Schedule 2
Requirements for the MOI[[1]](#footnote-1)

**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.[[2]](#footnote-2)

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) has/have been approved by the JSE and are subject to the Listings Requirements.

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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 offices 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 in writing of the revocation of the same shall have been given and lodged at the company’s transfer offices 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 appeal 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 10.6(e) below. 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, 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 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 a 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) AltX: 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.

 *[duplication, see corporate action timetables]*

1.16 **Directors**

 *[Reliance on Companies Act]*

 (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

 *[duplication, see Corporate Governance Section]*

 (b) Should the number of directors fall below the minimum provided in the MOI, 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 of directors or invalidate anything done by the board of directors 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.[[3]](#footnote-3)

 (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.[[4]](#footnote-4)

 (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 of South Africa or in some other country, will be permitted.

 *[amended and covered under Continuing Obligations]*1.19 **External companies**

 (a) Provision must be made for depositing proxy forms at the branch office in the Republic of South Africa.

 (b) Where a non-electronic notice of general/annual general meeting, or annual financial statements, is to be distributed 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 distributed electronically, by mail or otherwise from a branch office in the Republic of South Africa, 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 of South Africa.

 (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**[[5]](#footnote-5)

 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) 10.1;Unissued securities

 (c) Paragraph 1.2;Fully paid and transferrable

 (d) Paragraph 1.5(a);Pari passu

 () Paragraph 1.6(a)]. Pref vote limitation 24.99%

 *[moved up]*

 *[see note above]* (e) Paragraph 1.17(b)]. 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).[[6]](#footnote-6)

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

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. [↑](#footnote-ref-5)
6. [↑](#footnote-ref-6)