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]](#footnote-1)

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

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| 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 1.10(a), 1.11(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 1.13 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 in writing 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 1.14; 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 1.22 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, in writing, 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 counter-party; 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:[[2]](#footnote-2)

(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;[[3]](#footnote-3)

(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 A SENS 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.

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