**PROPOSED AMENDMENTS TO THE JSE DEBT LISTINGS REQUIREMENTS:**

1. The proposed amendments to the JSE Debt Listings Requirements (the “**Requirements**”) have been made to include the provisions of the Financial Markets Act No.19 of 2012 which has replaced the Securities Services Act No.36 of 2004.
2. Words underlined with a solid line (\_\_\_) indicate the insertions in the existing requirements.
3. Words in bold and in square brackets ([    ]) indicate deletions from the existing requirements.

**Introduction**

**Objectives**

The JSE is operating within the framework of the **[SSA]**FMA.

Principles underlying this document

It is the function of the JSE under the **[SSA]**FMA to provide for the Listing, trading, clearing and settlement of Debt Securities in a transparent, efficient and orderly market place.

**Definitions**

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| --- | --- |
| **[BESA** | **The Bond Exchange of South Africa;]** |
| CSDP | Central Securities Depository Participant as **[approved]** authorised by Strate as a participant in terms of section 31**[4]** of the **[SSA]** FMA to perform electronic settlement on funds and scrip; |
| The Companies Act | the Companies Act **[61]**71 of **[1973]**2008 as amended, or any law that may replace it with wholly or in part from time to time; |

|  |  |
| --- | --- |
| Debt Listings Requirements or Requirements | the debt listing requirements of the JSE pursuant to the provisions of the FMA**[criteria and disclosure requirements]** for the Listing of Debt Securities on the JSE, as amended from time to time**[by the JSE, whether by way of practice note or otherwise, contained herein]** including the “Introduction”, “Definitions”, “Sections” and “Schedules”, save that the section headings, paragraph headings and the introductory text to each section headed “Scope of Section” do not form part of the listing requirements and are for guidance and ease of reference only and are not to be construed as affecting the substance or interpretation of the listingrequirements; |
| Debt securities | the “securities” (as defined in the **[SSA]**FMA, which are designated by the JSE as “debt securities” from time to time, including, without limitation, debentures, debenture stock, loan stock, bonds, notes, certificates of deposit, preference shares or any other instrument creating or acknowledging indebtedness; |
| Exchange Control Regulations | the Exchange Control Regulations, 196**[2]**1, promulgated under the Currency and Exchanges Act, 1933; |
| FMA | the Financial Markets Act (Act No.19 of 2012), as amended or replaced from time to time; |
| JSE Limited or the JSE | the JSE Limited (registration number 2005/03339/06), a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa, licensed as an “exchange” under the **[SSA]**FMA; |
| Registrar | the Registrar of Securities Services, as defined in the **[SSA]**FMA; |
| Rules | the exchange rules**[Rules]** of the JSE pursuant to the provisions of the FMA**[as approved by the Registrar in terms of the SSA]**; |
| **[Securities Regulations Code** | **the Securities Regulations Code on Takeover and Mergers and the Rules of the Securities Regulations Panel established under section 440B of the Companies Act;]** |
| **[SSA** | **the Securities Service Act 36 of 2004, as amended;]** |
| Strate | means Strate Limited (registration number 1998/022242/06) a company licensed as a central securities depository in terms of the **[SSA]**FMA or any successor depository operating in terms of the **[SSA]**FMA; |

**Section 1 – Authority of the JSE**

General powers of the JSE

1.1 Subject to the provisions of the **[SSA]**FMA, and in consultation with the Registrar, the JSE has the power:

 (a) **[subject to the Debt Listings Requirements,]**to grant, defer, refuse**[review]**, suspend or remove**[terminate]** a Listing of a Debt Security or registration of a Programme Memorandum in accordance with the Debt Listings Requirements;

 (b) …(unchanged)

 (c) …(unchanged)

 (d) to **[suspend,]** alter or rescind a Requirement prescribed before or after a Listing has been granted;

 (e) to prescribe additional Requirements from time to time**[, either by way of amendment to these Debt Listings Requirements or by way of the issue of practice notes]**;

 (f) to prescribe the circumstances under which a Listing of Debt Securities or the registration of a Programme Memorandum shall or may be suspended or removed**[terminated]**; and

 (g) …(unchanged)

1.3 Nothing contained in this section shall limit the powers of the JSE or its officers to those contained herein, and the JSE or its officers may at any time exercise any further powers granted to the JSE or its officers in terms of the **[SSA]**FMA. Where the JSE exercises discretion in terms of these Debt Listings Requirements, it shall use its discretion in consultation with the Registrar and, subject to the provisions of paragraphs 1.4 and 1.5 below, judicial review and the appeal provisions in the **[SSA]**FMA, its rulings shall be final.

1.4 If an Applicant Issuer, in respect of whom a decision (other than a decision in respect of which a specific appeal or review procedure is prescribed in these Debt Listings Requirements, the Rules of the JSE and the **[SSA]**FMA, or any replacement legislation) is taken under these Debt Listings Requirements objects to such decision, such Applicant Issuer must notify the JSE in writing within 48 hours of the decision, giving reasons for such objection. In such event, the JSE shall consider the objection and shall be entitled, in its sole discretion, to consult with not less than three independent members of the Issuer Regulation Advisory Committee. Taking into account the views of those independent members, the JSE shall be entitled to reconsider and change its decision. A decision of the JSE made after following the above procedure will be final.

1.5 Subject to the provisions of the **[SSA]**FMA, if the JSE decides, at its instance, to remove**[terminate]** a Listing, and the Issuer concerned objects to this decision, then the Issuer may appeal to the JSE’s Listings Appeal Committee in writing within 48 hours of the decision, giving reasons for such objection.

Suspension of listing or registration of Programme Memorandum initiated by the JSE

1.6 The JSE may, subject to the suspension provisions of the **[SSA]**FMA, and if either of the following applies:

 (a) if it will further one or more of the objects contained in Section 2 of the **[SSA]**FMA, which may also include, if it is in the public interest to do so; or

 (b) …(unchanged)

1.7 When the Listing of Debt Securities of an Issuer is under threat of suspension, the affected Issuer shall be given the opportunity to make written representations to the JSE why the suspension should not be affected**[in support of the continued Listing of such Debt Securities or the registration of such Programme Memorandum]** prior to the JSE making any decision to suspend such Listing or registration.

1.8 If the Listing of a Debt Security or the registration of a Programme Memorandum is suspended and the affected Issuer fails to take adequate action to enable the JSE to reinstate such Listing or registration within a reasonable period of time, the JSE may remove **[terminate]** the Listing or registration in accordance with the procedure set out below.

Removal[Termination] initiated by the JSE

1.11 The JSE may, subject to the removal**[termination]** provisions of the **[SSA]**FMA, and if one of the following applies:

 (a) if it will further one or more of the objects contained in Section 2 of the FMA, which may also include, if it is **[of the opinion that it is]** in the public interest to do so; or

 (b) …(unchanged)

1.12 When a Listing of Debt Securities is under threat of removal**[termination]**, the affected Applicant Issuer shall be given the opportunity to make written representations to the JSE why the removal should not be affected**[in support of the continued Listing of such Debt Securities,]** prior to the JSE making any decision to remove**[terminate]** such Listing.

Removal[Termination] at the request of the Applicant Issuer

1.14 An Applicant Issuer may make written application to the JSE for the removal**[termination]** of the Listing of any of its Debt Securities from the List and/or the deregistration of the Programme Memorandum stating from which time and date it wishes the removal**[termination]** to be effective. The JSE may grant the request for removal**[termination]**, provided paragraphs 1.15 and 1.16 are properly complied with and perfected, except where all Debt Securities are owned by the Applicant Issuer.

1.15 Prior to being able to effect paragraph 1.14, an Applicant Issuer must send a circular to the Holders of Debt Securities complying with the following:

 (a) approval must be obtained from Holders of Debt Securities in a general meeting for the removal**[termination]** of the Listing prior to the Applicant Issuer making written application for such removal; and

 (b) the reasons for removal**[termination]** must be clearly stated.

1.17 Where all Debt Securities are redeemed, the Listing will be removed**[terminated]** once the Applicant Issuer has notified the JSE of such redemption.

Censure and penalties

1.18 Where the JSE finds that an Applicant Issuer has contravened or failed to adhere to the provisions of the Debt Listings Requirements, the JSE may, in accordance with the provisions of the **[SSA]**FMA, and without derogating from its powers of suspension and/or removal**[termination]**:

 (a) …(unchanged)

 (b) …(unchanged)

 (c) in the instance of either paragraph 1.18(a) or (b), impose a fine not exceeding such amount as stipulated by the FMA**[R5 000 000]** on the Applicant Issuer; and/or

 (d) issue any other penalty that is appropriate in the circumstances**[order the payment of compensation to any person prejudiced by the contravention or failure]**.

1.19 In the event that an Applicant Issuer fails to adhere to the provisions of these Debt Listings Requirements, the JSE may elect in its discretion, that:

 (a) full particulars regarding the imposition of a penalty**[fine]** may be published in the *Gazette*, national newspapers, the website of the JSE or through SENS; and/or

 (b) …(unchanged)

1.20 If the Applicant Issuer fails to pay a fine **[or compensation]** as referred to in paragraph 1.18, the JSE may in terms of the provisions of the **[SSA]**FMA file with the clerk or registrar of any competent court a statement certified by the JSE as correct, stating the amount of the fine imposed **[or compensation payable]**, and such statement thereupon shall have all the effects of a civil judgement lawfully given in that court against that Applicant Issuer and in favour of the JSE for a liquid debt in the amount specified in that statement.

1.21 Unless the JSE considers that the maintenance of the smooth operation of the market or the protection of Investors otherwise requires, the JSE will give advance notice to the parties involved of any action that it proposes to take under paragraphs 1.18 and 1.19, and will provide them with an opportunity to make written representations to the JSE.

1.22 The whole or any part of the fines issued in terms of paragraph 1.18 will be appropriated as follows:

 (a) …(unchanged)

 (b) the settlement of any future costs which may arise through the enforcement of the provisions of the Debt Listings Requirements **[to a fund administered by the JSE to further one or more of the objects contained in Section 2 of the SSA]**.

Power to require information

1.23 The JSE may, in accordance with the **[SSA]**FMA, require an Applicant Issuer to disclose to it, within a period specified by it, such information at the Applicant Issuer’s disposal as the JSE may determine, save to the extent that the Applicant Issuer has obtained a court order excusing it from such disclosure. The JSE may request that a copy of such court order be delivered to it. If the JSE is satisfied, after such Applicant Issuer has had an opportunity to make representations to it, that the disclosure of that information to the registered Holders of the Debt Securities in question will be in the public interest, it may, by notice in writing, require such Applicant Issuer to publicly disclose that information within the period specified in the notice.

Publication

1.25 Without derogating from any other powers of publication referred to in these Debt Listings Requirements, the JSE may, in its absolute discretion and in such manner as it may deem fit, state or announce that it has:

 (a) …(unchanged)

 (b) …(unchanged)

 (c) …(unchanged)

 (d) removed **[terminated]** the Listing of any Debt Security or registration of a Programme Memorandum; and/or

 (e) …(unchanged)

1.26 In a statement or announcement referred to in paragraph 1.25, the JSE may give reasons for such investigation, censure, suspension, removal **[termination]** or fine, as the case may be, and, in the case of an investigation, so much of the JSE’s conclusions or findings as it may, in its absolute discretion, deem necessary.

Amendments to the Debt Listings Requirements

1.30[[1]](#footnote-1)  Subject to the provisions of the FMA, the JSE may amend the Debt Listings Requirements through a public consultation process. The proposed amendments to the Debt Listings Requirements will be published through SENS inviting comments from affected parties for a period of one month.

1.31 Once the public consultation process has been completed, the JSE will submit the proposed amendments to the Debt Listings Requirements, together with an explanation of the reasons for the proposed amendments, and any concerns or objections raised during the public consultation process, to the registrar[[2]](#footnote-2) for approval.

**Section 2 – Debt Sponsor**

Qualifications

2.1 ...(unchanged).

2.2 In order for an entity to be approved as a Debt Sponsor, it must make a written application to the JSE, setting out its relevant industry knowledge and prior relevant experience. **[A Debt Sponsor which was approved by BESA prior to the merger with the JSE will be regarded as an approved Debt Sponsor, but will have to comply with the ongoing Debt Listings Requirements.]**

**Section 3 – Conditions of Listing**

Minimum criteria for listing of Debt Securities or registration of a Programme Memorandum

3.10 In order to satisfy the minimum criteria for listing an Applicant Issuer must:

 (a) be generally acceptable to the JSE, having regard primarily, but not solely, to the interests of investors and the objects of the **[SSA]**FMA;

 (b)…(unchanged)

 (c) …(unchanged

 (d) …(unchanged

Price stabilisation

* 1. Price stabilisation will be permitted by the JSE in accordance with the provisions of the **[SSA]**FMA. Price stabilisation may be effected through an over-allotment, with or without a greenshoe. Over-allotment is a pre-cursor to a price stabilisation mechanism aimed at supporting and maintaining the price of newly listed Debt Securities or Debt Securities which are the subject of a substantial offer for a limited period after the Listing. The main purpose is to establish an orderly market for securities in the immediate secondary market after an offer.

**Section 4 – Listing Particulars**

Listing process

**[4.7 Claims against the Guarantee Fund may only be made in respect of trading in Listed Debt Securities on the JSE in accordance with the rules of the BESA Guarantee Fund if listed on the Interest Rate market or the JSE Guarantee Fund if listed on the Main Board of the JSE and can in no way relate to trading on another licensed or recognised exchange or to a default by the Applicant Issuer of its obligations in terms of its obligations under the Listed Debt Securities.]**

[Remainder of section to be renumbered]

**Section 8 – Documents to be submitted for listing**

Documents to be submitted

8.3 An Applicant Issuer making Application for the approval of a Placing Document by the JSE shall submit an Application to the JSE through a Debt Sponsor. The Application must be accompanied by the following documents where applicable:

 (a) …(unchanged)

 (b) …(unchanged)

 (c) …(unchanged)

 (d) …(unchanged)

 (e) …(unchanged)

 (f) …(unchanged)

 (g) …(unchanged)

 (h) confirmation from Strate that the Applicant Issuer has been **[admitted]** authorised as a participant in terms of the central securities depository rules and directives;

1. [↑](#footnote-ref-1)
2. Means the person referred to in section 6 of the FMA [↑](#footnote-ref-2)