Section 5
Continuing Obligations

Section to be renumbered as Section 5

**Scope of section[[1]](#footnote-1)**

This section sets out the continuing obligations for issuers.

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Definition (Added to definitions section)

Existing definition in 3.67 moved to definitions section:

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| --- | --- | --- |
| prohibited period |  | means - 1. a closed period; and
2. any period where price sensitive information exists in relation to the issuer’s securities [*moved this portion to 5.50, as it applies to directors dealings*]
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General Continuing Obligations Sponsors

5.1 An issuer must always have a sponsor and all correspondence with the JSE must be communicated through the sponsor.[[2]](#footnote-3) [3.3]

5.2 Issuer must submit all announcements to their sponsors for approval prior to publication.

**Announcements**

5.3 Announcements must be in English and may only be made available on the issuer’s website after the announcement has been released through SENS. [[3]](#footnote-4)  [portion moved from 3.45 and 3.46]

5.4 All relevant company information must be announced by the applicant issuer as soon as possible after authorisation by the applicant issuer and the sponsor. Relevant company information, includes announcement of the applicant issuer and price sensitive information. [Schedule 9]

**Conflicts**

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

 [3.2(a)]**Corporate Governance**

5.6 Issuers must comply with the corporate governance continuing obligations in Section 4.

**Financial Results & Auditor**

5.6 Issuers must comply with the financial results and auditor continuing obligations in Section 8.

General obligation of disclosure

5.5 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.[[4]](#footnote-6)

Confidentiality[[5]](#footnote-7)

5.6 Subject to 5.7, information that is required to be announced in terms of the Requirements, including price sensitive information, must not be disclosed until announced.

 [Par 9.3 of Schedule 9 – repeated verbatim – procedural matter and can stay in Schedule 9 and be removed here]

 [Schedule 9 (Procedural Requirements of SENS) to be moved to the JSE forms Portal]

5.7 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:[[6]](#footnote-8)

 (a) inform the JSE; and

 (b) ensure that such information is announced.

 [no need to repeat FMA]

 [consolidated with new 3.7]

5.8 When an issuer intends to disclose any information as contemplated in 3.6 at any meeting or forum, such information must be announced either before or at least 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:[[7]](#footnote-13)

 (a) inform the JSE; and

 (b) ensure that such information is announced.

Rights between holders of securities

Equality of treatment

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

Voting rights

3.28 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 3 Where a company 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 [4.19].

Pre-emptive rights

3.29 Listed securities in each class must rank pari passu in respect of all rights. "Pari passu” means that the securities:

 (a) are in all respects identical;

 (b) are of the same nominal value, and that the same amount per share has been paid up;

 (c) carry the same rights as to transfer, attendance and voting at general/annual general meetings and in all other respects; and

 (d) are entitled to the same dividends for the same period.

3.30 Subject to 3.32 and 3.33, 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. Only if securities are not taken up by holders may they then be issued for cash to other persons or otherwise than in the proportion mentioned above.[[8]](#footnote-14)

3.31 If allowed by Commission and subject to the prior approval of the JSE, an issuer need not comply with 3.30 for securities that the issuer consider necessary to be excluded from the rights offer because of legal impediments or compliance with the requirements of any regulatory body of any territory recognised.

Waiver of pre-emptive rights

3.32 The issue of shares for cash by an issuer, made otherwise than through a rights offer, will be permitted provided shareholders approve such issuances through an ordinary resolution required for a specific and/or general authority to issue shares for cash in terms of the Requirements.

3.33 The JSE may waive some or all of the provisions in  3.32 if the provisions of [Schedule 11] are met.[[9]](#footnote-15)

Prescribed information to shareholders

3.44 An issuer must:

 (a) inform shareholders of general/annual general meetings that they are entitled to attend;

 (b) enable shareholders to exercise their right to vote, where applicable; and

 (c) release SENS announcements and distribute circulars in terms of the Requirements.

 [moved up]Press announcements

3.46 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. [moved up]

 .[[10]](#footnote-17) [[11]](#footnote-18)

3.46 Publication in the press can be made through a short-form press announcement. The following details must be included in the short-form press announcement:

 (a) a headline describing the subject matter of the announcement;[[12]](#footnote-19)

 (b) a statement that the announcement is the responsibility of the directors;[[13]](#footnote-20)

 (c) a statement that

 (i) the full announcement/results has been released and is also available on the issuer’s website; and

 (ii) Aay investment decision should include consideration of the information in the full announcement/results;[[14]](#footnote-21)

 (d) a short-form announcement dealing with results must disclose the following increases/decreases compared to the results for the previous corresponding period:[[15]](#footnote-22)

 (i) revenue/profit;[[16]](#footnote-23)

 (ii) headline earnings per share;

 (iii) earnings per share;

 (iv) dividend/distribution; and

 (v) net asset value compared 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.[[17]](#footnote-24) [[18]](#footnote-25)

 (e) where the auditor issued a report on the results, the name of the audit firm, a statement on the type of audit opinion/review conclusion that was reached ( unmodified, qualified, disclaimer or adverse) and a statement to that effect if any disclosure on the following exists:

 (i) material uncertainty relating to going concern;[[19]](#footnote-26)

 (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.

[[20]](#footnote-27)

 3.48 Announcements relating to pre-listing statements or circulars must state in which other official languages, if any, they are printed and where copies of such documents may be obtained. [moved to Section 7, moved out of Section 3 , see Relocation Report]

Disclosure of beneficial interests in securities

3.83 (a) Issuers must establish and maintain a register of the disclosures made in terms of Section 56 of the Act.

1. € [Covered in par 8.62]b) 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, publish the information.

Listing and other fees

3.80 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.

.[[21]](#footnote-29) [moved to 5.4]

 [moved down]

 [Moved up to 3.1]

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Specific Continuing Obligations

Listing Conditions

3.3 Issuers must comply with the control listing conditions in terms of Section 3.[…].[[22]](#footnote-32)  [3.2(b)]

3.4 Issuers must use their best endeavours to comply with the free float listing condition in Section 3. .[[23]](#footnote-33) [moved from existing paragraph 3.37]

Cautionary announcements

5.9 Immediately after an issuer knows of any price sensitive information and the confidentiality of the information cannot be maintained, or if the issuer suspects that confidentiality has or may have been breached, an issuer must publish a cautionary announcement. [[24]](#footnote-34)

[Existing paragraph 11.40-11.42 inserted below]

5.10 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 has been announced. If an issuer is unable to announce the information, such cautionary announcement must be in the format of a first cautionary announcement available on the JSE Forms Portal. .

 [Remove Schedule 15 (draft wording for cautionaries) and move to Forms Portal]

5.11 After an issuer has issued a cautionary announcement, it must announce a renewal cautionary announcement (format 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 in the format available on the JSE Forms Portal

 [Moved directly above]

**Trading statements**

 [Quarterly publication issuers moved to the end of the par]

5.13 Subject to 3.16(h), issuers must publish a trading statement as soon as they are reasonably certainty 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 8 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 financial results were not published.

 The results measure is headline earnings per share and 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 through SENS, in advance of the first period ending that it will be adopting navps for trading statement purposes.

5.15 The determination of a reasonable degree of certainty is a judgmental decision which has to be taken by the directors of the issuer

5.16 Trading statements must provide specific guidance by including the period to which they relate, the comparative numbers for the periods in 5.13, and:[[25]](#footnote-38)

 (a) a specific percentage and number to describe the differences; or[[26]](#footnote-39)

 (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[[27]](#footnote-40)

 (c) a minimum difference in percentage and number, together with any other information available to the issuer,, provided that (a) or (b) must then be announced once reasonable certainty is obtained.

 The specific percentage as referred to in (a) to (c) above, need only be provided if less than 100%.[[28]](#footnote-42)

 (d) 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.

 .[moved up]

 [moved up]

 [[29]](#footnote-44)

 (g) When announcing a trading statement, an issuer must comply with the provisions dealing with a specific or general profit forecast or estimate in Section 8.

 (h) 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 8.

 [Moved up before Trading Statements] [Moved up before Trading Statements]Disclosure of periodic financial information

[Moved out of Section 3, see Relocation Report]

*Dividends and interest*

3.11 The declaration of dividends, interest and other similar payments (“distribution payments”) by an applicant issuer should be announced immediately as per paragraph 11.17(a)(i) to (x).[[30]](#footnote-49)

3.12 If an applicant issuer decides not to declare distribution payments, and such decision is deemed to be price sensitive, the decision must be announced immediately after it is taken.[[31]](#footnote-50)

3.13 The announcement required in terms of paragraph 3.11 must be in accordance with the corporate action timetable.[[32]](#footnote-51)

***Restatement of previously published results***

3.14 In the instance where an applicant issuer restates previously published results, for whatever reason, they must submit a restatement notification to the JSE containing details of the restatement and the reasons therefor. Such notification must be submitted pursuant to the provisions of Practice Note 3/2017.[[33]](#footnote-52)

Annual results

3.15 Every issuer must within three months after the end of each financial year end, release a results announcement dealing with either:[[34]](#footnote-53)

 (a) condensed financial statements; or

 (b) annual financial statements / summary financial statements.

3.16 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:[[35]](#footnote-54)

 (a) release the annual report through a results announcement; and

 (b) distribute to all holders of securities the notice of annual general meeting, together with a weblink to the annual report.

Interim and quarterly reports

3.17 Every issuer must within three months after the end of:[[36]](#footnote-55)

 (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,

 release its interim results through a results announcement.

3.18 Reporting on a quarterly basis is voluntary and there is no prescribed format. 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 of paragraph 3.17.[[37]](#footnote-56)

Auditors report

3.19 The issuer’s auditor must perform an audit in accordance with International Standards on Auditing (or in the case of overseas companies, in accordance with national auditing standards acceptable to the JSE) on:[[38]](#footnote-57)

 (a) the annual financial statements; and

 (b) the separate annual financial statements of the issuer, where the issuer is a South African company.

3.20 The issuer’s auditor must perform a review in accordance with the International Standard on Review Engagements (or in the case of overseas companies, in accordance with national standards acceptable to the JSE) on the:[[39]](#footnote-58)

 (a) the condensed financial statements; and

 (b) paragraph 3.17(b) interim results.

3.21 The information in the auditor’s report must be disclosed as follows:[[40]](#footnote-59)

 (a) the auditor’s report must accompany the relevant results on which their report is issued; and

 (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:

 (1) material uncertainty relating to going concern;

 (2) emphasis of matter;

 (3) a reportable irregularity (as defined in the Auditing Profession Act); and

 (4) 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

3.22 Results must be released by way of a SENS announcement and JSE cloudlink. The SENS announcement must contain the following information:[[41]](#footnote-60)

 (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 statement are available through the JSE cloudlink, the additional information in terms of paragraph 8.62 is only available through the issuer’s weblink;

 (c) The information in paragraphs 3.46A(d), if the information has not been released previously on SENS. 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 paragraph 3.22(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

3.23 The release of results without the required auditor’s reports referred to in paragraphs 3.19 and 3.20 is not permitted. The procedure below shall apply to an issuer that fails to comply with paragraphs 3.15, 3.16 and 3.17:[[42]](#footnote-61)

 (a) 14 days after failure to comply with paragraphs 3.15 and 3.17 and the first day after failure to comply with paragraph 3.16 –

 (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 on SENS, 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) paragraph 3.15 or 3.17 by the end of the fourth month after the end of the period; and

 (ii) paragraph 3.16 by the end of the fifth month after the financial year end.

Modified auditors report

3.24 Where a modified auditors’ report has been issued on results released through a results announcement.[[43]](#footnote-62)

 (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 paragraph 3.24 (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.

Cash company

3.11 A cash company classification may lead to suspension and removal of listing in terms of 9.11.

Profit warranties [Moved out of Section 3, see Relocation Report]

3.34 Where securities are the subject of a profit warranty, such securities may only be allotted and issued once the profit required has been achieved in terms of the profit warranty agreements and the issuer’s auditor have confirmed in writing to the JSE that the conditions required have been met for the securities to be allotted and issued.[[44]](#footnote-67)

Issues by subsidiaries other than on listing [Moved out of Section 3, see Relocation Report]

3.35 An issue of shares for cash in a subsidiary (whether listed or unlisted) of an issuer must be categorised in accordance with the provisions of Section 9 and not in terms of paragraphs 5.50 to 5.57.[[45]](#footnote-68)

3.36 When a subsidiary effects an offer for subscription by way of a rights offer, the rights offer must be categorised in accordance with the provisions of Section 9 and not in terms of paragraphs 5.50 to 5.57. Any shares that are renounced by the listed holding company in favour of its shareholders pro rata to their holdings need not be taken into account for categorisation purposes in terms of Section 9.[[46]](#footnote-69)

 [moved to 3.4]Notification [Moved out of Section 3, see Relocation Report]

3.42 [Repealed]

3.43 An issuer must disclose in its annual financial statements the following concerning its securities held by the public (as defined in paragraphs 4.25 to 4.27, however excluding paragraph 4.25(d)):[[47]](#footnote-72)

 (a) the number of public securities holders for every class of listed securities;

 (b) the percentages of each class of securities held by public and non-public shareholders; and

 (c) the disclosure for non-public shareholders must be analysed in accordance with the categories set out in paragraphs 4.25 to 4.27, however excluding paragraph 4.25(d).[[48]](#footnote-73)

Communication with holders of securities

Circulars and pre-listing statements [Moved out of Section 3, see Relocation Report3.49 Circulars and pre-listing statements must be printed in English and be distributed to all certificated holders, and to those dematerialised beneficial holders of its securities who have elected to receive such documents, at the cost of the issuer.

3.50 Provision must be made for the translation of circulars and pre-listing statements into other official languages where deemed necessary by the JSE or the issuer.

Transfer office or a receiving and certification office and Strate relationship [Moved out of Section 3, see Relocation Report]

3.51 All issuers are required to:

 (a) with respect to the certificated environment, maintain a transfer office 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 Strate and comply with the Central Securities Depository Rules.[[49]](#footnote-74)

 [Moved below to Meetings paragraph]Changes to the board and company secretary

3.59 An issuer must notify the JSE as soon as possible and no later than by the end of the business day following the decision or knowledge of change in respect of the following:

 (a) the appointment of a new director (including capacity being executive, non-executive or independent non-executive) or company secretary;[[50]](#footnote-77)

 (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.

 Such changes must be be included in the issuer’s next publication of listing particulars. .[[51]](#footnote-78) Where a director is reappointed through rotation in terms of [new Section 4], it will not be regarded as a change requiring notification.

 [moved down, not part of dealings]3.61 Changes must be announced by the issuer as soon as practically possible and must state the effective date of the appointment or state that it has not yet been determined. The issuer must inform the JSE once the effective date has been established.

 [Covered under Section 1]Dealings by share incentive schemes

3.92 The provisions of3.63 to 3.74 apply equally mutatis mutandis to any dealings by the issuer or a scheme (including a non-dilutive scheme) involving securities relating to the scheme, save for the following:[[52]](#footnote-80)

 (i) 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;

 (ii) the scheme is merely facilitating the dealing on behalf of the participant;

 (iii) the participant takes the risk of any profit or loss in respect of the dealing; and

 (iv) 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.

 A non-dilutive scheme means any share incentive scheme not involving the issue of equity securities by the issuer.

Meetings

Announcement of annual/general meeting details

3.90 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 distributed to shareholders.

3.[..] If proposing pwritten resolutions, the issuer must release an announcement through SENS with details of the written resolutions within 24 hours after the written resolutions have been distributed to shareholders.[[53]](#footnote-81)

Disclosure of voting results of annual/general meetings

3.91 (a) An issuer must release an announcement within 48 hours after each meeting providing details of the voting results . The announcement must include the following:[[54]](#footnote-82)

 (i) the resolution/s proposed at the meeting;

 (ii) 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);

 (iii) the shares abstained disclosed as a percentage (in relation to the total issued share capital of that class of the applicant issuer); and

 (iv) 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 (ii) above).

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

 (b) The announcement in terms of 3.91(a) above, must include details of any resolutions added or amended in respect of the annual/general meeting.

Demand to call a shareholders meeting[[55]](#footnote-83)

3.93 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 legislation) or 4.45(d), the issuer must immediately:[[56]](#footnote-84)

 (i) inform the JSE in writing; and

 (ii) release an announcement.

3.94 Subject to the Act or for a foreign applicant issuer with a primary listing on the JSE in terms of similar legislation, the issuer must:[[57]](#footnote-85)

 (i) issue a notice of meeting within ten business days from the date of receipt of the request to call a shareholders meeting;

 (ii) the date of the meeting must not exceed 25 business days from when the notice of meeting is issued; and

 (iii) the shareholders’ meeting must be announced in terms of [3.90].

Proxy forms [moved from 3.52]

3.52 (a) A proxy form must be included with the notice convening a meeting of holders of securities.[[58]](#footnote-86)

 (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 an excluded vote shall be excluded from voting for the purposes of that resolution.

Directors

Dealing in Securities

3.63 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;

 (the “dealing party”)

 (e) any associates of the above.

3.64 The announcement must contain:

 (a) the name of the dealing party. If an associate, the name and relationship with the dealing party;

 (b) the nature of the dealing, and whether undertaken on or off-market;

 (c) details of the dealing party’s interest in the dealing;

 (d) the date of the dealing;

 (e) the price, number, total value and class of securities. If no price is attributable to the transaction (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;

 [moved up]

 (g)

 [moved up]

 (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[[59]](#footnote-89)

 (h) whether clearance has been given in terms of paragraph 3.66. In the case of dealings by associates, this requirement does not apply.[[60]](#footnote-90)

3.64 Dealings include:[[61]](#footnote-91)

 (a) any sale, purchase or subscription of securities in the issuer (including in terms of a rights offer, capitalisation award or scrip dividend);[[62]](#footnote-92)

 (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 in respect of the issuer’s securities 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), capitalisation issues, scrip dividends and dividend reinvestment, and receiving the subsequent allocation of such securities pursuant to such entitlements;[[63]](#footnote-93)

 [Included in Section 7 disclosures in circulars and the relevant CA Timetable]

 (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 –[[64]](#footnote-94)

 (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.[[65]](#footnote-95)

3.65 Directors must disclose to the issuer all information that the issuer needs in order to comply with paragraph 3.63 as soon as possible and, in any event, by no later than three business days after dealing.. The issuer must in turn announce such information as soon as possible and, in any event, by no later than 24 hours after receipt of such information from the director concerned.[[66]](#footnote-96)

Dealings in prohibited periods

3.69 A director may not deal in any securities relating to the issuer during a prohibited period.[[67]](#footnote-98)

 3.70 The JSE may waive compliance with [..] 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.[[68]](#footnote-100)

Clearance to deal

3.66 A director (excluding any of his associates) may not deal in any securities in the issuer without receiving clearance in advance from the chairman or other designated director (the “clearance director”). When the clearance director intends to deal in securities in the issuer, he/she must inform the board or designated director in advance and receive the required clearance

 .

 [covered below]

3.67 A director must not be given clearance to deal in any securities in the issuer during a prohibited period.

3.68 A written record must be maintained by the issuer of any request received from a director pursuant to paragraph 3.66 and of any clearance given. A director may request confirmation from the issuer that such request and clearance, if any, have been recorded.

 [moved up]Dealings by associates of directors and investment managers

3.71 A director must advise the following parties of the issuer(s) of which he/she is a director:[[69]](#footnote-105)

 (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

 .

3.72 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 comply with the dealings provisions.[[70]](#footnote-106)

3.73 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.[[71]](#footnote-107)

3.74 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.

Notification of change in auditor[[72]](#footnote-109) [Moved out of Section 3, see Relocation Report]

3.75 An issuer must notify the JSE of:

 (a) the termination/non-reappointment or the appointment of the auditor;[[73]](#footnote-110)

 (b) the resignation of the auditor; and/or

 (c) any change of the individual auditor classified as the designated auditor,[[74]](#footnote-111)

 without delay, and by no later than the end of the business day following the decision by the issuer to terminate, not reappoint or appoint the auditor or after receipt of the auditor’s resignation.[[75]](#footnote-112)

3.76 The notification required by paragraph 3.75 must state the effective date of the termination or resignation, if it is not with immediate effect.

3.77 The notification required by paragraph 3.75 must be accompanied by a letter from the auditor stating the date of termination, what the auditor believes to be the reason for such termination or, in the case of resignation, the reason(s) for such resignation.

3.78 On notification to the JSE pursuant to paragraph 3.75, the issuer must publish an announcement addressing at least the following:[[76]](#footnote-113)

 (a) whether the change of audit firm was initiated by the issuer or the audit firm;

 (b) the reason(s) for the change in audit firm;

 (c) the effective date of the change of audit firm; 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).

3.79 [Repealed] [[77]](#footnote-114)

 [moved to very end] [Addressed in Section 18 and Schedule 9]Corporate Governance [Moved out of Section 3, see Relocation Report]

3.84 In addition to complying with paragraph 8.62(a), issuers must implement the following specific corporate governance practices and must disclose compliance therewith in their annual reports. (The effect of incorporating certain practices from the King Code in the Listings Requirements is to make their implementation mandatory, this is notwithstanding the fact that application of the corporate governance practices in the King Code is generally voluntary):[[78]](#footnote-115)

 (a) there must be a policy evidencing a clear balance of power and authority at board of directors’ level, to ensure that no one director has unfettered powers of decision-making;[[79]](#footnote-116)

 (b) the issuer must have an appointed chief executive officer and a chairman and these positions must not be held by the same person. The chairman must either be an independent non-executive director, or the issuer must appoint a lead independent director, in accordance with the King Code;[[80]](#footnote-117)

 (c) all issuers must, in accordance with the King Code appoint an (i) audit committee, (ii) a committee responsible for remuneration and (iii) a social and ethics committee. The composition of such committees must comply with the Companies Act (as applicable) and should be considered in accordance with the recommended practices in the King Code on an apply and explain basis, provided that each committee must comprise of at least three members. A brief description of the committee mandates, the number of meetings held and other relevant information must be disclosed in the annual report;[[81]](#footnote-118)

 (d) a brief CV of each director must be provided in respect of a new listing. It should further be noted that a brief CV for each director standing for election or re-election at a general meeting or the annual general meeting (in relation to Main Board issuers, such election or re-election may not take place at a meeting contemplated in Section 60 of the Act) should accompany the notice of the general meeting or annual general meeting;[[82]](#footnote-119)

 (e) the capacity of each director must be categorised as executive, non-executive or independent, using the following as guidelines to determine which category is most applicable to each director:[[83]](#footnote-120)

 (i) executive directors:

 are directors that are involved in the management of the company and/or in full-time salaried employment of the company and/or any of its subsidiaries;

 (ii) non-executive directors are directors that are not:

 (1) involved in the day to day management of the business, or

 (2) full-time salaried employees of the company and/or any of its subsidiaries;

 (iii) independent directors should be determined holistically, and on a substance over form basis in accordance with the indicators provided in Section 94(4)(a) and (b) of the Companies Act and the King Code. In addition, it must be noted that any director that participates in a share incentive/option scheme, will not be regarded as independent;[[84]](#footnote-121)

 (f) all issuers must have an executive financial director. The JSE may, at its discretion, when requested to do so by the issuer and due to the existence of special circumstances, allow the financial director to be employed on a part time basis or not at all. This request must be accompanied by a detailed motivation by the issuer and the audit committee; and[[85]](#footnote-122)

 (g) the audit committee must, notwithstanding its duties pursuant to Section 94 of the Companies Act:[[86]](#footnote-123)

 (i) consider, on an annual basis, and satisfy itself of the appropriateness of the expertise and experience of the financial director;[[87]](#footnote-124)

 (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;[[88]](#footnote-125)

 (iii) request from the audit firm (and if necessary consult with the audit firm on) the information detailed in paragraph 22.15(h) in their assessment of the suitability for appointment of their current or a prospective audit firm and designated individual partner both when they are appointed for the first time and thereafter annually for every re-appointment as well as for an applicant issuer prior to listing; and[[89]](#footnote-126)

 (iv) notwithstanding the provisions of Section 90(6) of the Companies Act, ensure that the appointment of the auditor is presented and included as a resolution at the annual general meeting of the issuer pursuant to Section 61(8) of the Companies Act;[[90]](#footnote-127)

 The issuer must confirm, by reporting to shareholders in its annual report, that the audit committee has executed the responsibilities set out in 3.84(g) above.

 (h) all issuers must appoint a company secretary in accordance with the Companies Act and should apply the recommended practices in the King Code. The board of directors must consider and satisfy itself on the competence, qualifications and experience of the company secretary. The issuer must confirm this by reporting to shareholders in its annual report that the board of directors has executed this responsibility;

 (i) the board of directors or the nomination committee, as the case may be, must have a policy on the promotion of broader diversity at board level, specifically focusing on the promotion of the diversity attributes of gender, race, culture, age, field of knowledge, skills and experience. The issuer must confirm this by reporting to shareholders in its annual report on how the board of directors or the nomination committee, as the case may be, have considered and applied the policy of broad diversity in the nomination and appointment of directors. If applicable, the board of directors or the nomination committee must explain why any of the above diversity indicators have not been applied and further report progress in respect thereof on agreed voluntary targets;[[91]](#footnote-128)

 (j) the remuneration policy and the implementation report must be tabled every year for separate non-binding advisory votes by shareholders of the issuer at the annual general meeting. The remuneration policy must record the measures that the board of directors of the issuer commits 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 order to give effect to the minimum measures referred to in the King Code, in the event that either the remuneration policy or the implementation report, or both are voted against by shareholders exercising 25% or more of the voting rights exercised, the issuer must in its voting results announcement pursuant to paragraph 3.91 provide for the following:

 (a) An invitation to dissenting shareholders to engage with the issuer; and

 (b) The manner and timing of such engagement; and[[92]](#footnote-129)

 (k) the CEO and the financial director responsibility statement must be made by them after due, careful and proper consideration of same as follows:[[93]](#footnote-130)

 (i) “Each of the directors, whose names are stated below, hereby confirm that–[[94]](#footnote-131)

 (a) the annual financial statements set out on page€...] 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 misleadi€[[95]](#footnote-132)

 (c) internal financial controls have been put in place to ensure that material information relating to the issuer and its consolidated subsidiaries have been provided to effectively prepare the financial statements of the issuer;[[96]](#footnote-133)

 (d) the internal financial controls are adequate and effective and can be relied upon in compiling the annual financial statements, having fulfilled our role and function as executive directors with primary responsibility for implementation and execution of con€ls;[[97]](#footnote-134)

 (e) where we are not satisfied, we have disclosed to the audit committee and the auditors any deficiencies in design and operational effectiveness of the internal financial controls, and have\* remediated the deficiencies / taken steps to remedy the deficiencies”; and[[98]](#footnote-135)

 \*Delete as applicable.

 (f) Any fraud that involves directors was reported to the audit committee/We are not aware of any fraud involving directors.[[99]](#footnote-136)

 \*Delete as applicable.

 Signed by the CEO and the financial director

 (l) the appointment of all directors must be subject to shareholders’ approval at any general/annual general meeting pursuant to paragraph 10.16(b) of Schedule 10 (in relation to Main Board issuers, the meeting may not be conducted in terms of Section 60 of the Act). The appointment of a director, to fill a casual vacancy or as an addition to the board, must be confirmed by shareholders at the next annual general meeting.[[100]](#footnote-137)

court applications  (iii) Issuers must immediately notify the JSE of any application in terms of Section 163 of the Act. [moved to very end]

Appointment of auditors and reporting accountants [Moved out of Section 3, see Relocation Report]

3.86 An applicant issuer may only appoint as its auditor and reporting accountant an audit firm and reporting accountant who is accredited as such on the JSE list of Auditors and Accounting Specialists, and an individual auditor who does not appear on the JSE list of disqualified individual auditors, as set out in Section 22. This requirement must be considered by the audit committee when recommending an auditor for appointment or re-appointment at the annual general meeting as well for an applicant issuer prior to the listing.[[101]](#footnote-139)

3.87 Within 90 days of receiving notification that their audit firm has been removed from the JSE list of Auditors and Accounting Specialists, or their individual auditor being included on the JSE list of disqualified individual auditors, an applicant issuer must replace its auditor with an audit firm who is accredited or an individual auditor who is not disqualified. This change should be made before the auditor signs the next audit report. In the event that the applicant issuer receives notification after the auditor has commenced their assurance engagement audit, in such circumstances, it may not be possible for the issuer to appoint a new audit firm within the prescribed period. The applicant issuer must then approach the JSE who, at their discretion, may waive paragraph 3.86 above, for that specific assurance engagement. If such dispensation is granted the applicant issuer must caution shareholders as to the status of its audit firm. This warning must appear whenever reference is made to the auditors report in an announcement or in the financial statements themselves.[[102]](#footnote-140)

3.88 Subject to the provisions of the Act and the MOI of the applicant issuer and its subsidiaries, subsidiaries of applicant issuer are not required to be audited.[[103]](#footnote-141)

3.89 The requirements in paragraphs 3.86 and 3.87 with regard to the auditor and reporting accountant apply equally to those foreign registered entities with a primary listing on the JSE.[[104]](#footnote-142)

[Moved to Section 11]

Directors and Company Secretary Declaration

3.60 All newly appointed directors of the issuer must complete a director’s declaration on appointment, in the format available on the JSE Forms Portal, which must be submitted to the JSE by the issuer within 7 days of appointment. The issuer must announce the information within one business from receipt of the information, save for any personal information, qualifications and experience (the “general information”). The information to be announced will be limited to a period of five years before the date of appointment.

3.61 Each director is required to inform the issuer as soon as possible of any changes to the director’s declarations, save for the general information. Any changes must be announced by the issuer, within one business day after receipt of the information by the director.

3.62 Newly appointed company secretaries must submit the company secretary information, in the format available on the JSE Forms Portal, within 7 days of appointment.

 [Covered under Section 75 of the Companies Act]

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