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| **tThe below represents a consolidation of the provisions of a specific corporate action in:**   * Section 3: Continuing Obligations; * Section 5: Methods and Procedures of Brining Securities to Listing; * Section 7: Listing Particulars; * Section 11: Circulars, Pre-Listing Statements/Prospectuses and Announcements; and * Section 16 Documents to be Submitted to the JSE,   that will be included a new General Corporate Actions Section.  Each corporate action will be structured as follows, in alphabetical order:   * Specific requirements ; * Announcement; * Contents of circular; * Submission to the JSE.   **Definitions will be updated as required.**  **Original paragraph numbers are maintained for consultation purposes and will be renumbered on the clean simplified version.** |

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| **Number 10: Repurchase** |

Repurchase of equity securities

General

* 1. A repurchase in term of the Act or the repurchase in terms of the laws of a foreign incorporated issuer, constitutes a repurchase in terms of the Requirements.
  2. 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.

1.3 Approval of security holders is not required for: :

(a) a pro rata repurchase from all its equity securities holders; and[[1]](#footnote-1)

(b) intra-group repurchases from wholly-owned subsidiaries, share incentive schemes pursuant to Schedule 14 and/or non-dilutive share incentive schemes controlled by the issuer, where such equity securities are to be cancelled.

[*already stated – Act compliance]*1.4 A repurchase of equity securities can take place in terms of an authority:

(a) specifically approved by equity securities holders in general meeting in terms of […]; or

(b) generally approved by equity securities holders in general meeting in terms of […].

*[moved down]*

. *[moved down]*

5.76 The repurchase provisions do not apply to: :[[2]](#footnote-5)

(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[[3]](#footnote-6)

(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.

5.77 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 provides for the issuer to repurchase those equity securities.

*[repurchase must take place in terms of specific/general authority]*

5.75 If an issuer wishes to issue treasury shares, such issue must comply with the issue of shares for cash provision as if a fresh issue of equity securities.[[4]](#footnote-7)

Specific authority

Specific requirements

5.69 An issuer must obtain approval in general meeting through an ordinary resolution. Parties and their associates participating in the repurchase must be excluded from voting.

5.70 The authority shall be valid until such time as the approval is amended or revoked by ordinary resolution.

:[[5]](#footnote-8) *[see below]*

5.70 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).

*[issuer must comply with their MOI]*

*[moved up – ordinary resolution ]*

(c) the board must meet the solvency and liquidity test in terms of the Act, as at the date of the approval of the circular

(g) if the issuer has announced that it will make a specific repurchase, it must pursue the repurchase, unless the JSE determines otherwise on application.

Announcements

11.25 The issuer, after it has agreed the terms, must immediately release an announcement, including :[[6]](#footnote-11)

(a) the reason for, and method by which the issuer intends to repurchase its equity securities;

(b) details of the equity securities holder (including beneficial owner), the number of equity securities to be repurchased and the price to be paid;

(c) the date on or period over which the repurchase is to be made;

(d) the source of funds to be utilised*; [copied from general]*

(e) the date of the general meeting at which the authority will be sought;

(f) if the repurchase is from a related party, a statement by the board whether the repurchase is fair insofar as the equity securities holders (excluding the related party, its associates) of the issuer are concerned;

*;[moved up];*;[moved down]

(h) whether the shares will be held as treasury shares or be cancelled;

(i) the total number of treasury shares held after the repurchase; and[[7]](#footnote-13)

(j) a statement that a circular containing details of the above will be dispatched to shareholders.

Contents of circular

11.23 The following must be included in the circular, which must be sent to equity securities holders within 60 days of publication of the announcement :[[8]](#footnote-14)

[*general contents apply regardless]* [*consolidated and moved down]*

(a) the announcement information, save for 11.25(g) *[(*c) – (f) above items in the announcement];

(b) a statement by the board that they have complied with solvency and liquidity test in terms of the Act, as at the date of the approval of the circular and that since the test was performed, there have been no material changes to the financial position of the issuer and its group;

;

(c) if the repurchase is from a related party, a statement by the board whether the repurchase is fair insofar as the equity securities holders (excluding the related party, its associates) of the issuer are concerned.[[9]](#footnote-22)  [[10]](#footnote-23)

(d) the following general information:

|  |  |
| --- | --- |
| **Paragraph** | **Nature of statement** |
| 7.A.27 | Major shareholders |
| 7.E.10 | Material change |
| 7.B.20 | Directors’ interests in securities |
| 7.A.4 or 7.A.5 | Share capital of the company |
| 7.B.17 | Expenses |
| 7.B.22 and 7.B 23 | Responsibility |

[issuers must adhere to CA timetable] *[moved up]*

*[consolidated]* *[consolidated]*

General authority

5.72 An issuer must obtain approval in general meeting through an ordinary resolution.

5.73 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..

5.74 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

5.75 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;

[*issuers must comply with MOI]*

*[moved up]*

[*moved up]*

; *[moved up]*

5.76 The board must meet the with solvency and liquidity test in terms of the Act, at the time the repurchase is made.; and[[11]](#footnote-31)

5.77 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:[[12]](#footnote-32)

(i) the name of the independent agent;

(ii) the date of appointment;

(iii) the commencement and termination date; and

(iv) a statement that the quantities of securities to be traded during the relevant period are fixed.

5.77 Securities acquired under the authority must not, in the aggregate in any one financial year exceed 20% of that issuers’ s issued share capital of that class..

Announcements

11.27 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, 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 that they have complied with solvency and liquidity test in terms of the Act, as at the date of the repurchase;

(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;[[13]](#footnote-33)

(j) the date on which the securities will be cancelled and the listing removed, if applicable; and[[14]](#footnote-34)

(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 mase through a repurchase programme in terms of the Requirements.[[15]](#footnote-35)

Contents of circular

General repurchases

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

[*general contents apply regardless]* *[moved down]*

(a) a statement of the board of its intention regarding the utilisation of the authority;

(b) a statement by the board that they have complied with solvency and liquidity test in terms of the Act, as at the date of notice of general meeting and that since the test was performed, there have been no material changes to the financial position of the issuer and its group;

(c) the resolution being subject to 5.72-5.75-6.86 and 5.77;

(d) the following general information:

|  |  |
| --- | --- |
| **Paragraph** | **Nature of statement** |
| 7.A.27 | Major shareholders |
| 7.E.10 | Material change |
| 7.A.4 or 7.A.5 | Share capital of the company |
| 7.B.22 and 7.B 23 | Responsibility |

[*consolidated]* [*consolidated]* *[see general*]

*[moved up]* *[moved up]*

Submission to the JSE

16.33 The following must be submitted to the JSE :[[16]](#footnote-45)

(a) the circular;

(b) the application for removal of securities available on the JSE Forms Portal;

(c) exchange control, if applicable;[[17]](#footnote-46)

(d) experts’ consents appearing in the circular;[[18]](#footnote-47) and

(e) the board resolution approving the repurchase and confirming compliance with the solvency and liquidity test in terms of the Act; .

*[Fees covered under the new Section 5 Continuing Obligations]*

Miscellaneous repurchase provisions

**Announcement of intra-group repurchases**

3.95 An issuer must release an announcement, immediately after intragroup repurchases have been concluded, including:[[19]](#footnote-50)

(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 14 and/or non-dilutive share incentive schemescontrolled by the issuer;

(c) confirmation that the repurchased securities have reverted to authorised but unissued equity securities;

(d) the price paid for the repurchased securities; and

(e) the balance of the number of treasury shares held.

Appraisal rights

5.67 (A)Securities repurchases in terms of Section 164 of the Act will not be regarded as a repurchase in terms of the Requirements.

5..68 The issuer must within 48 hours of the repurchase :[[20]](#footnote-51)

(a) submit the application for removal of listing of securities, available through 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:

(i) the effective date of the removal;

(ii) the number of securities that will be removed (expressed in a number and a percentage of the issued share capital of the issuer):

a. the price paid for the securities;

b. the identity of the securities holders; and

c. 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*

5.78 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

5.79 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. [alignment with 11.27]

Period between repurchase and notification

5.80 In circumstances where the repurchase is not being made pursuant to an offer announced in accordance with 5.78 and the repurchase results in the issuer reaching or exceeding a relevant threshold as specified in 5.79, no further repurchases may be effected until after notification in compliance with 5.79 has been made.

Convertible securities

5.81 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 5 business day weighted average price of the securities immediately preceding the date of repurchase.

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-5)
3. [↑](#footnote-ref-6)
4. [↑](#footnote-ref-7)
5. [↑](#footnote-ref-8)
6. [↑](#footnote-ref-11)
7. [↑](#footnote-ref-13)
8. [↑](#footnote-ref-14)
9. [↑](#footnote-ref-22)
10. [↑](#footnote-ref-23)
11. [↑](#footnote-ref-31)
12. [↑](#footnote-ref-32)
13. [↑](#footnote-ref-33)
14. [↑](#footnote-ref-34)
15. [↑](#footnote-ref-35)
16. [↑](#footnote-ref-45)
17. [↑](#footnote-ref-46)
18. [↑](#footnote-ref-47)
19. [↑](#footnote-ref-50)
20. [↑](#footnote-ref-51)