the valuation in reaching their opinion.
- 1.9 The expert must explain why they believe that each of the discounts or premiums is relevant in the circumstances.
- 1.10 The inclusion of a valuation range (for both the entity valuation and the discounts/premiums) as opposed to an absolute figure is acceptable, but that range should not be so wide as to render it meaningless and the opinion must include justification for the size of the range. The JSE may ask the expert to narrow that range.

#### **Independence of the experts:**

- 1.11 For purposes of a removal of listing in terms of Section 1, the expert (including its staff) must not:
  - (a) have any relationship with the issuer or with any party involved in the removal of listing;
  - (b) have had any relationship with the issuer or with any party involved in the removal of listing within the immediate preceding two years; and
  - (c) be related to any person who has or has had a relationship contemplated in (a) and (b).
- 1.12 In relation to voluntary fairness opinions, the JSE deems an expert independent, if the expert:
  - (a) for the past 18 months, has had no shareholding in the issuer;
  - (b) for the past 18 months, has not been a director of the issuer;
  - (c) is not employed by the issuer;
  - (d) has had no relationship with any party to the corporate action, other than the issuer in a capacity of auditor, sponsor, CP, CV or QRE; and
  - (e) has no interest in the success of the corporate action other than its reasonable professional fee (with no success fee element) for acting as expert.
- 1.13 Experts which are deemed by the JSE not to be independent:
  - (a) any financial institution involved in the transaction/corporate action, which has a direct or indirect interest in the transaction/corporate action;
  - (b) any adviser to the issuer in relation to the transaction/corporate action; and
  - (c) the auditor of the target in respect of an acquisition undertaken by the issuer.

#### **Content of opinion**

- 1.14 The content of the fairness opinion must include at least the following:
  - (a) title, addressee and date;
  - (b) the purpose of the opinion;
  - (c) reference to the relevant provisions in the Requirement(s) in terms of which the opinion is being issued;
  - (d) headings identifying the major sections including, but not limited to,

- introduction, procedures and the opinion;
- (e) an explanation as to how the terms “fair” and, if so mandated by the directors “reasonable”, apply in the context of the specific transaction;
  - (f) details of the information and sources of information;
  - (g) identification and discussion of both the external and internal key value drivers, sensitivities performed and assumptions used;
  - (h) if applicable, a summary of the way in which the expert has satisfied itself as to the appropriateness and reasonableness of the underlying information and assumptions;
  - (i) an explanation of the significant factors that led to the opinion given;
  - (j) any limiting conditions;
  - (k) the relationships between the issuer (and any other parties involved in the transaction) and the expert, as identified in the form in 1.3(a);
  - (l) confirmation that a valuation has been performed and identification of the valuation methodologies applied and, where there has been reliance upon a third party valuation, confirmation that the expert is satisfied with this valuation;
  - (m) a summary of other factors taken into account or procedures carried out in reaching the opinion;
  - (n) a statement that an individual shareholder’s decision may be influenced by such shareholder’s particular circumstances and, accordingly, that a shareholder should consult an independent adviser if in any doubt as to the merits or otherwise of the transaction;
  - (o) the opinion and the effective date of the opinion;
  - (p) the expert’s name, address and authorised signature; and
  - (q) any other information that the expert deems appropriate.

## **Schedule 6: Pre-Issued Trading and Price Stabilisation**

### **Pre-Issued Trading**

- 1.1 Pre-issued trading are transactions effected in pre-issued securities in accordance with the JSE equity rules and directives.
- 1.2 Pre-issued trading is for a limited period and is conditional on the securities being listed.
- 1.3 Applicant issuers must submit a formal application applying for pre issued trading.
- 1.4 The JSE may permit pre-issued trading, subject to:
  - (a) approval being granted for the listing and the prelisting announcement being published;
  - (b) the listing being an offer for sale or subscription and of such a size that, in the opinion of the JSE, it is appropriate to permit pre-issued trading
- 1.5 Pre-issued trading will commence and end on such dates as the JSE specifies, provided that the pre-issued trading must end the day before listing of the securities.
- 1.6 All transactions effected during the period of the pre-issued trading will only settle once the official listing has taken place.

- 1.7 If the listing does not commence on the intended listing date, every transaction effected during pre-issued trading will be void ab initio in accordance with the JSE equity rules and directives.

### Price Stabilisation

- 1.8 The purpose of this section is to define the circumstances and manner in which price stabilisation will be permitted by the JSE, in accordance with the provisions of the FMA, and as a defence against prohibited trading practices, as stipulated in the FMA. Price stabilisation may be effected through an over-allotment, with or without a greenshoe. Over-allotment is a pre-cursor to a price stabilisation mechanism, aimed at supporting and maintaining the price of newly listed securities or securities the subject of a substantial offer, for a limited period after the listing or offer. The main purpose is to establish an orderly market for securities in the immediate secondary market after an offer.
- 1.9 The process of price stabilisation usually involves the stabilising manager, on behalf of the Bookrunners, allotting a greater number of securities than will be issued or sold, resulting in a net “short” position for the stabilising manager. Should the price of the securities drop below or remain at the issue price when securities begin to trade in the secondary market, the stabilising manager may purchase the securities to cover its “short” position and counteract the selling pressure. The “Greenshoe” from the issuer or substantial holder of relevant securities allows the stabilising manager to obtain the same number of securities that have been over-allotted, by exercising the option at the issue price. The stabilising manager may also allot more securities than the greenshoe, which is known as a naked short, or fewer securities. The stabilising manager may either close the net “short” position by exercising all or part of the greenshoe or by purchasing the securities in the market.

### Definitions

ancillary stabilising action	action permitted under 1.12 enabling the stabilising manager to over allot securities in order to facilitate the subsequent purchase of the securities;
greenshoe	an option or other right, granted for a specified period of time, exercisable by the stabilising manager, to acquire up to a specified number of securities in addition to the initial issue number, to enable it to honour the commitments made during the stabilisation period;
introductory period	the shorter of (i) the period starting at the time of the first public announcement of the offer and (ii) the period starting 45 days before the commencement of the stabilisation period, and ending at the beginning of the stabilising period;
issue price	the price at which securities are issued or sold in the relevant offer;
over-allotment	the allotment of shares in excess of the number of securities to be issued or sold in the offer;
stabilising manager	the entity responsible for stabilising action under these requirements and referred to in 1.11(a), 1.12(a), 1.21 and 1.22;
stabilising action	any action contemplated by 1.11 and 1.12;
stabilising price	the initial price, at or below the issue price, up to which the stabilising manager has determined that it may wish to intervene in the market by way of stabilising action; and
relevant exchange	the JSE or any exchange approved by the JSE, for the purpose of price stabilisation.

### Specific Requirements

- 1.10 Price stabilisation may only be effected in respect of an offer of securities, and must comply with the following criteria:
- (a) the offer must be an offering or issue of securities for cash, made at a specified price;

- (b) the offer must be for securities which are already listed or are to be listed;
- (c) the offer must be of sufficient size to satisfy the JSE that price stabilisation is warranted. Such size is to be determined in consultation with the JSE.

#### **Permitted stabilising action**

1.11 The stabilising manager may, subject to compliance with 1.12 undertake:

- (a) to purchase, agree to purchase, or offer to purchase any relevant securities with the aim of stabilising the market price of the relevant securities; and
- (b) to take certain ancillary action with the aim of stabilising the market price of the relevant securities or liquidating any positions taken as a result of the stabilising process.

#### **Permitted ancillary stabilising action**

1.12 The stabilising manager may, subject to compliance with 1.13:

- (a) with a view to stabilising action in relevant securities:
  - (i) make allotments of a greater number of the relevant securities than will be offered;
  - (ii) sell, offer to sell, or agree to sell relevant securities in order to establish a short position in them;
  - (iii) achieve a result equivalent to that in 1.12(a)(ii), by the use of derivatives;
- (b) purchase, offer to purchase, or agree to purchase relevant securities in order to close out or liquidate any position established under the process of stabilising action;
- (c) sell, offer to sell, or agree to sell relevant securities in order to close out or liquidate any position that has been established by stabilising action; or
- (d) achieve a result equivalent to that in 1.12(c), by the use of derivatives.

#### **Conditions to be fulfilled**

1.13 The following are conditions which the stabilising manager must reasonably believe have been fulfilled before any stabilising action is taken:

- (a) from the beginning of the introductory period, adequate disclosure has been made in all communications issued by or on behalf of the issuer or the stabilising manager to prospective investors in the securities, of the fact that stabilisation may take place in relation to the relevant offer, as stipulated in 1.19 and 1.20;
- (b) the relevant exchange on which the securities are or will be traded has been informed that stabilising action in such securities may take place during the stabilising period;
- (c) that the price is not already artificial at the start of the stabilising period;
- (d) the terms on which the securities may be issued, sold, exchanged for, or converted into, or the rights of the holders of the securities to subscribe for, or to acquire other securities, have been finally settled and publicly announced;
- (e) the stabilising manager has established a register to record, in relation to each stabilising transaction effected in the securities, the matters required to be recorded in terms of 1.21 to 1.24; and
- (f) stabilisation may only take place during the stabilisation period.

#### **Stabilisation period**

1.14 If the JSE permits trading in the securities prior to listing, the stabilisation period will commence on the date such trading commences. Otherwise, the stabilisation period will commence on the date of the listing of the securities, or the date of their sale if already listed. The stabilisation period will end 30 calendar days after the relevant listing or sale date.

1.15 The stabilising manager is under no obligation to stabilise securities.

### **Pricing**

1.16 The initial stabilising price (Price X) cannot exceed the offer price (or starting price) (Price Y), and subsequent stabilising action must equally be at or below the level of Price X. If there are no sales and purchases which are independent of the stabilising manager on both sides on the relevant exchange above Price X, the stabilising manager can operate at a price or at prices below Price X, moving up or down in that area as he wishes. But if an independent buyer and seller do a deal on the relevant exchange, at a price (Price Z) between Price X and Price Y, then the stabilising manager has a new maximum price (Price Z) instead of Price X.

1.17 The provisions of 1.16 will not prevent the stabilising manager from purchasing, offering to purchase or agreeing to purchase securities in order to close out a short position that is not covered by a greenshoe.

### **Over-allotment size**

1.18 The over-allotment may not be more than 15% of the issue size.

### **Disclosures**

1.19 Disclosure of the fact that stabilisation may take place should be provided in all communications issued by or on behalf of the issuer or stabilising manager to prospective investors in the securities in respect of the relevant offer.

1.20 For the preliminary offering circular (or prospectus) and/or final offering circular (or prospectus) the disclosure should contain:

- (a) the following text “In connection with this offer [name of stabilising manager] may over-allot or effect transactions which may support the market price of [description of securities] at a level higher than that which might otherwise prevail for a limited period after the listing date. However, there is no obligation on [name of stabilising manager] to do so. Such stabilising action may under no circumstances continue beyond the 30th calendar day after the listing date”; and
- (b) where the stabilising manager has an option or other right to purchase relevant securities from the issuer or an existing securities holder for the purposes of stabilisation; and that option or right may be exercised or relied on after the start of the introductory period and during or after the remainder of the stabilising period, the existence and terms of such an option or right must be disclosed in the relevant prospectus or offering document.

### **Register**

1.21 No bid may be made or transaction effected in the course of stabilising action unless:

- (a) the stabilising manager concerned has established the relevant register in compliance with 1.22 and 1.23; and
- (b) the stabilising manager is in compliance with the registration requirements in 1.22 and 1.23 in respect of all earlier transactions effected by it in the course of stabilising action in connection with the relevant offer in question.

- 1.22 The person responsible for the register must ensure that it contains, either in real time or updated overnight (from business day to business day), information on:
- (a) the name of the stabilising manager appointed as such;
  - (b) the general parameters, including the initial stabilising price, laid down by the stabilising manager and the date and time of their communication, variation or revocation;
  - (c) each transaction effected in the course of stabilising action including:
    - (i) the type of security;
    - (ii) the unit price;
    - (iii) the size;
    - (iv) the date and time; and
    - (v) details of the counter-party, if known;
  - (d) details of the original allotment of securities (allottee and amount allotted); and
  - (e) details so far as are known to the person responsible for the register of any deal which counts as a deal at a price above the then stabilising price.
- 1.23 The register must be kept in South Africa, or else be capable of being brought to or reconstituted inside South Africa within 48 hours of a request for access from the JSE or Financial Services Board, and, it must be retained for a period of at least twelve months from the date of the end of the stabilising period.
- 1.24 Disclosures by stabilising managers to issuers must comply with:
- (a) subject to the issuer agreeing to keep such information confidential, the stabilising manager shall permit the issuer of the securities to inspect the register kept under this section during the stabilising period, and for three months thereafter, on any business day;
  - (b) the stabilising manager must inform the issuer that the information specified in 1.22(c)(i) to (iv) will be available to be shown to the issuer, if so requested, within 14 calendar days after the close of the stabilising period;
  - (c) In addition to the above requirements, it is recommended that the issuer obtains an undertaking from the stabilising manager to disclose the following:
    - (i) the date, time, number and value of all transactions effected with a view to supporting the market price of the relevant securities;
    - (ii) the number and value of all transactions entered into by way of permitted ancillary action under 1.12;
    - (iii) the profit or loss accruing to the stabilising manager, as a result of any transactions effected in terms of 1.24(c)(i) and (ii); and
    - (iv) the remuneration earned by the stabilising manager by way of commission or otherwise in relation to any transactions effected in terms of 1.24(c)(i) and (ii);
  - (d) the recommendation in 1.24(e) applies, where:
    - (i) a stabilising manager, or its associate, has an option or other right to purchase relevant securities from the issuer; and
    - (ii) that option or right may be exercised or relied on after the date of the offer and during or after the remainder of the stabilising period, and applies whether or not the exercise or reliance counts as

permitted ancillary action under 1.12;

- (e) upon exercise of the right to acquire securities during the stabilising period, it is recommended that the issuer should require the stabilising manager to inform it of the reason for the exercise of the right at that time, specifying in particular, to what proportionate extent the exercise is attributable to:
  - (i) a need to deliver relevant securities to persons unconnected with the stabilising manager;
  - (ii) an opportunity for profit taking for the benefit of the stabilising manager or its associate in the course of the stabilising period;
  - (iii) a need to make good any failures to deliver by any other counterparty; and
  - (iv) any other circumstance, if so what; and if the exercise has led to any profit for the stabilising manager or its associate, whether or not 1.24(e)(ii) is specified, the stabilising manager must also specify the amount of profit taken by it or its associate as a result of the exercise; and
- (f) the stabilising manager is not under any obligation to disclose the names of the individual clients to the issuer.

#### **Criteria for stabilising managers**

- 1.25 The issuer must appoint a stabilising manager to take the responsibility for stabilisation.
- 1.26 The overall responsibility for stabilisation must be allocated to one entity (the stabilising manager), for:
  - (a) each issue (an issue with two or more tranches shall be treated as one issue); and
  - (b) in each jurisdiction.
- 1.27 If the stabilisation is in South Africa, the stabilising manager must satisfy the following criteria, or appoint an agent that satisfies the following criteria, to act on its behalf in South Africa:
  - (a) it must be a member of the JSE, Life Offices' Association of South Africa, Council of South African Banks, Merchant Bankers' Association, Banking Association of South Africa or any other person in South Africa or elsewhere (whether natural or juristic), in good standing and acceptable to the JSE;
  - (b) it must prove to the JSE that it has the relevant expertise to undertake stabilisation action or has access to such expertise;
  - (c) it must disclose to the JSE any material dealings (including those of a corporate finance nature), other than in the ordinary course of business, by it or its associates in the securities in respect of which stabilisation is to be undertaken during the six-week period prior to the date of formal application for listing of the securities; and
  - (d) it must satisfy the JSE that it has net tangible assets of not less than R2 billion in jurisdictions acceptable to the JSE and undertake that, throughout the stabilisation period, it will maintain at least R2 billion of its assets in the above-mentioned jurisdictions.

#### **Documents to be submitted to the JSE**

- 1.28 The following information in respect of the stabilising manager must be submitted to the JSE by the sponsor:

- (a) its full name;
- (b) its date and place of incorporation;
- (c) the full names and addresses of its directors;
- (d) its audited consolidated annual financial statements for the last two completed financial years. Where more than nine months have elapsed since the end of the financial year to which the last audited annual financial statements relate, an interim report, covering at least the first six months following the end of that financial year, must be included in the documentation. If such an interim report is unaudited, that fact must be stated;
- (e) a description of any material changes in the financial or trading position of the issuer since the end of the last financial period for which annual financial statements have been published, or an appropriate negative statement;
- (f) information on any legal or arbitration proceedings (including any such proceedings that are pending or threatened of which the issuer is aware) that may have, or have had, a material effect on its financial position, or an appropriate negative statement; and
- (g) any other details that the JSE may deem appropriate.

1.29 The stabilising manager is required to have a scrip lending agreement with a CSDP, a copy of which must be submitted to the JSE for approval.

#### **Documents to be published**

1.30 An announcement in accordance with 1.19 and 1.20 must be published and a further announcement that the greenshoe has been exercised and the extent to which it has been exercised.

#### **Stabilisation jurisdiction requirements**

1.31 Where the issuer's primary listing is in another country/ies, there must be compliance with the relevant requirements of the overseas country/ies in which stabilisation transactions are effected or which may otherwise be affected by stabilisation activity, and compliance with such requirements will be deemed to be compliance with the requirements of the JSE.

### **Schedule 7: BEE Segment**

#### **Scope of schedule**

This schedule sets out the provisions relating to a listing on the BEE Segment. The aim of the schedule is to set out the listing criteria for the different types of securities and entities that may be listed, the continuing obligations and general requirements that apply to securities and entities that list on the BEE Segment. This schedule should be read with the DSS Requirements where applicable.

#### **Conditions of Listing**

- 1.1 An applicant issuer seeking a listing of its BEE securities on the BEE Segment must adhere to the following:
- (a) it must meet the basic listing criteria as set out in either the DSS Requirements or Section 2 of the Requirements and comply with all other relevant sections applicable thereto or list as a BEE SPV pursuant to this Section;
  - (b) trading in the BEE securities must be restricted to a BEE compliant person

- pursuant to the use of (i) a BEE contract or (ii) a BEE verification agent. The market must be informed which method will be used; and
- (c) the applicant issuer must provide the JSE with the details of the BEE verification agent, if applicable.

### **BEE Contract**

1.2 An applicant issuer seeking a listing of its BEE securities on the BEE Segment pursuant to a BEE contract must satisfy the following criteria:

- (a) 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;
- (b) (i) if the applicant issuer elects, by reason of a breach in terms 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 repurchasing the BEE securities or nominating a third party to so purchase and such third party purchases the BEE securities; and
- (ii) the relevant CSDP, or its nominee, is then instructed to effect the necessary entries relating to such repurchase or purchase of the BEE securities,

and, as a consequence, litigation ensues and the registered holder and/or the CSDP or its nominee and/or any JSE member (“joined parties”) is/are joined in such litigation, the applicant issuer indemnifies such joined parties and their directors, employees, servants, agents or contractors or other persons for whom, in law, they may be liable (*stipulatio alteri*) 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 joined parties shall (unless they were joined by the applicant issuer) notify the applicant issuer, 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) subject to paragraph (3) below, 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 joined parties and shall be entitled to control the proceedings in regard thereto and the joined parties shall take no steps in the litigation which are not approved by the applicant issuer;
- (3) if the applicant issuer joined the joined parties, they shall merely abide by the decision of the court.
- (c) 1.2(b) constitutes a right in favour of the joined parties 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 invoke, at any time, by notifying the applicant issuer thereof;
- (d) the indemnities contained in (a), (b) and (c) above must be contained in the application letter to the JSE and in any other relevant listing documents;
- (e) it must agree to become a party to and be bound by the provisions of the Issuers-Participants Contract, a copy of which is 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 applicant issuer whose BEE securities are listed on the BEE Segment will sign the Issuers-Participant Contract and every subsequent applicant 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

- (f) the salient terms of the BEE securities must be contained in the MOI, under the heading "Additional Terms of the BEE Contract".

### **Verification Agent**

1.3 An applicant issuer seeking a listing of its BEE securities on the BEE Segment pursuant to the use of a BEE verification agent must satisfy the following criteria:

- (a) 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 the member not complying with the BEE verification process 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;
  - (b) (i) if the applicant issuer, or such other person as is entitled to do so pursuant to the relevant BEE scheme documents ("the designated person") elects, by reason of a breach in the terms and conditions of the relevant BEE scheme documents or the BEE verification process not having been correctly executed by the BEE verification agent, to enforce the terms and conditions of the relevant BEE scheme documents against the beneficial owner of BEE securities and, if applicable, other parties, by either repurchasing the BEE securities or nominating a third party to so purchase and such third party purchases, the BEE securities; and
  - (ii) the relevant CSDP, or its nominee, is then instructed to effect the necessary entries relating to such repurchase or purchase of the BEE securities,

and, as a consequence, litigation ensues and the registered holder and/or the CSDP or its nominee and/or any JSE member ("joined parties") is/are joined in such litigation, the applicant issuer indemnifies such joined parties and their directors, employees, servants, agents or contractors or other persons for whom, in law, they may be liable (*stipulatio alteri*) against all and any costs (including attorney and own client costs) which may be awarded against any of them as a consequence of such litigation provided that:

- (1) the joined parties shall (unless they were joined by the applicant issuer or designated person) notify the applicant issuer of such joinder within a reasonable time of becoming aware thereof, to enable the applicant issuer or designated person to take steps to act on their behalf as contemplated in (2) below;
- (2) subject to (3) below, the applicant issuer or designated person, as applicable, shall be entitled to contest (which shall include an appeal to a court of law) the litigation in the name of the joined parties and shall be entitled to control the proceedings in regard thereto and the joined parties shall take no steps in the litigation which are not approved by the applicant issuer or designated

person;

- (3) if the applicant issuer or designated person joined the joined parties, they shall merely abide by the decision of the court;
  - (4) the indemnity in this 1.3(b)(4) shall not apply to such joined party in circumstances where the litigation arises from:
    - (i) a breach by such joined party of any of its obligations under the JSE equity rules and directives or the central securities depository rules and directives, as applicable, or
    - (ii) any breach of an applicable contract between such joined party, the applicant issuer and/or any designated person, and
  - (5) 1.3(b) constitutes a right in favour of the joined parties 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 invoke, at any time, by notifying the applicant issuer thereof;
- (c) the indemnities contained in (a) and (b) above must be contained in the application letter to the JSE and in any other relevant listing documents; and
  - (d) the salient terms and conditions of the BEE securities must be contained in the MOI.

## **BEE SPV**

### **General**

- 1.4 A BEE SPV must either appoint a sponsor pursuant to Section 4 of the Requirements, or the DSS Listings Requirements. The sponsor must therefore execute its obligations under the Listings Requirements or the DSS Requirements, as the case may be.
- 1.5 The JSE may consider suspending the listing of a BEE SPV in accordance with Section 1 of the Requirements or the DSS Listings Requirements, if the underlying applicant issuer which the BEE SPV references is suspended.

### **Criteria for listing of a BEE SPV**

- 1.6 An applicant seeking a listing as a BEE SPV must satisfy the following criteria:
  - (a) it must have committed capital (to be received from the issue) or subscribed capital of at least R10 million prior to listing;
  - (b) it must have assets that are held by a trust, a ringfenced entity or through an applicant issuer that has the quality of insolvency remoteness from the arranger or applicant issuer of the underlying assets, subject to JSE approval, which must be administered by trustees or board representing the interests of the security holders of the BEE SPV. A separate trust, company or entity may be required for each class of asset with respect to the issuance of BEE SPV relating to a different composition of assets. If the assets are held via a vehicle other than a trust the JSE must be satisfied that such vehicle provides similar protections to safeguard the assets and, in particular, the powers and duties of the directors (or, in the event that the vehicle is not a company, the persons with corresponding duties and powers in relation to that vehicle) must be limited as though the director is a trustee. Thus, the provisions of this paragraph that apply to trustees and trusts must apply *mutatis mutandis* to the directors and the vehicle used to hold the assets;
  - (c) the applicant issuer of the underlying assets must be listed on an exchange acceptable to the JSE. If not listed, the JSE must be consulted at an early

- stage to consider the suitability of the applicant issuer; and
- (d) it must have 10% of each class of equity securities held by public shareholders to ensure reasonable liquidity.

1.7 Where the underlying assets are equity in nature the BEE SPV must:

- (a) have underlying assets that are listed on the JSE. If the underlying assets are not listed or listed on another exchange, the financial information of the underlying assets must be published in accordance with 6.44 to 6.50. The procedure for non-compliance will apply accordingly on the listed BEE SPV as set out in 6.51 if the financial information on the underlying assets is not published, and
- (b) have underlying assets which are minority interests and must not confer legal or management control of the listed companies.

### **Requirements for a PLS**

1.8 The PLS must be prepared in accordance with Section 10 and must also include the following:

- (a) in respect of the applicant issuer:
  - (i) a description of the rights of the holders of securities in the event of the liquidation and/or business rescue proceedings of the applicant issuer and the applicant issuer of the underlying asset; and
  - (ii) a description of how the proceeds generated from the issuing of the securities will be used by the applicant issuer, if applicable;
- (b) details of the underlying asset/s in respect of which the securities will be issued, including any relevant recently published information relating to the underlying asset/s;
- (c) a statement that the PLS is available on the applicant issuer's website along with a web-link;
- (d) a statement detailing the risks of investing in securities and all possible material risks and uncertainties facing the applicant issuer and the industry in which it operates or is invested in. Proper consideration must be given to the material risks that face the applicant issuer and generic disclosures must be avoided. Material risks should be grouped together in a coherent manner and material risks considered to be of the most immediate significance should be prominent at the beginning within the material risks disclosure. This should include details of the trading risk as well as the risk of the applicant issuer not being able to fulfill its obligations, notwithstanding the fact that the applicant issuer will have been obliged to comply with the Listings Requirements. The statement must also detail the following:
  - (i) the restrictive nature of ownership of the BEE SPV;
  - (ii) including the potential punitive measures and forced sales if ineligible participants acquire securities or become ineligible post the acquisition of securities and do not remedy the situation within the prescribed timeframes, and
  - (iii) risks associated with the funding structure; and
- (e) disclosure of how the day to day management of the BEE SPV and key administrative functions that are normally run by executive directors are managed.

### **Financial information**

1.9 An applicant issuer making application for listing as a BEE SPV must comply

with the following:

- (a) the financial information shall either be included in the PLS or incorporated by reference in the PLS at the time of the listing of the security. Where information is incorporated by reference it must be made available to the public on the applicant issuer's website;
- (b) in the case of a newly incorporated BEE SPV without assets or historical financial information, the latest audited balance sheet must be included in the PLS. This audited balance sheet must have been prepared in terms of IFRS;
- (c) if the BEE SPV does have a financial history, same should be disclosed for a maximum of two years;
- (d) the financial information in (b) and (c) must have been prepared in terms of 11.2 – 11.7, if applicable; and
- (e) if the underlying asset is unlisted, the applicant issuer must publish the following financial information on the underlying asset:
  - (i) which have been prepared in respect of at least the last two financial years and the latest audited financial statements of such underlying asset must be in respect of a period not ending more than 12 months before the date of the PLS; or
  - (ii) which have been prepared for the interim financial period where the audited financial statements of such underlying asset are older than 9 months. No audit or review opinion is required on the interim financial information.

#### **Ancillary documents**

1.10 The PLS to be submitted to the JSE must include the following:

- (a) the annual financial report of the applicant issuer and guarantor (if applicable) in respect of the periods referred to in 1.9(b) and 1.9(c);
- (b) exchange control approval (if applicable);
- (c) where regulatory approval for the issue and/or listing of securities is required from other regulators, the JSE will not grant approval for the issue and/or listing until such time as it receives a copy of the related approval/ruling;
- (d) a draft abridged prelisting statement;
- (e) Part I and Part II documents pursuant to Section 12; and
- (f) agreements that relate to the terms and conditions or relationship between the BEE SPV and the applicant issuer of the underlying asset.

#### **Continuing obligations**

1.11 A BEE SPV is required to comply with the following continuing obligations:

- (a) in the event that the applicant issuer makes any changes to the agreements that govern the applicant issuer or terms and conditions of the securities or any changes to the applicant issuer that the JSE deems material, other than as set out in the memorandum of incorporation and changes which are of a formal, minor or technical nature or are made to correct a manifest error or to comply with mandatory provisions of the law, the applicant issuer must obtain approval from the majority of the holders of securities in a general meeting. The applicant issuer must engage the JSE regarding any proposed changes at an early stage in order for the JSE to determine whether the changes require approval from the holders of securities in a general meeting;

- (b) publish an announcement, without delay, details of any new issue of securities (and, if applicable, guarantees, security or credit enhancements relating thereto), as well as any amendments and proposed amendments to the terms and conditions attaching to existing listed securities, unless agreed otherwise by the JSE;
- (c) publish its annual financial statements in accordance with 6.44 and 6.47 – 6.50. The procedure for non-compliance as set out in 6.51 will apply to a BEE SPV that fails to comply with 6.47. In addition, the requirements of 6.52 will also apply where a modified auditors' report has been issued on an BEE SPV's annual financial statements;
- (d) publish its interim financial statements in accordance with 6.45. The procedure for non-compliance as set out in 6.51 will apply to a BEE SPV that fails to comply with 6.45 in relation to interim financial statements;
- (e) release an announcement confirming that the information pursuant to 1.11(c) and (d) is available on its website;
- (f) notify the JSE of any change in the BEE verification agent, and
- (g) an applicant issuer is required to comply with Section 6, subject to the following general exclusions:

Paragraphs

- 6.34 Press announcements. Announcement must be made on SENS only; and
- 6.43 Results;
- 8.12 Cash Companies;
- 6.10 to 6.13 Pre-emptive rights;
- 8.33 Profit warranties;
- 8.34 and 8.35 Issues by subsidiaries other than on listing;
- (h) Corporate governance, 5.7(f), (h) and (i), along with a narrative on the application of the King Code application and disclosure regime to the principles set out in Part 5.3 (Governing Structures and Delegation of the King Code) of the King Code.

### **Application for additional listing**

- 1.12 All applications for the listing of additional securities shall be made in compliance with the following:
- (a) in the case of a subsequent issue of securities be done in accordance with the Listings Requirements and the memorandum of incorporation of the applicant issuer;
  - (b) the application to the JSE must be supported by a duly executed resolution of the board, or legal authority, specifically authorising the subsequent issue and further issue and listing; and
  - (c) announced prior to the issue date of securities.

### **Circulars**

- 1.13 An applicant issuer must comply with the following provisions with regards circulars.

Paragraphs

- 6.3 Announcements; and
- 6.5 Name and logo of a sponsor.

10.10 and 10.11	General: PLS, RLP and circulars
12.2	Approval process

## **Announcements**

- 1.14 An applicant issuer must publish the following with respect of the BEE SPV:
- (a) an announcement, which is to be made immediately after the JSE has approved an application for listing, containing:
    - (i) the full name and place and date of incorporation in respect of the applicant issuer and if applicable any guarantor;
    - (ii) the period of marketing (if applicable) and the expected listing date;
    - (iii) the salient terms of the issue;
    - (iv) a statement that JSE approval for the listing has been granted;
    - (v) the code under which the securities will trade and the ISIN;
    - (vi) confirmation of the underlying authority to issue additional securities;
  - (b) Any declaration of dividends (as defined in terms of the Income Tax Act), interest and other similar payments (distribution payments and cash disbursements to shareholders) by an applicant issuer should immediately be announced as per 7.23.
- 1.15 The applicant issuer will also be required to make an announcement should there be any changes in the constituents of the asset pool relating to a corporate action or otherwise (if applicable). Such announcement must be posted on the applicant issuer's website.
- 1.16 An applicant issuer must announce any corporate action or restructuring in the underlying asset/s, provided it affects the listed security. The announcement is to be made at least ten business days prior to the record date of the relevant corporate action or such other date acceptable to the JSE. The final terms of the amendment must be announced by no later than 10am on the business day prior to the effective date of such amendment.
- 1.17 Any corporate action proposed by an applicant issuer is to be undertaken in accordance with the Listings Requirements, read with the corporate action timetables unless otherwise agreed to by the JSE.

## **Schedule 8: Depository Receipts**

- 1.1 This section sets out the requirements for the listing of sponsored DRs and unsponsored

### **General**

- 1.2 An issuer of DRs is subject to the provisions of Section 1.
- 1.3 Subject to Section 1, DRs may be suspended if the issuer of the DRs fails to comply with the Requirements.

### **Sponsor**

- 1.4 The issuer of both sponsored and unsponsored DRs must comply with the provisions of Section 4 regarding the appointment of a sponsor. In relation to unsponsored DRs, the depository will carry out limited duties and responsibilities, in accordance with the provisions set out below in 1.18 and 1.19.

### **Criteria for Issuer**

- 1.5 An issuer of sponsored DRs must demonstrate to the JSE that it meets 2.21, 3.1 to 3.9, applicable to a secondary listing.
- 1.6 An issuer of unsponsored DRs must meet the following criteria
- (a) it must be regulated under the Banks Act of 1990 or the equivalent foreign legislation in the case of foreign issuers;
  - (b) relevant expertise to issue securities or has the access to such expertise;
  - (c) generally acceptable to the JSE, having regard primarily, but not only, to the interests of investors and the objects of the FMA; and
  - (d) the issuer must be in conformity with the applicable laws of its jurisdiction of incorporation, having obtained all necessary statutory, or other, consents required to apply for and maintain a listing of securities.

### **Criteria for DRs**

- 1.7 An issuer or depositary seeking a listing of DRs must satisfy the following criteria:
- (a) the DRs must be issued by a depositary which must be independent of the issuer or underlying entity;
  - (b) the depositary must maintain adequate arrangements to safeguard DR holders' rights to the securities to which the DRs relate, and to all rights relating to the securities and all money and benefits that it may receive in respect of them, subject only to payment of the remuneration and proper expenses of the issuer of the depositary;
  - (c) the entity referred to in (b) above must hold in trust or custody, for the sole benefit of the holders of DRs, the securities to which the DRs relate, all rights relating to the securities and all the money and benefits that it may receive in respect of them, subject only to payment of remuneration and proper expenses of the entity;
  - (d) the DRs must be fully covered at all times;
  - (e) the DRs must be fully paid up and freely transferable;
  - (f) the securities which the DRs represent must be free from all liens and any restrictions on the right of transfer to the depositary;
  - (g) there must be a duly signed deposit agreement in accordance with 1.11 in place between the issuer, the depositary and the custodian (if applicable), for sponsored DRs;
  - (h) there must be a duly signed unsponsored terms and conditions in accordance with 1.11 for unsponsored DRs; and
  - (i) the entity referred to in (b) above must be independent from the issuer or underlying entity, unless otherwise agreed to by the JSE, and such entity must be insolvency remote.
- 1.8 For unsponsored DRs, the underlying entity must:
- (a) be sufficiently liquid to ensure efficient price formation in the secondary market; and
  - (b) have its primary listing on another exchange and it must:
    - (i) be listed on an exchange that is a member of the World Federation of Exchanges, and such primary listing must be at least on an equivalent board/exchange to the JSE Main Board; or
    - (ii) have a net asset value\* of at least R500 million.
- 1.9 The depositary must satisfy the JSE that it has the relevant expertise to arrange

an issue of DRs or has access to such expertise.

- 1.10 Arrangements must be made to the satisfaction of the JSE's Clearing and Settlement Division, to ensure that sufficient DRs are available on the South African DR register.

### **The Deposit agreement or unsponsored terms and conditions**

- 1.11 The deposit agreement for sponsored DRs, or unsponsored terms and conditions for unsponsored DRs, must provide without limitation for the following:
- (a) In the case of sponsored DRs, the appointment of the depositary by the issuer with authorisation to act on behalf of the issuer in accordance with the deposit agreement;
  - (b) the status of DRs as instruments, representing ownership interests in securities of an issuer or underlying entity, that have been deposited via the depositary;
  - (c) the status of beneficial holders of DRs as the legal owners of those DRs;
  - (d) the role of the depositary to issue DRs, the role of the depositary to issue DRs as agent of the issuer in the case of sponsored DRs, and to arrange for the deposit of the securities which the DRs represent;
  - (e) the duties of the depositary, which must include the duty to keep in South Africa and make available for inspection a register of holders of DRs and the transfers of the DRs, as well as the duty to keep a record of the deposits of securities which the DRs represent, the issue of DRs, the cancellation of DRs and the withdrawal of securities;
  - (f) the role and duties of the custodian, if applicable, appointed by the depositary to hold the deposited securities for the account of the depositary on behalf of the holders of the DRs, segregated from all other property of the custodian;
  - (g) the mechanism for the issue and registration of DRs by the depositary upon receipt of securities in the issuer or underlying entity and the form of the DR;
  - (h) the right of DR holders to surrender DRs to be cancelled in exchange for the delivery of the shares which the DRs represent, subject to payment of any applicable charges and taxes and any legal or regulatory restrictions;
  - (i) the right of DR holders to corporate action entitlements. The deposit agreement or unsponsored terms and conditions should address the rights (if any) and procedures applying to cash distributions, distributions of shares, rights issues or any other distribution accruing to the securities which the DRs represent, as per the corporate actions timetables or in such other manner acceptable to the JSE;
  - (j) to the extent applicable, the right of DR holders to exercise the voting rights attached to the securities represented by the DRs and the procedures by which DR holders will be notified of shareholder meetings or solicitations of proxy votes and their entitlement to issue instructions to the depositary as to how to exercise their voting rights;
  - (k) the manner in which any corporate action, or other reclassification of the issuer or underlying entity's securities, will be represented by and accrue to the DRs, in accordance with the principle that holders of DRs are to be treated as having generally equivalent rights to holders of the securities which the DRs represent;
  - (l) the conditions and process for the issue of new DRs if any DR instrument is lost, destroyed, stolen or mutilated (if applicable);

- (m) the obligations of holders of DRs, including any liabilities for taxes and other charges and the obligation to disclose the beneficial ownership of the DRs on request of the issuer (for sponsored DRs), the depositary or the JSE;
- (n) a clear statement of the fees and charges payable by holders of DRs, including fees and charges payable to the depositary and the custodian (if applicable);
- (o) procedures for the replacement or removal of the depositary and/or the custodian, by or with the consent of the issuer in the case of sponsored DRs, including an obligation to inform DR holders by advance announcement, of any prospective resignation, removal and replacement of the depositary and/or the custodian;
- (p) procedures for the amendment of the deposit agreement or unsponsored terms and conditions;
- (q) the governing law of the deposit agreement or unsponsored terms and conditions should be that of South Africa or, if another jurisdiction is chosen, one that is generally used in accordance with international practice and that is acceptable to the JSE;
- (r) For sponsored DRs:
  - (i) the procedures by which the depositary and/or the custodian, at the direction of the depositary, will, in consultation with the issuer for sponsored DRs, fix corporate action dates in accordance with the corporate actions timetables;
  - (ii) the procedures by which the depositary will, at the direction of the issuer, dispatch to holders of DRs copies of all notices, reports, voting forms or other communications sent by the issuer to its shareholders; and
  - (iii) an obligation to provide sponsored DR holders with a minimum of 30 days notice period prior to any material changes to the depositary agreement being effected;
- (s) For unsponsored DRs:
  - (i) an obligation to provide unsponsored DR holders with a minimum of 30 days notice period prior to any material changes to the unsponsored terms and conditions being effected; and
  - (ii) the procedures by which the depositary will notify holders of DRs as to where copies of all notices, reports, voting forms or other communications published by the underlying entity to its shareholders can be obtained.

### **Listing documents in respect of sponsored DRs**

1.12 An issuer must address the following in the PLS in addition to the requirements in 3.13 – 3.20 above:

- (a) in respect of a depositary:
  - (i) its full name;
  - (ii) its place and date of incorporation;
  - (iii) the full names and addresses of its directors; (or in the event that the depositary is not a company, the persons with corresponding duties and powers in relation to the depositary);
- (b) a statement to the effect that investors must seek their own independent tax advice;

- (c) every PLS must contain the following statement on the front of the document:  
“Prospective purchasers of any DRs must ensure that they understand fully the nature of the product and the extent of their exposure to risks, and that they consider the suitability of DRs as an investment in light of their own circumstances and financial position”; and
- (d) full details of the deposit agreement must be included as per 1.11.

### **Listing documents in respect of unsponsored DRs**

1.13 The depositary must produce a listing document and include the following in such document:

- (a) In respect of the depositary:
  - (i) its full name;
  - (ii) its place and date of incorporation; and
  - (iii) full names and addresses of its directors; or in the case that the depositary is not a company, the persons with corresponding duties and powers in relation to the depositary;
- (b) in respect of the underlying entity to the extent available through public filings, as well as the depositary:
  - (1) its full name;
  - (2) its place and date of incorporation;
  - (3) the description of business of the underlying entity; and
  - (4) the alpha code, ISIN number, and a description of where information on the underlying entity can be obtained;
- (c) a statement that the JSE’s approval of the listing of the DR is not to be taken in any way as an indication of the merits of the issuer of the DR, and that the JSE has not verified the accuracy and truth of the contents of the documentation and that to the extent permitted by law, the JSE will not be liable for any claim of whatsoever kind;
- (d) the names and addresses of the advisors and transfer secretaries to the issuer, if any;
- (e) a statement to the effect that investors must seek their own independent tax advice; and
- (f) every listing document must contain the following statement on the front of the document:  
“Prospective purchasers of any DRs must ensure that they understand fully the nature of the product and the extent of their exposure to risks, and that they consider the suitability of DRs as an investment in light of their own circumstances and financial position. It must be noted that it is the investors’ responsibility to seek and obtain the information pertinent to the underlying entity.”
- (g) full details of the unsponsored terms and conditions must be included as per 1.11; and
- (h) any other details that the JSE may deem appropriate.

### **Continuing obligations**

1.14 The issuer, or depositary in the case of unsponsored DRs, must ensure the following:

- (a) the continued suitability of the depositary for listing in the case of sponsored DRs;

- (b) that at least 30 day notice is given to holders of DRs of any material change to the depositary agreement or unsponsored terms and conditions;
- (c) application is made for the additional listing or withdrawal of listings of DRs in compliance with the listings requirements. Arrangements can be made with the JSE which will allow the creation of uncovered DR inventory pending transfer of underlying securities. Such arrangement must be made by the issuer and is subject to the approval of the JSE;
- (d) the listing document, PLS and the deposit agreement or unsponsored terms and conditions, must be made available on the issuer's and depositary's websites, for sponsored DRs, and must be available on the depositary's website for unsponsored DRs for the duration of the listing of the DR's;
- (e) that a semi-annual submission is made to the JSE, providing a reconciliation of the amount of DRs outstanding at that time, the amount of underlying securities that such DRs represent and confirmation that the amount of DRs in issue did not exceed the authorised amount at any point in time, in terms of the DR listing documentation; and
- (f) compliance with the provisions as set out in 3.19 for sponsored DRs.

1.15 The provisions relating to the responsibilities of the depositary for unsponsored DRs set out in 1.18 and 1.19 apply to unsponsored DRs.

#### **Documents to be submitted to the JSE on application for listing**

1.16 The following documentation must be submitted to the JSE for approval via a sponsor or depositary in the case of unsponsored DRs:

- (a) the listing document or PLS;
- (b) exchange control approval;
- (c) the deposit agreement or unsponsored terms and conditions, depositary agent agreement, and custody agreement;
- (d) the formal application for listing (available on the JSE Forms Portal);
- (e) confirmation from the Central Securities Depository that the applicant has been approved in terms of the Central Securities Depository Rules and Directives; and
- (f) such other information as may be requested by the JSE.

#### **Announcements**

1.17 The issuer, or depositary in the case of unsponsored DRs, must publish the following via SENS:

- (a) after the JSE has approved an application for listing of the DRs, an announcement must be made five business days prior to listing, containing the following:
  - (i) the information referred to in 1.10 and 1.11 in respect of the issuer of the DRs; and
  - (ii) places where copies of the DR offering circular and deposit agreement or unsponsored terms and conditions can be obtained.

#### **Responsibilities of the depositary for unsponsored DRs**

1.18 The responsibilities of the depositary in the case of unsponsored DRs are provided below and must be complied with at all times. Failure to carry out these responsibilities may result in the JSE taking one or more steps referred to in Section 1.

1.19 In addition to the depositary's responsibilities set out in the unsponsored terms

and conditions as well as 1.14 relating to continuing obligations above, the depositary must:

- (a) at all times remain independent of the underlying entity and must provide an undertaking that it will not act as depositary for any entity from which it is not independent upon application to the JSE to act as a depositary;
- (b) complete a application prior to the listing;
- (c) ensure that the underlying entity is sufficiently liquid to ensure reasonable and transparent price formation;
- (d) manage the submission of the relevant documentation to the JSE and ensure its completeness and correctness before submission;
- (e) discharge its responsibilities with due care and skill;
- (f) apply the Listings Requirements, including the application of the spirit of the Listings Requirements and upholding the integrity of the JSE;
- (g) must make any documentation or public information on the underlying entity available via a SENS announcement, specifying the web link where such information can be obtained, by no later than one business day from the date that the the depositary has had receipt of a publication in its capacity as shareholder, provided that if the JSE is not open for business, the depositary must ensure that such information is available at the commencement of business on the following business day;
- (h) must announce on SENS and within 10 business days of publication of the financial information make available on the website all financial information on the underlying entity. The SENS announcement must include the link to the website where such information can be obtained;
- (i) when the underlying entity releases any price-sensitive information on another exchange that impacts the DR instrument, the depositary must ensure that such information is also released on SENS specifying the web link where such information can be obtained. Such SENS announcement must take place no later than one business day after the publication on any other exchange provided that, if the JSE is not open for business, the depositary must ensure that such information is published on SENS at the commencement of business on the following business day. The announcement must be submitted via the depositary, and such announcements must also be available on the depositary's website. The JSE must be consulted in the event that the aforementioned requirement cannot be complied with; and
- (j) the depositary must advise, and obtain approval from the JSE with regard to the corporate action timetables. The depositary must ensure that the JSE is notified in advance in order to ensure that the JSE can accommodate the processing of these corporate actions for DR holders on the South African share register.

### **Schedule 9: Requirements for share incentive schemes**

Share option schemes and share incentive schemes (“schemes”) are to be used to incentivise staff and may not be used for trading purposes. The following provisions apply to all schemes involving the issue of equity securities (including options) by issuers (or trusts or special purpose vehicles formed for this purpose) to, or for the benefit of, employees and other persons involved in the business of the group and which result in a dilution of the shareholding of equity securities holders in the issuer or applicant. This includes the issue of equity securities from the authorised but unissued share capital, as

well as the use of equity securities held as treasury shares. The rules set out below apply to schemes as contemplated for companies at listed company level and also to schemes of all subsidiaries of issuers which provide for the issue of equity securities in the listed holding company.

The JSE must be consulted on the application of these provisions to schemes intended to apply to employees of associates.

- 1.1 The scheme must be approved by equity securities holders passing an ordinary resolution (requiring a 75% majority of the votes cast in favour of such resolution by all equity securities holders present or represented by proxy at the general meeting to approve such resolution) and must contain provisions relating to:
- (a) the category of persons to whom, or for the benefit of whom securities may be purchased or issued under the scheme (“participants”);
  - (b) the number of equity securities which may be utilised for purposes of the scheme must be stated and this number may not be exceeded without equity securities holders’ approval as required above. Use of the wording “from time to time” or a percentage is prohibited;
  - (c) a fixed maximum number of equity securities for any one participant;
  - (d)
    - (i) the amount, if any, payable on application or acceptance, subscription or exercise, as the case may be;
    - (ii) the basis for determining the price (if any and regardless of the form that it takes) payable by participants and the period after or during which such payment must be made. This must be a fixed mechanism for all participants. Repricing of options is prohibited; and
    - (iii) the period in which payments, or loans to provide the same, may be paid;
  - (e) the voting, dividend, transfer and other rights, including those arising on a liquidation of the issuer, attaching to the securities and to any options (if appropriate);
  - (f) the basis upon which awards are made;
  - (g) the treatment of options (vested and unvested) in instances of mergers, takeovers or corporate actions; and
  - (h) the rights of participants who leave the employment of the issuer whether by termination, resignation, retirement or death insofar as their early departure from the scheme is concerned.
- 1.2 The provisions relating to the matters contained in 1.1 above cannot be altered without the prior approval of equity securities holders in accordance with 1.1 above, excluding all the votes attaching to all equities securities owned or controlled by persons who are existing participants in the scheme. Only the equity securities which have been acquired in terms of the relevant scheme and may be impacted by the changes will be excluded from the said vote.
- 1.3
- (a) The scheme must provide, in the event of a sub-division or consolidation of securities, for an adjustment to the number of equity securities that may be utilised in terms of 1.1(b) above and the amount payable in terms of 1.1(d) above. Such adjustment should give a participant entitlement to the same proportion of the equity capital as that to which he was previously entitled.
  - (b) The scheme may provide, in the event of a capitalisation issue, a special dividend, a rights issue or reduction of capital for adjustment to the fixed

maximum number in 1.1(c) above and the amount in terms of 1.1(d) above. Such adjustment should give a participant entitlement to the same proportion of equity capital as that to which he was previously entitled.

- (c) The issue of equity securities as consideration for an acquisition, the issue of securities for cash and the issue of equity securities for a vendor consideration placing will not be regarded as a circumstance requiring adjustment.
- (d) The company's auditor, or other independent advisers acceptable to the JSE must confirm to the JSE, in writing, that any adjustments made in terms of 1.3 are in accordance with the provisions of the scheme. Such written confirmation must be provided to the JSE at the time that any such adjustment is finalised.
- (e) Any adjustment made in accordance with 1.3 above must be reported on in the issuer's annual financial statements in the year during which the adjustment is made.
- (f) Allocated equity securities which are not subsequently issued to the identified participant/s, for example as a result of forfeiture, must revert back to the scheme.

1.4 Executive directors may not be appointed as trustees of schemes. Non-executive directors, subject to any restriction as contained in the Act, may be appointed as trustees of the scheme, provided that they do not benefit from the scheme.

1.5 The trustees may not be participants under the scheme.

1.6 The resolution to approve a scheme must make specific reference to the scheme and be accompanied by either the full scheme or a summary of the principal terms as set out in 1.1 and 1.3 above and must be circulated to equity securities holders.

1.7 The scheme document, if not circulated to the equity securities holders, must be available for inspection by equity securities holders during normal business hours at the issuer's registered office and in Johannesburg. The full scheme must be open for inspection for a reasonable period of time (being not less than 14 days).

1.8 The issuer must summarise in its annual financial statements the number of securities that may be utilised for purposes of the scheme at the beginning of the financial year, changes in such number during the accounting period and the balance of securities available for utilisation for the purposes of the scheme at the end of the financial year.

1.9 With regards to the trading of shares on behalf of schemes, the following requirements apply:

- (a) equity securities may only be issued or purchased by a scheme once a participant or group of participants to whom they will be allocated, has been formally identified (e.g. applicants to whom options over securities have been issued);
- (b) equity securities held in trust may only be sold:
  - (i) once the employment of a participant has been terminated or a participant is deceased; or
  - (ii) on behalf of the participant, once the rights of ownership have vested;
- (c) unless a scheme explicitly provides for the purchase of securities through the market, in order to satisfy obligations in terms of the scheme, no purchases through the market will be permitted. Any shares purchased

through the market will not be taken into account when calculating the number of shares utilised by the scheme;

- (d) the provisions of 6.77 to 6.89 apply mutatis mutandis to any dealings by the issuer or a scheme involving securities relating to the scheme, save for the circumstances pursuant to 6.90 being present;
- (e) a scheme may not purchase securities during a prohibited period unless it has in place a purchase programme. The issuer must instruct only one independent third party, which makes its investment decisions in relation to the issuer's securities independently of, and uninfluenced by, the issuer, prior to the commencement of the prohibited period to execute the repurchase programme. The repurchase programme must be submitted to the JSE in writing prior to the commencement of the prohibited period and must include the following details:
  - (i) the name of the independent agent;
  - (ii) the date the independent agent was appointed;
  - (iii) the commencement and termination date of the repurchase programme; and
  - (iv) where the quantities of securities to be traded during the relevant period are fixed (not subject to any variation).
- (f) in the event that the purchase was made during a prohibited period through a purchase programme pursuant to 1.9(e), an announcement must be made pursuant to 1.9(d) which must include a statement confirming that the purchase was put in place pursuant to a purchase programme prior to prohibited period in accordance with the Requirements.

1.10 Equity securities held by a share trust or scheme will not have their votes at general/annual general meetings taken into account for the purposes of resolutions proposed in terms of the Requirements. Such equity securities will also not be taken into account for purposes of determining categorisations as detailed in Section 8.

### **General**

- 1.11 Any issue of equity securities to employees, which do not fall within the rules of an issuer's scheme, will be treated as a specific issue of shares for cash as contemplated in 7.33.
- 1.12 Rolling over (including the arrangement assuming that equity securities which have already vested and been issued in terms of the scheme, and which usually revert back to the number referred to in 1.1(b) after a 10-year period) is prohibited.
- 1.13 Back-dating of options i.e. the practise of issuing options retrospectively is not permitted. The date upon which the decision to issue options is determined must be the date upon which all the components relating to the scheme i.e. the strike price, etc., are determined.

## Practice Notes

### Practice Note: 2/2015

#### Price Sensitive Information

Directors of issuers are currently required, and will continue, to apply their own discretion in determining what will constitute price sensitive information and in doing so directors must apply quantitative and qualitative measures to their assessment. If there is any uncertainty as to what constitutes price sensitive information, then the issuer's sponsor must be consulted. If doubt remains, the issuer must assume that the information is price sensitive in order to avoid selective disclosure which could lead to confusion in the market. If in doubt, publish.

The definition of price sensitive information contains two key principles that require further guidance.

##### (i) Specific and Precise

The Requirements do not define what constitutes specific or precise information. What may constitute specific or precise information in one situation may possibly not do so in another, depending on the surrounding circumstances. The European Court of Justice has accepted a definition of "Precise" to be where:

- The information indicates a set of circumstances which exists or may reasonably be expected to come into existence or an event which has occurred or may reasonably be expected to do so; and
- The information is specific enough to enable conclusions to be drawn as to the possible effect of that set of circumstances or event on the price of a share.

Specific should have a similar meaning and the grammatical meaning should also be considered.

Taking into account the above statements, it would be fair to say that a reasonable degree of certainty is required to conclude that information is specific or precise.

##### (ii) Material Effect

After confirming that the information may be specific or precise, issuers must assess whether such information may have a material effect on the price of the issuer's securities. Materiality must be assessed both quantitatively and qualitatively. Issuers should be mindful that there is no firm figure (percentage change or otherwise) that can be set for any issuer as this will surely vary from issuer to issuer taking into account the variety of factors.

The JSE suggest that issuers also consider the following in making the assessment whether the information would have a material effect on the price of the issuer's securities.

*"Under the securities laws of the United States, information is material if a reasonable investor is likely to consider it significant in making an investment decision..."*

From a Requirements perspective consideration must be given whether the information could influence the economic decisions of investors in respect of the issuer's securities. This assessment should take into consideration the anticipated impact of the information in light of (i) the whole of the issuer's activities, (ii) the reliability of the source of the information and (iii) other market variables likely to affect the relevant listed securities in the circumstances. Information which is considered to be relevant to a reasonable investor's decision includes information which affects:

- The assets and liabilities of the issuer;

- The performance, or the expectation of the performance of the issuer's business;
- The financial condition of the issuer;
- The course of the issuer's business, including the consideration of material risks;
- Major new developments in the business of the issuer; and
- Information previously disclosed to the market.

(iii) Board Policy

The JSE acknowledges and appreciates that various subjective tests must be applied by the directors of issuers and their sponsor in order to determine whether information is price sensitive information for purposes of the Requirements. On this basis, the JSE has spent a considerable amount of time and has consulted widely in the formulation of the above practice note which should be used as a tool by directors and sponsors to apply the correct interpretation to the meaning of price sensitive information.

The JSE therefore strongly advises issuers to have a policy in place to assist the directors in applying the provisions of this practice note on whether any details, directly or indirectly, relating to the issuer constitutes price sensitive information.

## **Practice note 3/2017**

### **Introduction**

Pursuant to 6.42 of the Requirements, issuers have a responsibility to report restatements to the JSE. The JSE wishes to provide more application guidance on restatements.

1) When to report a restatement

For clarity purposes, the JSE wishes to confirm that previously published results cover (i) interim results (ii) summary financial statements (iii) condensed financial statements and (iv) annual financial statements whether published separately or as part of another document which are restated and republished.

2) Which restatements

Restatements (also sometimes referred to as re-presentations) of previous published results can occur in the following instances:

- (i) a new accounting standard or interpretation is issued by the IASB, which requires retrospective application;
- (ii) the application of paragraph 34 to 36 of IFRS 5 – *Non-current Assets Held for Sale and Discontinued Operations* and/or paragraph 28 of IAS 33-*Earnings per Share* and/or paragraph 29 of IFRS 8 – *Operating Segments* and/ or paragraph 45 of *IFRS 3*;
- (iii) a voluntary change of accounting policy or change in the application of IFRS;
- (iv) a reclassification of amounts disclosed in the prior period financials;
- (v) the correction of a material prior period error; and/or
- (vi) for some other reason.

The JSE does not wish to be advised of any restatements in respect of (i) and (ii) above. Furthermore, the JSE only requires notification of restatements that impact earning per share, headline earnings per share, and/or the amounts presented in –

- the statement of financial position;
- the statement of profit or loss and other comprehensive income;
- the statement of changes in equity; and/or

- the statement of cash flows.

The same restatement will often appear in the interim results, condensed financial statements, summary financial statements or annual financial statements. Notification of restatements need only occur once for each change.

### 3) How to report a restatement

Instead of communicating the restatement notification to the JSE via e-mail, the notification must be produced to the JSE when submitting the annual financial statements and annual compliance certificate through WEBSTIR. The notification must:

- (i) contain sufficient information through a detailed narrative for the JSE to understand the nature and circumstances that led to each specific restatement;
- (ii) details regarding how and when the need for restatement was identified;
- (iii) the impact of the restatement on previously published results;
- (iv) other than in the instance of 2(iii) above, include a letter from the chairman of the audit committee confirming that the board has considered the circumstances that lead to the restatement and has implemented steps to prevent the reoccurrence of such a restatement;
- (v) in the instance where another restatement occurs after the audit committee letter has been issued, the notification should highlight this fact; and
- (vi) where the further restatement referred to in 3(v) above is a related matter, explain how the audit committee has addressed the fact that the preventative measures it implemented in terms of its initial notification to the JSE did not succeed.