|  |
| --- |
| **The below represents a consolidation of the provisions of a specific corporate action in:*** 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.**  |

|  |
| --- |
| **Number 11: Rights Offers and Claw Back Offers**  |

Relevant Definitions: Definitions Section

|  |  |  |
| --- | --- | --- |
| claw back offerLA |  | a pre-placed rights offer where securities are issued, for cash by an applicant issuer, which are then offered to the applicant issuer’s shareholders, pro rata their existing holdings, in the form of a right whereby shareholders can “claw back” their right to subscribe for such securities;[[1]](#footnote-1) in relation to a renounceable right, forms of instruction in respect of letters of allocation; |
| renounceable offer |  | an offer by an applicant issuer to its shareholders to subscribe, by way of rights for securities,, through the issue of a renounceable LA, traded as either “full paid” or “nil paid” rights usually the listed company’s subsidiary, where the listed company has received the right to subscribe for those securities in the applicant but renounces all or part of that right to its shareholders pro rata to their shareholdings[[2]](#footnote-2)  |

|  |  |  |
| --- | --- | --- |
| rights offer[[3]](#footnote-3)  |  | an offer by an applicant issuer to existing shareholders to subscribe for further securities in the issuer pro rata their existing holdings by means of the issue of (i) a renounceable right or (ii) a non-renounceable right;  |
|  |  |  |

Rights offers[[4]](#footnote-4)

Specific requirements

General

5.23 A rights offer can be: :[[5]](#footnote-5)

 (a) a renounceable rights offer, ; or[[6]](#footnote-6)

 (b) a non-renounceable rights offer, provided the maximum discount securities can be offered does not exceed 10% of the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue was determined by the issuer.[[7]](#footnote-7)

  *[Corporate actions must comply with the CA timetable, no need to refer to it]*

 *[refer to the definition of weighted average traded price]*

 (c) The provisions for rights offers apply equally to claw-back offers.

**Letters of Allocation – Renounceable Rights Offer**

5.24 LAs must be listed, renounceable and in dematerialised form.

5.26 The following must be included in the LA:

 (a) the salient details of the corporate action must be printed on the front page;

 (b) the instructions in respect of acceptance and payment, sale and renunciation and registration; and

 (c) where excess securities are made available, the application form must be printed in a different colour to the LA.

5.27 Forms of instruction in respect of LAs must be sent to certificated holders, in terms of which: Form A (Instruction to Sell) and Form B (Form of Renunciation) must require the signature of the offeree(s); Form C (Registration Application Form) must require the signature of the renouncee(s); and Form D (Documents of Title) must not require a signature.

 *[consolidated]*.[[8]](#footnote-11) *[consolidated]*

 [moved up]Underwriting

5.29 If the rights offer is not underwritten, it must not be conditional on a minimum subscription being received.

5.30 If underwritten, the (a) the applicant issuer must obtain sworn affidavits from at least two directors of the underwriter confirming to the applicant issuer that it has the financial resources to meet its obligations in terms of the underwriting agreement.

 (b) the board must make due and careful enquiry to confirm that the underwriter can meet its commitments in terms of the offer.

 *[moved up]*5.31 Any underwriting commission payable to a shareholder must not be greater than the current market rate payable to independent underwriters. The board must provide the JSE with evidence t of the reasonableness of the commission payable.

Excess security applications

5.32 A rights offer may include the right to apply for excess securities, subject to such right being transferable upon renunciation of the LA.

5.33 Excess securities should be allocated equitably, taking into account:

 (i) the current holdings prior to the application;

 (ii) the number of securities taken up in terms of the rights offer; and

 (iii) the number of excess securities applied for.

 .

 [*no regulatory value]*

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

 *[moved up]*

 *[Repetitive - All corporate actions must comply with the CA timetable]* *[Repetitive - All corporate actions must comply with the CA timetable]*

Contents of circular

*[Repetitive - All corporate actions must comply with the CA timetable]*7.C.15 The following must be included in the circular:

 (a) whether the rights offer is renounceable or not;

 (b) the purpose of the rights offer;

 (c) the terms of the rights offer, the amount to be raised and the number of securities that are proposed to be issued;

 (c) the class and the par value (if any) of the securities involved;

 (d) whether any directors, prescribed officers and/or company secretary of the issuer aim to follow their rights;[[9]](#footnote-20)

 (d) a statement on any tax implications for both resident and non-resident shareholders;

 (e) the ratio in which the securities will be issued and allotted in terms of the rights offer to shareholders.

 () the corporate action timetable;;[[10]](#footnote-22) and

 (l) if underwritten,

 (i) details of the underwriter, including beneficial owner;

 (ii) the names of the directors of the underwriter, if a company;

 (iv) the bankers to the underwriter;

 (i) the underwriting commission; and

 (ii) a statement by the board that they have made due and careful enquiry to confirm that the underwriter can meet its obligations in terms of the underwriting agreement;

 (m) details regarding the proposed listing of the LAs, the subsequent listing of the new securities and the amount payable in respect of listing fees;

 (n) details regarding the LAs such as:

 (i) acceptance;

 (ii) renunciation; and

 (iii) payment (payment must be made in South African currency); and

 (o) a statement regarding exchange controls as agreed to by the South African Reserve Bank.

*[duplicated above]* *[moved up]*

 *[moved up]*

 *[duplicated above]*

 *[moved above*]

 [*moved up]*

 [moved up]

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

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

|  |  |
| --- | --- |
| **Paragraph** | **Nature of statement** |
| 7.A.1 | Name, address and incorporation |
| 7.A.4 or 7.A.5 | Share capital of the company |
| 7.B.1 | Directors and management[[11]](#footnote-30)# |
|  |  |
| 7.B.17(b) | Preliminary expenses and issue expenses |
| 7.B.20 | Directors’ interests in securities |
| 7.B.22 | Responsibility statement |
| 7.B.23 | Responsibility of directors, managers and advisers |
| 7.C.14 | Market value of securities |
|  |  *[consolidated]* |
| 7.D.2 | Description of business |
| 7.D.5 | Prospects |
|  | An explanation, including supporting information (if any), of the intended use of the funds |
| 7.G.1 | Documents and consents to be available for inspection |

 # The items above must only be included in circulars if there is any direct change in respect of such disclosure items, if not, an appropriate negative statement must be included.

 *[moved up]*[information already in the public domain]Submission to the JSE

[[12]](#footnote-33)

16.15 The following must be submitted to the JSE :

 (a) the circular or PLS;

 (b) if applicable, the underwriting agreement and the sworn affidavits;

 (c) the application for listing available on the JSE Forms Portal;[[13]](#footnote-34)

 (d) the provisional LAs;

 (e) exchange control approval, if applicable;

 (f) experts’ consents appearing in the circular or PLS; and

 [ditto above]

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. [↑](#footnote-ref-5)
6. [↑](#footnote-ref-6)
7. [↑](#footnote-ref-7)
8. [↑](#footnote-ref-11)
9. [↑](#footnote-ref-20)
10. [↑](#footnote-ref-22)
11. [↑](#footnote-ref-30)
12. [↑](#footnote-ref-33)
13. [↑](#footnote-ref-34)