Payments to securities holders

5.85 (a) Companies wishing to make payments to their securities holders must comply with all relevant provisions of the Act and specifically with Section 46 of the Act. [[1]](#footnote-1)

(b) Subject to paragraph 5.85(c), a pro rata payment to all shareholders will not require shareholder approval. Any payment to shareholders which is not pro rata to all shareholders will be regarded as a specific payment and the company must obtain the approval of its securities holders in a general meeting, which approval is not required in respect of cash dividends, scrip dividends or capitalisation issues (“specific payment”).

(c) Where the underlying securities are unlisted when the company effects a distribution in specie by way of an unbundling (either by way of pro rata or specific payment) or where such securities become unlisted as a result of the unbundling, shareholder approval is required.

5.86 [Repealed][[2]](#footnote-2)

Requirements for specific payments

5.87 An applicant may only make a specific payment subject to authorisation being given in terms of an ordinary resolution approved by shareholders of the company in general meeting. Such ordinary resolution must be contained in a notice of general meeting that forms part of a circular sent to securities holders of the applicant.

Documents to be submitted to the JSE

5.88 The documents detailed in paragraph 16.33 must be submitted to the JSE in accordance with the relevant corporate action timetable.[[3]](#footnote-3)

Documents to be published

5.89 The documents that require publication regarding specific payments are set out in paragraphs 11.28 and 11.29, and must be actioned in accordance with the relevant corporate action timetable.[[4]](#footnote-4)

Requirements for general payments

5.90 [Repealed][[5]](#footnote-5)

Documents to be submitted to the JSE

5.91 [Repealed][[6]](#footnote-6)

Payments to securities holders

Specific payments (as defined in Section 5)

11.28 The circular must be sent to shareholders within 60 days of publication of the announcement and must contain the following information:[[7]](#footnote-7)

(a) contents of all circulars (refer to paragraph 11.1);

(b) general information including:[[8]](#footnote-8)

(i) major shareholders (7.A.27);

(ii) material change (7.E.10);

(iii) directors’ interests in securities (7.B.20);

(iv) share capital of the company (7.A.4 or 7.A.5);

(v) preliminary expenses and issue expenses (7.B.17); and

(vi) responsibility (7.B.22 and 7.B.23);

(c) source of payment (ie capital or income payment), the reason for and method by which the company intends to make the payment;[[9]](#footnote-9)

(d) an explanation, including supporting information (if any), of the impact of the repurchase on the financial information;[[10]](#footnote-10)

(e) a statement by the directors that after considering the effect of such payment the:

(i) company and the group will be able in the ordinary course of business to pay its debts for a period of 12 months after the date of the approval of the circular;

(ii) assets of the company and the group will be in excess of the liabilities of the company and the group for a period of 12 months after the date of the approval of the circular. For this purpose, the assets and liabilities should be recognised and measured in accordance with the accounting policies used in the latest audited annual group financial statements;

(iii) share capital and reserves of the company and the group will be adequate for ordinary business purposes for a period of 12 months after the date of the approval of the circular (refer to paragraph 7.E.7);

(iv) working capital of the company and the group will be adequate for ordinary business purposes for a period of 12 months after the date of the approval of the circular (refer to paragraph 7.E.7); and

(v) that the board of directors has authorised the payment, that the company and its subsidiary/ies have passed the solvency and liquidity test and that, since the test was performed, there have been no material changes to the financial position of the group;[[11]](#footnote-11)

(f) the detailed terms of the payment; and

(g) the circular should include a statement giving the directors‘ opinions on the payment, a recommendation as to how securities holders should vote and an indication as to how the directors intend to vote their shares.

11.29 In the case of a specific payment, an announcement must be published in accordance with the relevant corporate action timetable and, in addition, it must contain the following information:[[12]](#footnote-12)

(a) the terms of the payment;

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

(c) the date on which the payment is to be made;

(d) an explanation, including supporting information (if any), of the impact of the repurchase on the financial information; and[[13]](#footnote-13)

(e) that a circular containing details of the above will be sent to securities holders.[[14]](#footnote-14)

General payments (as defined in paragraph 5.85(b))

11.30 [Repealed]

11.31 [Repealed][[15]](#footnote-15)

Payments to securities holders

16.34 The following information is required to be submitted to and approved by the JSE before approval (where applicable) will be granted for a payment to securities holders, as contemplated in paragraphs 5.85 to 5.92:[[16]](#footnote-16)

(a) the circular;

(b) any application for listing, complying with Schedule 2 Form A2, if applicable;

(c) copies of any exchange control (refer to paragraph 16.26) approvals required;

(d) certified copies of any experts’ consents (refer to paragraph 7.F.10) appearing in the circular;[[17]](#footnote-17)

(e) the board of directors’ resolution approving the specific payment and confirming that the company and its subsidiary/ies have passed the solvency and liquidity test and that, since the test was performed, there have been no material changes to the financial position of the group; and[[18]](#footnote-18)

(f) the appropriate documentation and listing fee as published and available on the JSE website, [www.jse.co.za](http://www.jse.co.za), per Section 17.

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-8)
9. [↑](#footnote-ref-9)
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18. [↑](#footnote-ref-18)