

Section 3 Continuing Obligations

Scope of section

This section sets out certain of the continuing obligations that an issuer is required to observe once any of its securities have been admitted to listing. This section does not apply to issuers of specialist securities except where “applicant issuers” are specifically referred to in this section and as indicated in the continuing obligations paragraphs in Section 19.

Additional continuing obligations are set out in the following sections:

Section 8	Financial Information
Section 9	Transactions
Section 10	Transactions with Related Parties
Section 11	Circulars and Announcements
Section 16	Documents to be submitted to the JSE
Section 18	Dual Listings and Listings by Overseas Companies

Additional and/or alternative continuing obligations applicable to special classes of issuers are set out in Section 12 (Mineral Companies), Section 13 (Property Companies), Section 14 (Pyramid Companies), Section 15 (Investment Entities) and Section 19 (Specialist Securities), respectively. Observance of continuing obligations is essential for the maintenance of an orderly market in securities and to ensure that all users of the market have simultaneous access to the same information. Failure by an issuer to comply with any applicable continuing obligation may result in the JSE taking any or all of the steps described in Section 1.

The main headings of this section are:

3.1	Compliance with the Listings Requirements
3.4	General obligation of disclosure
3.11	Disclosure of periodic financial information
3.26	Cash companies (“cash companies” or “cash shells”)
3.27	Rights between holders of securities
3.34	Profit warranties
3.35	Issues by subsidiaries other than on listing
3.37	Shareholder spread
3.44	Communication with holders of securities
3.59	Directors
3.75	Notification of change in auditor
3.80	Miscellaneous obligations
3.86	Appointment of auditors and reporting accountants

Compliance with the Listings Requirements

3.1	Every issuer whose securities are listed shall comply with the Listings
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Requirements.

- 3.2 (a) Where there is an overlap of application between the Listings Requirements and any other requirements or dispensations that may be required by or granted in terms of any law, by any statutory body or organ (such as the Panel or the Commission), an issuer must, notwithstanding such other requirements or dispensations, nonetheless comply with the Listings Requirements.
- (b) The provisions of paragraph 4.28(d) must be complied with on an ongoing basis.
- 3.3 An issuer is required to have an appointed sponsor (refer to Practice note 1/2003) at all times and all necessary correspondence between an issuer and the JSE must be communicated through the independent sponsor of the issuer.

General obligation of disclosure

- 3.4 (a) The following provisions apply in respect of material price sensitive information:

With the exception of trading statements, an issuer must, without delay, unless the information is kept confidential for a limited period of time in terms of paragraph 3.6, release an announcement providing details of any development(s) in such issuer's sphere of activity that is/are not public knowledge and which may, by virtue of its/their effect(s), lead to material movements of the reference price of such issuer's listed securities.

Save where otherwise expressly provided, the requirements of this paragraph are in addition to any specific requirements regarding obligations of disclosure contained in the Listings Requirements.

- (b) Trading statements

All issuers, other than those who publish quarterly results, must comply with the detailed requirements of paragraph 3.4(b)(i) to (viii). Issuers with a policy of publishing quarterly results must comply with the general principles contained in paragraph 3.4(b)(ix), but may also elect to comply with paragraph 3.4(b)(i) to (viii) on a voluntary basis.

- (i) Issuers must publish a trading statement as soon as they are satisfied that a reasonable degree of certainty exists (refer to 3.4(b)(ii)) that the financial results (refer to 3.4(b)(vi)) for the period to be reported upon next will differ by at least 20% (or 15% if paragraph 3.4(b)(vii) is applicable) from the most recent of the following (collectively referred to as the "base information"):

- (1) the financial results for the previous corresponding period; or
- (2) a profit forecast (in terms of paragraphs 8.35 to 8.44) previously provided to the market in relation to such period.

Issuers may publish a trading statement if the differences referred to in 3.4(b)(i) are less than 20% (or 15% if paragraph 3.4(b)(vii) is applicable), but which are viewed by the issuer as being important enough to be made the subject of a trading statement.

3.2(a) amended with effect from 1 May 2011.

3.4(a) amended with effect from 15 October 2007.

3.4(b) amended with effect from 1 April 2010.

- (ii) The determination of a reasonable degree of certainty in terms of 3.4(b)(i) is a judgmental decision which has to be taken by the issuer and its directors and is one in which the JSE does not involve itself. This determination may differ from issuer to issuer depending on the nature of business and the factors to which they are exposed.
- (iii) Trading statements must provide specific guidance by the inclusion of the period to which it relates and:
 - (1) a specific number or percentage to describe the differences; or
 - (2) a range (i.e. XYZ is expecting an increase of between 15% and 25%) to describe the differences. Where an issuer elects to use a range, the range may not exceed 20% (e.g. 20% to 40%, 25% to 45% etc.); or
 - (3) a minimum percentage difference, together with any other relevant information that the issuer has at its disposal at the time. This will only be applicable in instances where the issuer has reasonable certainty in respect of paragraph 3.4(b)(i) above, but it does not have the reasonable certainty to provide guidance in accordance with paragraph 3.4(b)(iii)(1) or (2). Once the issuer obtains this reasonable certainty, it must provide the guidance referred to in paragraph 3.4(b)(iii)(1) or (2).
- (iv) If, after publication of a trading statement but before publication of the relevant periodic financial results, an issuer becomes reasonably certain that its previously published number, percentage or range in the trading statement is no longer correct, then the issuer must publish another trading statement providing the revised number, percentage or range in accordance with paragraph 3.4(b).
- (v) In light of the existing Listings Requirements' definitions of "significant", "material" and "substantial", these words may not be used in trading statements because to do so would imply a range differing from that permitted in terms of 3.4(b)(i) (i.e. more than 20%).
- (vi) Financial results in terms of 3.4(b)(i) are relevant criteria that are of a price sensitive nature which, in the first instance, comprise headline earnings per share ("heps") and earnings per share ("eps"), and, in the second instance, and only 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 on SENS, in advance of the first period ending which uses such navps, that it will be adopting navps for trading statement purposes. Thereafter, such policy adoption must be confirmed annually in the annual financial statements.
- (vii) Property entities may elect to adopt distribution per listed security as their relevant measure of financial results in terms of 3.4(b)(vi) provided that they:
 - (1) follow the procedures set out in 3.4(b)(vi) for adopting a different relevant measure for financial results; and

- (2) issue a trading statement if the financial results for the period to be reported on will differ by at least 15% from the base information, as opposed to the 20% referred to in 3.4(b)(i).
- (viii) In the event of an issuer publishing a trading statement, such issuer must either:
 - (1) produce and submit to the JSE a profit forecast or estimate, and accountants report thereon in accordance with:
 - (aa) ISAE 3400 – The Examination of Prospective Financial Information and the SAICA Revised Guide on Forecasts, in respect of profit forecasts; or
 - (bb) ISAE 3000 (Revised) – Assurance Engagements other than Audits or Reviews of Historical Financial Information, in respect of the estimate;
 in compliance with paragraphs 8.35 to 8.44 and 8.48(c); or
 - (2) include a statement (which is not deemed to be a cautionary statement and which does not give rise to the commencement of a closed period) in the trading statement advising securities holders that the forecast financial information has not been reviewed and reported on by the issuer’s auditor either in accordance with 3.4(b)(viii)(1)(aa) or 3.4(b)(viii)(1)(bb).
- (ix) Issuers who have a policy of publishing quarterly results will be exempt from the provisions of 3.4(b)(i) to (viii), but must instead include a general commentary in each quarterly results announcement to ensure that shareholders are guided on the expected performance of the issuer for the next quarter (which may be as detailed or broad as the issuer chooses). Such guidance is exempt from compliance with paragraphs 8.35 to 8.44 of the Listings Requirements.

Confidentiality

- 3.5 Information that is required to be announced in terms of paragraph 3.4 or any other Listings Requirement, including price sensitive information, may not, subject to paragraphs 3.6 to 3.8, be released (even subject to a time embargo):
- (a) during JSE trading hours (as defined in Schedule 19), until such time as such information has been published in accordance with paragraph 7 of Schedule 19; or
 - (b) outside of JSE trading hours until such time as such information has been approved, if necessary (in accordance with paragraphs 6 of Schedule 19), and arrangements have been made for such information to be published before the opening of JSE trading hours on the next business day.
- 3.6 Issuers that deem it necessary to provide information, prior to releasing same on SENS must ensure that in doing so they do not commit an offence in terms of the [SSAFMA](#) and in particular Section [73\(3\)78\(4\)](#).
- Section [73\(3\)78\(4\)](#)[#] of the [SSAFMA](#) states the following:

3.4(b)(viii) introduced with effect from 1 October 2006.

3.4(b)(vi)(1) amended with effect from 1 January 2006.

3.5 to 3.8 replaced with effect from 1 April 2012.

JSE extraction of section [73\(3\)78\(4\)](#) of the [SSAFMA](#).

- (a) An insider who knows that he or she has inside information and who discloses the inside information to another person commits an offence.
- (b) An insider is, despite paragraph (a), not guilty of ~~the~~ offence contemplated in that paragraph if such insider proves on a balance of probabilities that he or she disclosed the inside information because it was necessary to do so for the purpose of the proper performance of the functions of his or her employment, office or profession in circumstances unrelated to dealing in any security listed on a regulated market and that he or she at the same time disclosed that the information was inside information.

3.7 Issuers that elect to provide information in accordance with paragraph 3.6 and become aware that the necessary degree of confidentiality of such information cannot be maintained or if the issuer suspects that confidentiality has or may have been breached, the issuer must immediately:

- (i) inform the JSE; and
- (ii) ensure that such information is announced accordingly.

3.8 When an issuer intends to release any information as contemplated in paragraph 3.5 at any meeting or forum, arrangements must be made for the publication of such information to ensure that the announcement of such information at the meeting or forum is made simultaneously with the publication through SENS in accordance with Schedule 19. If any such information is disclosed in an unplanned manner during the course of a meeting or forum, the issuer must immediately:

- (i) inform the JSE; and
- (ii) ensure that such information is announced accordingly.

Cautionary announcements

3.9 Immediately after an issuer acquires knowledge of any material price sensitive information and the necessary degree of confidentiality of such information cannot be maintained or if the issuer suspects that confidentiality has or may have been breached, an issuer must publish a cautionary announcement (complying with paragraph 11.40). An issuer that has published a cautionary announcement must provide updates thereon in the required manner and within the time limits prescribed in paragraph 11.41.

Exception

3.10 If the directors of an issuer consider that disclosure to the public of information in accordance with paragraph 3.4 will, or probably will, prejudice the issuer's legitimate interests, the JSE may grant a dispensation from the requirement to make such information public.

Disclosure of periodic information

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).

3.9 amended with effect from 15 October 2007.

3.11 amended with effect from 15 October 2007 and 1 April 2012.

- 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.
- 3.13 An issuer declaring a final dividend prior to the publication of its annual financial statements or provisional report must ensure that the dividend notice announced and given to shareholders contains a statement of the calculated or estimated consolidated profits before taxation of the issuer's group for the year, including particulars of any amounts not comprising current year income appropriated to provide wholly or partly for such dividend.
- 3.14 The announcement required in terms of paragraph 3.11 must be in accordance with Schedule 24.

Interim and quarterly reports

- 3.15 Interim reports shall be published and distributed to shareholders after the expiration of the first six-month period of a financial year, by no later than three months after that date. In the instance where the financial year end has been changed, resulting in the financial period being longer than twelve months, interim reports shall be published and distributed in respect of both:
- (a) the six-month period commencing on the first day of the financial period; and
 - (b) a twelve-month period commencing on the first day of such financial period, which second interim report must also comply with paragraph 3.18(h);
 - (c) by no later than three months after the expiration of the first six months and the second twelve months respectively.

In the case of issuers that report to shareholders on a quarterly basis, the quarterly reports shall be published in accordance with the Appendix to Section 11 as soon as possible after the expiration of each quarter (such issuers must still comply with the provisions of this paragraph in respect of interim reports). Interim reports must comply with 8.57 to 8.61.

Provisional reports

- 3.16 (a) If an issuer has not distributed annual financial statements to all shareholders within three months of its financial year-end, it must publish and distribute to all holders of securities provisional annual financial statements ("provisional reports") within the three months as specified, even if the financial information is unaudited at that time, in which case paragraph 3.18(c) will apply. The provisional reports are to be prepared in accordance with paragraphs 3.15, 3.18(c) and 8.57 to 8.61. The auditor's report on the provisional report (if applicable) does not need to be included in its entirety in the provisional report, but may instead be dealt with in terms of paragraph 3.18(f) and (g).
- (b) If an issuer has published a provisional report, then, at the date of issue of its annual financial statements, such issuer must either comply with paragraph 3.21(b) and (c) or publish an announcement stating that it has issued its annual financial statements and that it is not publishing an abridged report as the information previously published in the provisional report (including the nature of the auditor's report) is unchanged.

3.14 amended with effect from 15 October 2007.

3.15 amended with effect from 24 April 2005, 15 October 2007 and 1 April 2010.

3.16 amended with effect from 1 April 2010 and 10 June 2013.

Procedure for non-compliance

- 3.17 Where an issuer fails to comply with paragraphs 3.15 and/or 3.16:
- (a) on the day following the due date of issue of the issuer's interim/provisional report, a letter of reminder will be sent to the issuer requesting that it rectify the situation and advising that it has been granted a period of one month, from the date of such reminder, in which to issue its interim/provisional report, failing which the issuer's listing will be suspended and a meeting of the JSE will be convened to consider the continued suspension or termination of the issuer's listing ;
 - (b) failing compliance within 14 days of dispatch of the reminder to the issuer, the JSE will release an announcement through SENS informing holders of securities that the issuer has not issued its interim/provisional report and cautioning shareholders that the issuer's listing of securities is under threat of suspension and possible termination ;
 - (c) on the date of the announcement, the issuer's listing will be annotated on the JSE trading system with a "RE" to indicate that it has failed to submit its interim/provisional report timeously ;
 - (d) where the listing is suspended, the lifting of the suspension will only be effected upon receipt by the JSE of the issuer's interim/provisional report, and if the JSE is satisfied that the interim/provisional report complies with IFRS and the SAICA Financial Reporting Guides as issued by the Accounting Practices Committee and Financial Pronouncements as issued by Financial Reporting Standards Council.

Requirement for review by auditors and reports issued by auditors

- 3.18 The following provisions apply in respect of unaudited interim reports, unaudited quarterly reports and unaudited provisional reports:
- (a) subject to 3.18(b), unaudited interim reports are not required to be reviewed by an issuer's auditor;
 - (b) unaudited interim reports shall be reviewed by an issuer's auditor if the issuer's auditor disclaimed, qualified or gave an adverse opinion in the issuer's last annual financial statements, unless the JSE otherwise decides;
 - (c) unaudited provisional reports shall be reviewed by an issuer's auditor unless an audit report has already been issued on the underlying annual financial statements themselves. In this instance there is no obligation to obtain a separate auditor's report on the provisional report and instead:
 - (i) the following statement must be included in the provisional report:
"This summarised report is extracted from audited information, but is not itself audited.";
 - (ii) the audited annual financial statements and the audit report must be available for inspection at the issuer's registered office and a

3.17(a) amended with effect from 15 October 2007 and 1 April 2010.

3.17(b) amended with effect from 15 October 2007 and 1 April 2010.

3.17(c) amended with effect from 15 October 2007.

3.17(d), previously (e), renumbered and amended with effect from 15 October 2007.

3.17(e) amended with effect from 24 April 2005 and deleted with effect from 15 October 2007.

3.18(a) amended with effect from 10 June 2013.

3.18(b) amended with effect from 15 October 2007 and 10 June 2013

statement to this effect, including the name of the auditor, must be included in the provisional report; and

- (iii) a statement must be included in the provisional report that the directors take full responsibility for the preparation of the provisional report and that the financial information has been correctly extracted from the underlying annual financial statements;
- (d) unaudited quarterly reports are not required to be reviewed by an issuer's auditor, unless otherwise requested by the JSE;
- (e) when conducting a review of an unaudited interim or provisional report, the auditor shall follow the guidance provided in the International Standard on Review Engagements, (ISRE) 2410, Review Financial Statements of Interim Financial Information Performed by the Independent Auditor of the Entity;
- (f) when an interim or provisional report has been reviewed or audited by the auditor, this fact and the name of the auditor must be stated in the published interim or provisional report. If the report of the auditor is not included in the published interim or provisional report, the published interim or provisional report shall state that the report of the auditor is available for inspection at the issuer's registered office;
- (g) the published interim or provisional report must state the type of review conclusion/audit opinion that was reached on the interim or provisional report or, in the circumstances where the provisional report itself is not reviewed/ audited, the conclusion that was reached on the underlying annual financial statements, i.e. unqualified, qualified, disclaimer or adverse, and must contain an extract of the exact modification paragraph from the auditor's report. The published interim or provisional report must also mention and contain details of any:
 - (i) emphasis of matter paragraph ;
 - (ii) paragraphs regarding a reportable irregularity, as defined in the Auditing Profession Act; and
 - (iii) paragraph indicating a material inconsistency in information included in a document that contains the audited financial statements,
contained in the auditor's report;
- (h) where the financial period covers more than 12 months and interim reports are distributed in accordance with paragraph 3.15, a review opinion must be obtained for the second interim period;
- (i) if the auditor issues a modified auditor's report, a signed copy of the modified auditor's report must be submitted to the JSE by the issuer within 24 hours of the publication of the results; and
- (j) where unaudited/unreviewed financial information is contained in an

3.18(c) amended with effect from 10 June 2013.

3.18(d) amended with effect from 10 June 2013.

3.18(e) amended with effect from 1 January 2006, 1 September 2008 and 10 June 2013.

3.18(f) amended with effect from 1 September 2008 and 10 June 2013.

3.18(g) amended with effect from 10 June 2013.

3.18(h) amended with effect from 1 April 2010 and 10 June 2013.

3.18(i) introduced with effect from 1 April 2010 and 10 June 2013.

announcement (other than a short form announcement published in accordance with paragraph 3.46(A)) and/or other publication, including preliminary reports, and the demarcation between the audited/reviewed information and any unaudited/unreviewed information is not clear, the following statement must be included in such announcement and/or other publication:

“The auditor’s report does not necessarily report on all of the information contained in this announcement/financial results. Shareholders are therefore advised that in order to obtain a full understanding of the nature of the auditor’s engagement they should obtain a copy of the auditor’s report together with the accompanying financial information from the issuer’s registered office.”

3.18 The following provisions apply in respect of unaudited interim reports, unaudited quarterly reports and unaudited provisional reports:

- (a) subject to 3.18(b), unaudited interim reports are not required to be reviewed by an issuer’s auditor;
- (b) unaudited interim reports shall be reviewed by an issuer’s auditor if the issuer’s auditor disclaimed, qualified or gave an adverse opinion in the issuer’s last annual financial statements, unless the JSE otherwise decides ;
- (c) unaudited provisional reports shall be reviewed by an issuer’s auditor;
- (d) unaudited quarterly reports are not required to be reviewed by an issuer’s auditor, unless otherwise requested by the JSE;
- (e) when conducting a review of an unaudited interim or provisional report, the auditor shall follow the guidance provided in the International Standard on Review Engagements, (ISRE) 2410, Review Financial Statements of Interim Financial Information Performed by the Independent Auditor of the Entity ;
- (f) when an interim or provisional report has been reviewed or audited by the auditor, this fact and the name of the auditor must be stated in the published interim or provisional report. The published interim or provisional report must state the type of review/audit conclusion, i.e. unqualified, qualified, disclaimer or adverse, and should contain an extract of the exact modification paragraph from the auditor’s report. The published interim or provisional report must also mention and contain details of any emphasis of matter paragraph or paragraphs regarding reportable irregularities, as defined in the Auditing Profession Act, contained in the auditor’s report. If the report of the auditor is not included in the published interim or provisional report, it shall state that the report of the auditor is available for inspection at the issuer’s registered office ;
- (g) if during the course of a review of a provisional report, the auditor becomes aware of any unresolved matter that could result in an emphasis of matter or a qualified, adverse or disclaimer of opinion in the annual financial statements for the period under review, that fact and the nature thereof shall be stated;

3.18(j) introduced with effect from 10 June 2013.

3.18(b) amended with effect from 15 October 2007.

3.18(e) amended with effect from 1 January 2006 and 1 September 2008.

3.18(f) amended with effect from 1 September 2008.

- (h) where the financial period covers more than 12 months and interim reports are distributed in accordance with paragraph 3.15, a review opinion must be obtained for the second interim period, which is a twelve-month period; and
- (i) if a review is required in terms of the above, a signed copy of the auditor's review opinion must be submitted to the JSE within 24 hours of the publication of the results .

Annual financial statements

- 3.19 Every issuer shall, within six months after the end of each financial year and at least fifteen business days before the date of the annual general meeting, distribute to all holders of securities and submit to the JSE in accordance with paragraph 16.21:
- (a) a notice of the annual general meeting; and
 - (b) the annual financial statements for the relevant financial year, which financial statements will have been reported on by the issuer's auditor.
- 3.20 Where annual financial statements have not been distributed to holders of securities within three months of its financial year-end, the issuer must distribute and publish a provisional report as detailed in paragraph 3.16.
- 3.21
- (a) An issuer's annual financial statements must be distributed to the issuer's holders of securities and a copy thereof must be submitted electronically and directly to the information database maintained by Issuer Regulation Division for publication on the JSE website.
 - (b) At the same time, an abridged version of such annual financial statements ("abridged report"), complying with paragraphs 8.57 to 8.61, must be published on SENS.
 - (c) Although the audit report of the auditor on the annual financial statements need not be included in the abridged report (or in any summary of the audited annual financial statements that the issuer chooses to produce), the name of the auditor must be included and, if such report is a modified auditor's report, details of the nature of such modification shall also be stated therein. If the audit report is not modified then a statement to this effect must be included in the report. There is no obligation to obtain a separate audit report on the abridged report itself (or any other summary of audited annual financial statements). Where the abridged report itself is not audited the following statement must be included in the abridged report (or any other summary of audited annual financial statements):

"This abridged report is extracted from audited information, but is not itself audited." In addition a statement must be included in the abridged report (or any other summary of audited annual financial statements) that the directors take full responsibility for the preparation of the abridged report and that the financial information has been correctly extracted from the underlying annual financial statements.
- 3.22 Any annual financial information published voluntarily by an issuer in advance of being required to do so in terms of paragraphs 3.20 or 3.21 must:

3.18(h) amended with effect from 1 April 2010.

3.18(i) introduced with effect from 1 April 2010.

3.19 amended with effect from 1 May 2011.

3.21 amended with effect from 1 March 2011, 1 May 2011, 14 January 2013 and 10 June 2013.

3.22 amended with effect from 1 September 2008, 1 April 2010 and 10 June 2013.

- (a) comply with paragraphs 8.57 to 8.61 in respect of disclosure; and
- (b) at a minimum, be reviewed by the issuer's auditor, unless an audit report has been issued on the underlying annual financial statements themselves. Therefore if:
 - (i) an audit report has been issued on the underlying annual financial statements, there is no obligation to obtain a separate auditor's report on the preliminary report itself, and instead the issuer must comply with the provisions of paragraph 3.18(c), (g), (i) and (j), where the word "provisional" should be replaced with the word "preliminary" when reading those paragraphs; or
 - (ii) no audit report has been issued on the annual financial statements, the provisions of paragraph 3.18(e), (f), (g), (i) and (j) will apply equally (where the word 'provisional' should be replaced with the word 'preliminary').

At the date of issue of its annual financial statements such issuer must comply with the provisions of paragraph 3.16(b) (where the word "provisional" should be replaced with the word "preliminary").

Procedure for non-compliance

3.23 The following procedure shall apply to an issuer that fails to comply with paragraph 3.19 above:

- (a) five months after the issuer's financial year end, the JSE will send to the issuer a letter of reminder, advising that the issuer still has one month within which to submit its annual financial statements, failing which its listing may be suspended until such time as the annual financial statements have been submitted;
- (b) six months after the listed company's financial year end, the company's listing will be annotated on the JSE trading system with a "RE" to indicate that it has failed to submit its annual financial statements timeously;
- (c) the JSE will release an announcement over SENS, informing holders of securities that the issuer has not submitted its annual financial statements and cautioning holders of securities that the listing of the issuer's securities is under threat of suspension and possible termination;
- (d) if the issuer has not complied with paragraph 3.19 by the end of the seventh month after its financial year end, the issuer's listing will be suspended and a meeting of the JSE will be convened to consider the continued suspension or termination of the issuer's listing;
- (e) the issuer's suspension will be lifted after the JSE receives the issuer's annual financial statements and the JSE is satisfied that these annual financial statements comply with IFRS and the SAICA Financial Reporting Guides as issued by the Accounting Practices Committee and Financial Pronouncements as issued by Financial Reporting Standards Council.

3.24 Discretionary authority shall vest with the JSE to waive the requirement for suspension of an issuer's listing where it has not submitted its annual financial

3.23(a) amended with effect from 1 April 2010.

3.23(c) amended with effect from 15 October 2007.

3.23(e), previously (f), renumbered and amended with effect from 15 October 2007.

3.23(f) amended with effect from 24 April 2005 and deleted with effect from 15 October 2007.

statements timeously.

Modified audit report

- 3.25 The following procedure shall prevail where a modified auditors' report has been issued on an issuer's annual, provisional or preliminary financial statements:
- (a) When the auditors' report contains an emphasis of matter paragraph, this will be announced through SENS and the issuer's listing on the JSE trading system will be annotated with an "E" to indicate that the auditors' report contains an emphasis of matter paragraph.
 - (b) When the auditors' report is qualified, this will be announced through SENS and the issuer's listing on the JSE trading system will be annotated with a "Q" to indicate that the auditors' report is qualified.
 - (c) When the auditors' report contains an adverse opinion:
 - (i) this will be announced through SENS and the issuer's listing on the JSE trading system will be annotated with an "A" to indicate that the auditors' report contains an adverse opinion; and
 - (ii) the JSE may decide to follow the steps set out in paragraph 3.25(d)(ii) below.
 - (d) When the auditors' report contains a disclaimer of opinion:
 - (i) this will be announced through SENS and the issuer's listing on the JSE trading system will be annotated with a "D" to indicate that the auditors' report is disclaimed; and
 - (ii) the JSE will consider the continued listing, suspension and possible subsequent termination of the issuer's listing.
 - (e) When the auditor's report includes additional paragraph/s in terms of some additional reporting responsibilities of the auditor, such as the obligation to report reportable irregularities in terms of the Auditing Profession Act, this must be announced by the Issuer through SENS and the JSE may decide to take further action.

Cash companies ("cash companies" or "cash shells")

- 3.26 The following requirements apply to cash shells:
- (a) Should the cash company, within six months after classification as a cash company, fail to enter into an agreement and make an announcement relating to the acquisition of viable assets that satisfy the conditions for listing set out in Section 4, its listing will be suspended.
 - (b) If a cash company fails, within 3 months of suspension, to obtain approval from the JSE for a circular relating to the acquisition of viable assets that satisfy the conditions for listing set out in Section 4, its listing will be terminated.
 - (c) Where a cash company is to be utilised for the reversal of assets into it:
 - (i) such cash company must comply with the Listings Requirements for bringing a company to listing; and
 - (ii) the reconstituted cash company must meet the conditions for listing

3.25 amended with effect from 15 October 2007 and 1 April 2010.

3.26 amended with effect from 1 April 2010.

as set out in Section 4.

Rights between holders of securities

Equality of treatment

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

Voting rights

3.28 An issuer shall not issue any securities with voting rights differing from other securities of the same class.

Pre-emptive rights

3.29 Securities in each class for which listing is applied must rank pari passu in respect of all rights. It should be noted that a statement that 'securities in each class rank pari passu' is understood to mean that:

- (a) they are in all respects identical;
- (b) they are of the same nominal value, and that the same amount per share has been paid up;
- (c) they carry the same rights as to unrestricted transfer, attendance and voting at general/annual general meetings and in all other respects; and
- (d) they are entitled to dividends at the same rate and for the same period, so that at the next ensuing distribution the dividend payable on each share will be the same amount.

3.30 Subject to paragraphs 3.32 and 3.33, an issuer proposing to issue equity securities for cash must first offer those securities (unless the issue is an acquisition issue) effected by way of rights offer, to existing holders of equity securities in proportion to their existing holdings. Only to the extent that such securities are not taken up by holders of equity securities under the offer may they then be issued for cash to other persons or otherwise than in the proportion mentioned above.

3.31 To the extent permitted by the Commission and subject to the prior approval of the JSE, an issuer need not comply with paragraph 3.30 with respect to securities that the directors of the issuer consider necessary or expedient to be excluded from the offer because of legal impediments or compliance with the requirements of any regulatory body of any territory recognised as having import on the offer.

Waiver of pre-emptive rights

3.32 To the extent that holders of securities of an issuer provide their authorisation by way of ordinary resolution (determined in accordance with paragraph 5.51(g) or 5.52(e)), the issue by an issuer of equity securities for cash, made otherwise than to existing holders of securities in proportion to their existing holdings, will be permitted in respect of a specific issue of equity securities for cash for such equity securities issue, and in respect of a general issue of equity securities for cash, for a fixed period of time thereafter in accordance with such general authority.

- 3.33 The JSE may waive some or all of the requirements contained in paragraph 3.32 if it is satisfied that the conditions as stipulated in Schedule 13 exist.

Profit warranties

- 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.

Issues by subsidiaries other than on listing

- 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 section 5.50 to 5.57.
- 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 section 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.

Shareholder spread

- 3.37 Issuers must use their best endeavours to ensure that a minimum percentage of each class of securities is held by the public as described in paragraphs 4.28 (e) and (f), 4.29 (f)(iv) and (v) or 4.30 (c)(iv) and (v) ("the minimum spread requirements").
- 3.38 This requirement has been repealed.
- 3.39 This requirement has been repealed.
- 3.40 This requirement has been repealed.
- 3.41 This requirement has been repealed.

Notification

- 3.42 This requirement has been 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):
- (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 securities holders; and
 - (c) the disclosure for non-public securities holders must be analysed in accordance with the categories set out in paragraph 4.25 to 4.27.

3.33 amended with effect from 15 October 2007.

3.34 amended with effect from 1 April 2010.

3.35 amended with effect from 15 October 2007 and 1 April 2010.

3.36 amended with effect from 15 October 2007 and 1 April 2010.

3.37 amended with effect from 15 October 2007 and 1 April 2010.

3.38 to 3.42 deleted with effect from 1 April 2010.

Communication with holders of securities

Prescribed information to holders of securities

- 3.44 An issuer must ensure that all the necessary facilities and information are available to enable holders of securities to exercise their rights. In particular it must:
- (a) inform holders of securities of the holding of meetings that they are entitled to attend;
 - (b) enable them to exercise their right to vote, where applicable; and
 - (c) release announcements and distribute circulars in terms of the Listings Requirements.

Announcements through SENS

- 3.45 All announcements that are to be made through SENS in accordance with the Appendix to Section 11 must be in English and conform with the specifications contained in the Appendix to Schedule 19.

Press announcements

- 3.46 Announcements requiring publication in the press in accordance with the Appendix to Section 11 must be published in a widely circulated daily newspaper taking into account the specific composition and demographics of the issuer's stakeholders, in the reasonable opinion of the issuer, in any official language. Announcements may be made available on the issuer's website only after the announcement has been released through SENS. Short-form announcements may be published in the press, subject to paragraph 3.46(A) and on the basis that the issuer has its own operational website.

3.46(A) The following details should be included in the short-form announcement:

- (a) In a prominent position at the top of the short-form announcement, all such headlines as may be appropriate as to the nature of the matter;
- (b) The short-form announcement is the responsibility of the directors;
- (c) Contain a warning statement that:
 - (i) the short-form announcement is only a summary of the information in the full announcement and does not contain full or complete details; and
 - (ii) any investment decisions by investors and/or shareholders should be based on consideration of the full announcement published on SENS and the issuer's website as a whole;
- (d) The short-form announcement must not be misleading or inaccurate;
- (e) Contain a statement that:
 - (i) the full announcement has been released on SENS and available for viewing on the issuer's website; and
 - (ii) the full announcement is available for inspection at the registered office or other designated office of the issuer and the offices of the sponsor, that such inspection is available to investors and/or shareholders at no charge, the hours of such inspection and days on

3.46 amended with effect from 1 January 2013.

3.46A introduced with effect from 1 January 2013.

which such inspection is available; or

- (iii) copies of the full announcement may be requested including full details on how such request can be made.
- (f) A short-form announcement dealing with interim reports and provisional annual financial statements must in addition to the above include the following:
 - (i) Increases/decreases in revenue/operating profit compared to the financial results for the previous corresponding period;
 - (ii) Increases/decreases in headline earnings per share compared to the financial results for the previous corresponding period;
 - (iii) Increases/decreases in earnings per share compared to the financial results for the previous corresponding period;
 - (iv) Increases/decreases in the dividend/distribution compared to the financial results for the previous corresponding period; and
 - (v) Increases/decreases in net asset value compared to the financial results for the previous corresponding period (only if more relevant because of the nature of the issuers business).

To the extent that any of the above indicators are not considered to be a true measure to reflect the performance of an issuer in the banking and property industries, the JSE may grant dispensation from the requirement to publish such information or agree to a relevant alternative indicator/s.

- 3.47 Where the registered office of an issuer is situated outside the Republic of South Africa, the requirements of Section 18 on Dual Listings and Listings by External Companies apply.
- 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.

Circulars and pre-listing statements

- 3.49 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

- 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 .

Proxy forms

3.51(b) amended with effect from 15 October 2007 and 1 April 2010.

- 3.52 (a) A proxy form must be sent, together with the notice convening a meeting of holders of securities, to each person entitled to vote at such meeting and who has elected to receive such documents.
- (b) For the purpose of resolutions proposed in terms of the Listings 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.

Documents of title

- 3.53 Securities certificates and all other documents of title that need to be posted by issuers must be sent by registered post.

Temporary documents of title

- 3.54 Issuers may introduce “temporary documents of title” in South Africa provided that they are in accordance with the terms prescribed by the transfer secretary.
- 3.55 Issuers that have received such approval shall not place a time limit on the acceptance by them of any “temporary documents of title” for the purpose of issuing definitive securities certificates.
- 3.56 Issuers that have received such approval shall:
- (a) cancel any securities certificates lodged with or being issued by them, and against which a “temporary document of title” has been issued, as soon as they are able to do so; and
 - (b) issue definitive securities certificates within 21 days after presentation to them of any “temporary document of title” duly signed and completed by the transferee.
- 3.57 No issuer may charge a fee for the registration and/or transfer of its securities in the Republic of South Africa.

Receipts

- 3.58 Only on request will receipts be issued for securities lodged with an issuer, whether for registration or otherwise.

Directors

- 3.59 An issuer, through its sponsor, must notify the JSE of any change to the board of directors or company secretary including:
- (a) the appointment of a new director (including the director’s capacity in terms of paragraph 3.84(f)) or company secretary ;
 - (b) the resignation, removal, retirement or death of a director or of the company secretary; and/or
 - (c) changes to any important functions or executive responsibilities of a director;

without delay and no later than by the end of the business day following the decision or receipt of notice detailing the change. Such changes must be announced as soon as practically possible and also included in the issuer’s next

3.52 amended with effect from 1 May 2011.

3.54 amended with effect from 15 October 2007.

3.59(a) amended with effect from 15 October 2007 and 1 April 2010.

publication of listing particulars, interim report or annual financial statements. Where a director retires and is re-appointed at an annual or other general meeting, no notification is required as this does not result in a change to the board of directors.

- 3.60 An issuer must submit to the JSE and its sponsor, the relevant director's declaration in respect of each of its appointed directors within 14 days of their appointment in the form specified in Schedule 21. In the case of an appointment of a new company secretary the information as contained in Schedule 27 must be submitted to the JSE within 14 days. The issuer must ensure that each of the appointed directors is free of any conflict of interest between the duties he owes to the company and his private interest.
- 3.61 The notifications required by paragraph 3.59 must state the effective date of the relevant appointment. If the effective date is not yet known or has not yet been determined, the notification should state this fact and the issuer must notify the JSE once the effective date has been determined.
- 3.62 All directors of issuers are bound by and must comply with the Listings Requirements, as amended from time to time, in their capacities as directors and in their personal capacities.

Dealing in Securities

- 3.63 An issuer, via its sponsor, must announce the following information:
- (a) details of all transactions (including off market transactions) in securities relating to the issuer by or on behalf of:
 - (i) a director and company secretary (held beneficially, whether directly or indirectly) of the issuer;
 - (ii) a director and company secretary (held beneficially whether directly or indirectly) of a major subsidiary company of the issuer; or
 - (iii) any associate of 3.63 (a)(i) or (ii) above (collectively referred to for purposes of paragraphs 3.63 to 3.70 as "directors").
 - (b) such announcement shall contain the following information:
 - (i) the name of the director;
 - (ii) the name of the company of which he is a director;
 - (iii) the date on which the transaction was effected;
 - (iv) the price, number, total value and class of securities concerned. A deemed value based on the prevailing market price must be included in situations where there is no price attributable to the transaction (e.g. donations). Aggregation and averaging of prices is not allowed and therefore, in instances where there have been various trades at various prices during the course of a day, the volume weighted average price must be shown together with the highest and lowest trading prices for the day;
 - (v) in the case of options or any other similar right or obligation, the option strike price, strike dates and periods of exercise and/or

3.60 amended with effect from 15 October 2007 and 1 April 2010.

3.63(a)(ii) amended with effect from 15 October 2007 and 15 October 2008.

vesting;

- (vi) the nature of the transaction;
- (vii) the nature and the extent of the director's interest in the transaction. In the case of dealings by associates, the announcement must disclose the name of the associate and the relationship with the director;
- (viii) confirmation as to whether the trades were done on- market or off-market; and
- (ix) whether clearance has been given in terms of paragraph 3.66. In the case of dealings by associates, this requirement does not apply.

3.64 Transaction includes:

- (a) any sale, purchase or subscription (including in terms of a rights offer, capitalisation award or scrip dividend) of securities relating to the issuer;
- (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 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 transactions. The closing out of a single stock future or other derivative is also a transaction. The rolling-over of a single stock future that is merely an extension of an existing position is not a transaction;
- (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;
- (g) the acceptance, acquisition or disposal of any right or obligation, present or future, conditional or unconditional, to acquire or dispose of securities; or
- (h) any other transaction that will provide direct or indirect exposure to the share price of the issuer. It must be noted that this does not include cash settled share appreciation rights granted to directors by the issuer in the ordinary course of business.

3.65 Directors are required to disclose to the issuer all information that the issuer needs in order to comply with paragraph 3.63. The issuer shall also advise each of its directors of their obligations to disclose to it all information that the issuer needs in order to comply with paragraph 3.63. Any director who deals in securities relating to the issuer is required to disclose the information required by paragraph 3.63 to the issuer without delay and, in any event, by no later than 24 hours after dealing. The issuer must in turn announce such information without delay and, in any event, by no later than 24 hours after receipt of such information from the director concerned.

Clearance to deal

3.66 A director (excluding any of his/her associates) may not deal in any securities

relating to the issuer without first advising the chairman (or one or more other appropriate directors designated for this purpose) in advance and receiving clearance from the chairman or other designated director. In his own case, the chairman, or other designated director, must advise the board of directors in advance, or advise another designated director, and receive clearance from the board of directors or designated director, as appropriate. The JSE may waive this requirement in situations where the director has no discretion in the transaction. The JSE must be consulted for a ruling in these cases and if a waiver is granted the announcement must clearly explain the reasons why the director had no discretion to deal.

Circumstances for refusal

- 3.67 A director must not be given clearance (as required by paragraph 3.66) to deal in any securities relating to the issuer during a prohibited period. A “prohibited period” means:
- (a) a closed period;
 - (b) any period when there exists any matter which constitutes unpublished price sensitive information in relation to the issuer’s securities (whether or not the director has knowledge of such matter).
- 3.68 A written record must be maintained by the issuer of the receipt of any advice received from a director pursuant to paragraph 3.66 and of any clearance given. Written confirmation from the issuer that such advice and clearance, if any, have been recorded must be given to the director concerned.

Dealing in prohibited periods

- 3.69 A director may not deal in any securities relating to the issuer:
- (a) during a closed period as defined; and
 - (b) at any time when he is in possession of unpublished price sensitive information in relation to those securities or otherwise where clearance to deal is not given in terms of paragraph 3.66.
- 3.70 The JSE may waive compliance with paragraph 3.69 in situations where the director has no discretion in the transaction. The JSE must be consulted for a ruling in these cases and if a waiver is granted the announcement must clearly explain the reasons why the director had no discretion to deal.

Dealings by associates of directors and investment managers

- 3.71 A director must advise the following parties of the name(s) of the issuer(s) of which he/she is a director:
- (a) any associate of his; and/or
 - (b) any investment manager dealing on his/her behalf or on behalf of any person associated with him where either he/she or any person associated with him has funds under management with that investment manager, whether on a discretionary basis or not.
- 3.72 A director must advise all of his associates in writing that they must notify him immediately after they have dealt in securities relating to the issuer(s) in order

3.69 amended with effect from 1 April 2010.

3.70 amended with effect from 1 April 2010.

3.71 amended with effect from 1 April 2010.

3.72 amended with effect from 1 April 2010.

for him to comply with paragraph 3.65.

- 3.73 A director must advise his investment manager in writing that they may not deal in any securities relating to issuer(s) of which he is a director unless it obtains his express consent in writing.
- 3.74 Paragraphs 3.63 to 3.73 do not override the provisions of [SSAthe FMA](#) and should not be construed as additional defences or exclusions from having to comply with [SSAthe FMA](#). Issuers may impose more rigorous restrictions upon dealings by directors if they so wish or if it is appropriate in certain circumstances.

Notification of change in auditor

- 3.75 An issuer must notify the JSE of:
- (a) the termination of the appointment of the auditor;
 - (b) the resignation of the auditor; and/or
 - (c) any change of the individual auditor classified as the designated auditor;
- without delay, and by no later than the end of the business day following the decision by the issuer to terminate the appointment of the auditor or after receipt of the auditor's resignation.
- 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 The JSE may, in its sole discretion, request the issuer to publish an announcement informing shareholders of the termination of the auditor appointment or resignation of the auditor and the reason(s) therefore.
- 3.79 The annual financial statements for the year end in which the termination or resignation took place must state that the auditor appointment was terminated or that the auditor resigned and the reason(s) therefore.

Miscellaneous obligations

Listing and other fees

- 3.80 An issuer must pay the listing and other fees, including its annual listing fee, as published and available on the JSE website, www.jse.co.za, per Section 17, as soon as such payment becomes due. Failure to pay any fees due may result in the censure of the issuer in terms of Section 1.

Companies listed on another exchange

- 3.81 An issuer whose securities are listed on any other exchange must ensure that equivalent information is made available at the same time to the market of each

3.73 amended with effect from 1 April 2010.

3.74 amended with effect from 15 October 2007.

3.75 amended with effect from 1 September 2008.

3.75(c) amended with effect from 1 May 2011.

exchange on which the issuer's securities are listed, unless prohibited by or in terms of the rules or requirements of any other stock exchange. Refer to paragraph 10 of Schedule 19 and Section 18.

Information to be processed by the JSE

3.82 Issuers must ensure that information that is provided to the JSE for processing is the same as that provided to other parties such as transfer secretaries.

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. Furthermore, the issuer is to publish the beneficial interests of directors and major shareholders in its annual financial statements as required by paragraphs 8.63(d) and (f).
- (b) An issuer that has received a notice regarding certain share transactions, in terms of Sections 122(1) and 122(3) of the Act, must, within 48 hours after receipt of such notice, publish the information contained in the notice on SENS. No such announcement shall be required in respect of notices received by the issuer and which relate to a disposal of less than 1% of the relevant class of securities, per Section 122(3) of the Act.

Corporate Governance

- 3.84 In addition to complying with paragraph 8.63(a), issuers must comply with the following specific requirements concerning corporate governance and must disclose their compliance therewith in their annual report:
- (a) there must be a policy detailing the procedures for appointments to the board of directors. Such appointments must be formal and transparent and a matter for the board of directors as a whole, assisted where appropriate by a nomination committee. The nomination committee must constitute only non-executive directors, of whom the majority must be independent (as defined in paragraph 3.84(f)(iii)), and should be chaired by the chairman of the board of directors;
 - (b) 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;
 - (c) 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 director, or the issuer must appoint a lead independent director, in accordance with the King Code;
 - (d) all issuers must, in compliance with the King Code appoint an audit committee and a remuneration committee and if required, given the nature of the business and composition of the board of directors, a risk and nomination committee. The composition of such committees, a brief description of their mandates, the number of meetings held and other relevant information must be disclosed in the annual report;
 - (e) a brief CV of each director standing for election or re-election at a general meeting or the annual general meeting (which 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;

3.83 amended with effect from 1 May 2011.

3.84(a) to (h) amended with effect from 1 April 2010 and 1 May 2011.

- (f) 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:
- (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 are as defined in 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;
- (g) 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 only. This request must be accompanied by a detailed motivation by the issuer and the audit committee; and
- (h) the audit committee must consider, on an annual basis, and satisfy itself of the appropriateness of the expertise and experience of the financial director. The issuer must confirm this by reporting to shareholders in its annual report that the audit committee has executed this responsibility.
- (i) the board of directors must consider and satisfy itself, on an annual basis, 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. This communication must specifically include details of the steps which the board of directors took to make this annual assessment as well as providing information which demonstrates the actual competence, qualifications and experience of the company secretary; and
- (j) the recommended practice of the King Report on Governance for South Africa highlights, inter alia, that the company secretary should maintain an arms-length relationship with the board of directors and that the company secretary should ideally not be a director. The board of directors must specifically consider these two points and provide an explanation in the annual report as to why it believes that there is an arms-length relationship between itself and the company secretary. If the company secretary is a director of the company or if the board of directors otherwise concludes that there is not an arms-length relationship between itself and the company secretary, the board of directors must justify how the issuer is still able to ensure that the company secretary effectively performs the role as the gatekeeper of good governance in the issuer and how they have been able to adequately and effectively perform and carry out the roles and duties of a company secretary. Where the company secretary is a juristic person the board of directors in its assessment must consider the

3.84(i) and (j) For existing issuers these sections are effective for all annual reports or circulars issued on or after 1 December 2012; For new applicant issuers these sections are effective for any circulars or annual reports issued on or after 1 July 2012.

individual/s who perform the company secretary role as well as the directors and shareholders of the juristic person. The imposition of a juristic person in itself does not create an arms-length relationship.

Liquidation, business rescue proceedings and court applications in terms of Section 163 of the Act

- 3.85 (i) In the event of an applicant issuer being placed, or making application to be placed, into liquidation, whether voluntary or compulsory, provisional or final, the applicant issuer must immediately notify the JSE of this fact.
- (ii) In the event that the board of directors of the issuer adopts a resolution to place the issuer under business rescue proceedings, or application is made to a court to place the issuer under business rescue proceedings, in terms of Chapter 6 of the Act or the board of directors issues a notice in terms of Section 129(7) of the Act, the issuer must notify the JSE thereof on the date of the first signature of the board resolution, on the date of the service of the application, or on the date of issue of the Section 129(7) notice, as the case may be. Furthermore, in the event that the business rescue proceedings are terminated and the issuer does not proceed with liquidation proceedings and wishes to:
- (a) delist, the issuer will remain subject to the delisting procedures set out in Section 1 of the Listings Requirements; or
- (b) remain listed, the issuer must consult the JSE in order to discuss the suitability of the issuer for continued listing on the JSE.
- (iii) Issuers must immediately notify the JSE of any application in terms of Section 163 of the Act.

Appointment of auditors and reporting accountants

- 3.86 An applicant issuer may only appoint as its auditor and reporting accountant an audit firm, individual auditor and reporting accountant who is accredited as such on the JSE list of Auditors and their advisers, as set out in Section 22. This requirement must be considered by the audit committee when recommending an auditor for appointment at the annual general meeting.
- 3.87 Within 90 days of an audit firm or individual auditor being removed from the JSE list of Auditors and their advisers, an applicant issuer must replace its auditor with an auditor who is accredited on the JSE list of Auditors and their advisers. This change should be made before the auditor signs the next audit report, failing which the applicant issuer must caution shareholders as to the status of its auditor. This warning must appear whenever reference is made to the audit report in an announcement or in the financial statements themselves.
- 3.88 An applicant issuer must ensure that the individual auditor appointed as auditor to the applicant issuer's major subsidiaries (where the definition of a major subsidiary for the purposes of this requirement, is a subsidiary that represents 50% or more of the total assets or revenue of the consolidated group, based on the latest published financial results) is a registered individual audit partner or director in an audit firm that is accredited with the JSE. Whilst the individual auditor of a major subsidiary need not specifically be accredited himself, he cannot act as auditor for a major subsidiary if his application for accreditation as an individual auditor was previously rejected by the JSE.

3.85 amended with effect from 1 May 2011.

3.86 to 3.89 introduced with effect from 1 September 2008 and amended with effect from 1 April 2010.

3.89 The requirements in paragraphs 3.86 to 3.88 with regard to the auditor and reporting accountant apply equally to those foreign registered entities with a primary listing on the JSE. In this instance, the audit firm and individual auditor registered in a jurisdiction other than South Africa and the IFRS adviser need to be accredited on the JSE list of Auditors and their advisers. The specific requirements and eligibility criteria, as set out in Section 22 and Schedule 15, are, however, slightly different for auditors registered in a jurisdiction other than South Africa. The applicant issuer may approach the JSE to discuss a suitable compromise if there are legal difficulties in complying with paragraph 3.88.

Audited Financials for Subsidiaries

3.90 All subsidiaries of listed companies, save for foreign subsidiaries not registered in the Republic of South Africa, which form part of the group must be audited on an annual basis.