



**JSE Debt  
Listings Requirements**



# Debt Listings Requirements

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# Introduction

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## Objectives

The JSE is operating within the framework of the FMA.

## Principles underlying this document

It is the function of the JSE under the FMA to provide for the listing, trading, clearing and settlement of debt securities in a transparent, efficient and orderly market place.

The Debt Listings Requirements reflect, inter alia, the rules and procedures governing new applications and the ongoing obligations of Issuers, and are aimed at providing investor confidence via an orderly, secure, efficient and transparent financial market.

The JSE believes it is important for the exchange to be in a position to facilitate offerings and listings by continually enhancing its requirements to ensure a high level of investor protection and confidence.

The “Debt Listings Requirements” provide for the minimum disclosure which investors and their professional advisers would reasonably require for the purpose of making an informed assessment of the nature and state of an applicant issuer’s business.

The type of protection afforded to the investor often distinguishes the different types of debt securities from one another. The greater the protection, the lower the risk and yield.

Documentation is central to any issuance of debt securities. The placing document consists of sections setting out all, or certain, of the terms and conditions of the debt securities and sections dealing with the issue of, subscription for and sale of the debt securities. The terms and conditions of the debt securities provide for the rights of the investor, the obligations of the applicant issuer, the terms of any underwriting or guarantee, the mechanics of payment and settlement and any credit enhancements or trust deeds, credit ratings, etc.

Applicant issuers engaged in specialised industries (e.g. banking, insurance, mining, and oil and gas) or issuing Specialist Securities (e.g. securitisation) may decide to, or be required by the JSE, to provide additional information.

The JSE encourages applicant issuers making application for the listing of debt securities to discuss, on a confidential basis, the Debt Listings Requirements to ascertain whether the debt security is eligible for listing and what additional requirements, if any, must be complied with.

Where applicant issuers are incorporated in terms of specific enabling legislation, which may have imposed limitations on disclosure, this fact must be disclosed in the placing documents.

All information submitted to the JSE must be delivered timeously pursuant to the provisions of the Debt Listings Requirements and must not be misleading or deceptive and must not omit any material information.

# Definitions and Interpretation

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In these Debt Listings Requirements, unless otherwise stated or the context requires otherwise, any expression which denotes any gender includes the other gender and the singular includes the plural and vice versa. The introductory portion of these Debt Listings Requirements is included for ease of reference only and does not form part of the Debt Listings Requirements.

Throughout these Debt Listings Requirements, unless otherwise stated or the context requires otherwise the following terms will have the meaning set out below –

<b>Term</b>	<b>Meaning</b>
application	an application for the listing of debt securities or the registration of a Programme Memorandum, which application must contain the documents provided for in these Debt Listings Requirements;
applicant or applicant issuer	an issuer or a new applicant;
asset-backed debt securities	specialist debt securities directly backed by assets which are intended to produce funds to be applied towards interest payments and repayment of principal on maturity if applicable;
auditor	includes the audit firm and the individual auditor assigned and/or appointed to perform a statutory audit (or a review) of an applicant issuer;
authorised amount	the amount on outstanding debt securities which the board of directors or similar body in respect of a non-corporate issuer has approved;
books closed period	the period or periods stipulated by an Issuer as being the period or periods during which the Register in respect of its debt securities is closed for purposes of giving effect to transfers, redemption or the distribution of the debt securities;
business day	a day (other than a Saturday, Sunday or public holiday in the Republic of South Africa) on which commercial banks settle payments in Rand in Johannesburg;
calculation agent	a person identified as such in the placing document or pricing supplement which performs certain functions with regard to calculations in relation to a Debt Security;
CSDP	Central Securities Depository Participant as authorised by Strate as a participant in terms of section 31 of the FMA to perform electronic settlement on funds and scrip;

company	a body corporate, wherever incorporated or established, including any other legal person, undertaking, association of persons or entities and any trust or similar device, wherever established, that issues debt securities, which are capable of being listed by the JSE;
the Companies Act	the Companies Act 71 of 2008 as amended or replaced from time to time;
common monetary area	Lesotho, Namibia, Swaziland and South Africa;
coupon	The stated interest payment on a bond;
coupon rate indicator	It indicates the type of coupon payment relevant to the bond for example, fixed, floating, zero, inflation linked or variable, etc.
CPI	Consumer Price Index;
“dealer”, “manager” and arranger”	a person or persons identified as such in the placing document or the pricing supplement which performs certain functions with regard to establishing the programme memorandum and/or the placing of debt securities, which functions may include the marketing of, and making a market in, such debt securities (and which person may be the issuer of such debt securities);
Debt Listings Requirements or requirements	the debt listing requirements of the JSE pursuant to the provisions of the FMA for the listing of debt securities on the JSE, as amended from time to time 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 listing requirements;
debt securities	the “securities” (as defined in the 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;
debt sponsor	an entity which is: <ul style="list-style-type: none"> <li>(a) approved as a debt sponsor by the JSE in terms of section 2 of these Debt Listings Requirements; and</li> <li>(b) appointed by an applicant issuer in respect of a placing document or pricing supplement;</li> </ul>

director	a “director” as defined in section 1 of the Companies Act, and in relation to an applicant issuer that is not a company, a person with corresponding powers and duties;
effective date	the date on which these Debt Listings Requirements come into force as published on the JSE’s website;
Exchange Control Regulations	the Exchange Control Regulations, 1961, promulgated under the Currency and Exchanges Act, 1933;
extraordinary resolution	a resolution passed at a meeting (duly convened of the holders of debt securities, by a majority consisting of not less than 66.67% (sixty-six point sixty-seven percent) of the value of a class of notes or all the Holders of notes% (sixty-six point sixty-seven percent) of the holders of debt securities present in person or by proxy voting at such meeting upon a show of hands or if a poll be duly demanded, by a majority consisting of not less than 66.67% (sixty-six point sixty-seven percent) of votes given on such poll;
formal approval	the final approval granted by the JSE;
FMA	the Financial Markets Act (Act No.19 of 2012), as amended or replaced from time to time;
FSB	Financial Services Board; Practice as approved by the accounting practices board or such other body authorised in terms of the relevant legislation to issue such accounting standard;
Guarantee Fund	Fund operated by the JSE to guarantee settlement of trades on the JSE’s trading platforms;
holder of debt securities	the holders of debt securities (as recorded in the register of debt securities maintained by the Transfer Secretary);
high yield debt securities or HYDS	debt securities that are sub-investment grade, usually with a Standard and Poor credit rating of BB+ or below;
IAS	International Auditing Standards;
Income Tax Act	the Income Tax Act 58 of 1962, as amended or replaced from time to time;
index calculation agent	an entity which calculates the performance measure of a group or set of financial instruments;
International Financial Reporting Standards or IFRS	the International Financial Reporting Standards formulated by the International Accounting Standards Committee;

investors	persons, natural or juristic, who acquire debt securities Listed on the JSE and “Potential Investors” shall be construed accordingly;
issue date	the date upon which the debt securities listed on the JSE are issued by the applicant issuer, as specified in the placing document or, in the case of debt securities issued under a programme memorandum as specified in the pricing supplement;
issuer	any entity whose debt securities have been listed on the JSE;
Issuer Regulation Division	the division of the JSE which is tasked with the listings function of the JSE;
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 FMA;
last day to register	close of business on the business day immediately preceding the first day of a books closed period;
listing	the admission of a Debt Security to the List and “Listed” shall be construed accordingly;
listing date	the date upon which a Debt Security is listed on the JSE;
listing particulars	the particulars required to be disclosed by an applicant issuer from time to time in its placing document which are set out in section 4 hereof;
List	the official list, maintained by the JSE, of debt securities which have been Listed;
offering circular	a document containing inter alia the provisions required by these Debt Listings Requirements, for a single issue of debt securities;
paying agent	an entity identified as such in the placing document or the pricing supplement which undertakes certain functions with regard to payments in relation to debt securities, which entity may also be the applicant issuer;

placing or offering	the method of offering debt securities to be Listed, for subscription or sale to potential investors and that takes place before such debt securities are listed;
placing document	an offering circular, a programme memorandum or any other placing document, as the case may be, which contains inter alia the provisions required by the Debt Listings Requirements for an issue of debt securities;
pre-issued debt securities	entitlements to debt securities, the listing of which on the JSE has been approved, but where the listing becomes effective only after a number of conditions have been fulfilled on or before the commencement of official trading;
pricing supplement	a supplement to a programme memorandum setting out additional and/or other terms and conditions as are applicable to a specific tranche of debt securities, for which application is made;
programme memorandum	a document containing the provisions required by these Debt Listings Requirements in respect of debt securities which may be issued by an applicant issuer;
profit forecast	a form of words which expressly states, or by implication indicates, a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word "profit" is not used;
profit estimate	a form of words which expressly states, or by implication indicates, a figure or a minimum or maximum figure for the likely level of profits or losses for a financial period ended but for which no financial information has yet been published, or contains data from which a calculation of such a figure may be made, even if no particular figure is mentioned and the word "profit" is not used;
Registrar	the Registrar of Securities Services, as defined in the FMA;
Securities Regulations Code	[Repealed]
specialist debt securities	asset-backed debt securities and any other debt securities which the Issuer Regulation Division determines to be specialist debt securities from time to time;
Strate	means Strate Proprietary Limited (registration number 1998/022242/07) a company licensed as a central securities depository in terms of the FMA or any successor depository operating in terms of the FMA;
subsidiary	a subsidiary company as defined in section 1 of the Companies Act; or an entity which would have been a subsidiary as defined in section 1 of the Companies



Act but for the fact that it is incorporated outside of South Africa;

tap issue

the issue of debt securities, having terms and conditions which are identical to existing debt securities already in issue (save for their respective issue dates, issue prices, and aggregate principal amounts), so that such new debt securities (i) are consolidated and form a single series with such existing debt securities; and (ii) rank pari passu in all respects with such existing debt securities; and

transfer secretary or transfer agent

an entity who maintains a register of debt securities, which entity may be the Issuer of such debt securities.

## **Section 1**

### **Authority of the JSE**

- 1.1 General powers of the JSE
- 1.6 Suspension of listing or registration of programme memorandum initiated by the JSE
- 1.11 Removal initiated by the JSE
- 1.19 Censure and penalties
- 1.20 Power to require information
- 1.27 Publication
- 1.30 Amendments to the Debt Listings Requirements

#### **General powers of the JSE**

- 1.1 Subject to the provisions of the FMA, and in consultation with the Registrar, the JSE has the power:
  - (a) to grant, defer, refuse, suspend or remove a listing of a debt security or registration of a programme memorandum in accordance with the Debt Listings Requirements;
  - (b) to prescribe from time to time the requirements with which a new applicant must comply before debt securities issued by such new applicant is granted a listing;
  - (c) to prescribe from time to time the requirements with which applicant issuers must comply;
  - (d) to alter or rescind a requirement prescribed before or after a listing has been granted;
  - (e) to prescribe additional requirements from time to time;
  - (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; and
  - (g) to prescribe from time to time the requirements with which debt sponsors must comply.
- 1.2 Listings are granted subject to compliance with the Debt Listings Requirements and New applicants must comply with the Debt Listings Requirements. In addition, the JSE may, in consultation with the Registrar, grant a listing subject to any additional condition(s) that it considers appropriate, in which event the new applicant will be informed of, and will be required to comply with, any such condition(s).
- 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 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 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 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 FMA, if the JSE decides, at its instance, to remove 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 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 FMA, which may also include, if it is in the public interest to do so; or
  - (b) if the issuer has failed to comply with the Debt Listings Requirements and it is in the public interest to do so,suspend the listing of debt securities or the registration of a programme memorandum and impose such conditions as it may in the circumstances deem appropriate for the lifting of such suspension.
- 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 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 the listing or registration in accordance with the procedure set out below.

### **Suspension at the request of the issuer**

- 1.9 The JSE may suspend a listing of debt securities or the registration of a programme memorandum in the following circumstances:
  - (a) where the issuer is placed under provisional liquidation or under judicial management; or
  - (b) where a written request is made by a/the director(s) of the applicant issuer in the event of a default of the applicant issuer.

### **Continuing obligations of applicant issuers**

- 1.10 If the listing of an applicant issuer's debt securities or the registration of the applicant issuer's programme memorandum is suspended, it must, unless the JSE decides otherwise:
- (a) continue to comply with all the Debt Listings Requirements applicable to it;
  - (b) submit to the JSE a monthly progress report pertaining to the current state of affairs of the applicant issuer and any action proposed to be taken by the applicant issuer in order to have the listing and/or registration reinstated; and
  - (c) advise the holders of debt securities on a quarterly basis concerning the current state of affairs of the applicant issuer and any action proposed by the applicant issuer in order to have the listing and/or registration reinstated, including the date on which the suspension is expected to be lifted.

### **Removal initiated by the JSE**

- 1.11 The JSE may, subject to the removal provisions of the 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 in the public interest to do so; or
  - (b) if the applicant issuer has failed to comply with the Debt Listings Requirements and it is in the public interest to do so,
- remove from the List any debt securities previously included therein; provided that the listing of such debt securities shall first have been suspended in accordance with the above provisions.
- 1.12 When a listing of debt securities is under threat of removal, the affected applicant issuer shall be given the opportunity to make written representations to the JSE why the removal should not be affected prior to the JSE making any decision to remove such listing.
- 1.13 If, after a period of two years from the date of registration of the programme memorandum, no debt securities have been issued under the programme memorandum, the programme memorandum will automatically terminate and a new application must be submitted to the JSE.

### **Removal at the request of the applicant issuer**

- 1.14 An applicant issuer may make written application to the JSE for the removal 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 to be effective. The JSE may grant the request for removal, 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 of the listing prior to the applicant issuer making written application for such removal; and
  - (b) the reasons for removal must be clearly stated.

- 1.16 Where approval is required in terms of paragraph 1.15(a), an extraordinary resolution must be passed at a general meeting of holders of debt securities. The issuer will be excluded from voting.
- 1.17 Where all debt securities are redeemed, the listing will be removed 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 FMA, and without derogating from its powers of suspension and/or removal:
  - (a) censure the applicant issuer by means of private censure;
  - (b) censure the applicant issuer by means of public censure;
  - (c) in the instance of either paragraph 1.18(a) or (b), impose a fine not exceeding such amount as stipulated by the FMA on the applicant issuer; and/or
  - (d) issue any other penalty that is appropriate in the circumstances.
- 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 may be published in the *Gazette*, national newspapers, the website of the JSE or through SENS; and/or
  - (b) an investigation or hearing be convened and the applicant issuer pay the costs incurred in relation to such investigation or hearing.
- 1.20 If the applicant issuer fails to pay a fine as referred to in paragraph 1.18, the JSE may in terms of the provisions of the 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, 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) the settlement of any costs incurred by the JSE in enforcing the provisions of the Debt Listings Requirements; and/or
  - (b) the settlement of any future costs which may arise through the enforcement of the provisions of the Debt Listings Requirements.

## **Power to require information**

- 1.23 The JSE may, in accordance with the 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 appli-

cant 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.

- 1.24 The JSE may require an applicant issuer to provide for the publication or dissemination of any further information not specified in the Debt Listings Requirements in such form and within such time limits as the JSE considers appropriate. The applicant issuer must comply with such requirement and, if it fails to do so, the JSE may publish the information after having heard representations from the applicant issuer or after having granted the applicant issuer the opportunity to make such representations.

## **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) investigated dealings in a listed debt security;
  - (b) censured an applicant issuer;
  - (c) suspended the listing of any debt security or registration of a programme memorandum;
  - (d) removed the listing of any debt security or registration of a programme memorandum; and/or
  - (e) imposed a fine on an applicant issuer.
- 1.26 In a statement or announcement referred to in paragraph 1.25, the JSE may give reasons for such investigation, censure, suspension, removal 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.
- 1.27 No applicant issuer or its directors, officers, holders of debt securities or holders of a beneficial interest shall have any cause of action against the JSE, or against any person employed by the JSE, for damages arising out of any statement or announcement made in terms of paragraph 1.25, unless such publication was made with gross negligence or with wilful intent.

## **Amendments to the Debt Listings Requirements**

- 1.28 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.
- 1.29 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\* for approval.

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\*Means the person referred to in section 6 of the FMA.

## **Section 2**

### **Debt Sponsor**

- 2.1 Qualifications
- 2.3 Appointment
- 2.6 Termination
- 2.7 Responsibilities
- 2.8 Annual compliance
- 2.9 Breach of responsibilities

#### **Qualifications**

- 2.1 Applications to become a debt sponsor must be made to the JSE by submitting the debt sponsor application form in the Appendix to Schedule 3.
- 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.

#### **Appointment**

- 2.3 Subject to paragraphs 2.5 and 2.6, the applicant issuer must appoint a debt sponsor when making an application for listing of debt securities or the registration of a programme memorandum and must maintain the appointment of a debt sponsor for the duration that any debt securities of the applicant issuer remains listed on the JSE.
- 2.4 The debt sponsor must notify the JSE of its appointment by an applicant issuer. Where there are joint debt sponsors, the applicant issuer must appoint a debt sponsor that will take the lead in the process. The JSE shall deal with the lead debt sponsor which is appointed in respect of the issue.
- 2.5 An applicant issuer must advise the JSE in writing (providing a copy to the debt sponsor) of the appointment or resignation of any debt sponsor. Where a debt sponsor resigns, the applicant issuer and the debt sponsor must immediately inform the JSE separately in writing of the reason for the resignation. In such a situation, the applicant issuer has 30 business days to appoint a new debt sponsor from the date of resignation of the debt sponsor, unless the JSE decides otherwise. The replacement debt sponsor must ensure that, before accepting an appointment, it has requested the written reasons for the resignation as submitted to the JSE from the outgoing debt sponsor. The outgoing debt sponsor must supply the reasons to the replacement debt sponsor within five business days of such request and the replacement debt sponsor must take account of the reasons for the resignation before accepting the appointment. Failure by an applicant issuer and/or debt sponsor to comply with this requirement may result in disciplinary action being taken in terms of the Debt Listings Requirements.

## Termination

- 2.6
- (a) In the event that the appointment of the debt sponsor is terminated by the applicant issuer, for whatever reason, such termination must be approved by the board of directors of the applicant issuer. Once the termination of the debt sponsor has been approved by the board of directors, the applicant issuer and the debt sponsor must submit a report to the JSE stipulating the reasons for the termination, within 48 hours of such termination.
  - (b) In the circumstances set out in paragraph 2.6(a), an applicant issuer must immediately publish an announcement on SENS confirming the termination of the services of the debt sponsor. The applicant issuer must make immediate arrangements to appoint a replacement debt sponsor, within 30 business days of the date on which the former debt sponsor ceased to act, and must inform the JSE and publish a further announcement on SENS immediately after the appointment of the replacement debt sponsor has been made.
  - (c) The replacement debt sponsor must ensure, before accepting the appointment, that it has requested the report referred to in paragraph 2.6(a) from the outgoing debt sponsor. The outgoing debt sponsor must supply this report to the replacement debt sponsor within five business days of such request and the replacement debt sponsor must take account of the reasons for the termination before accepting the appointment.
  - (d) Failure by an applicant issuer and/or debt sponsor to comply with this requirement may result in disciplinary action being taken in terms of the Debt Listings Requirements.

## Responsibilities

- 2.7 A debt sponsor must:
- (a) ensure that the applicant issuer is guided and advised as to the application of the Debt Listings Requirements;
  - (b) provide to the JSE any information or explanation known to it in such form and within such time limit as the JSE may reasonably require for the purpose of verifying compliance with the Debt Listing Requirements by it or by an applicant issuer;
  - (c) ensure that all SENS announcements comply with the Debt Listings Requirements before submission to the JSE;
  - (d) use all reasonable endeavours to ensure that the applicant issuer complied with the Debt Listings Requirements;
  - (e) manage the submission of all documentation to the JSE and ensure its compliance with the Debt Listings Requirements before submission is made;
  - (f) carry out any activities which are requested by the JSE in respect of the application of the Debt Listings Requirements;
  - (g) discharge its responsibilities with due care and skill;
  - (h) prior to the submission of any documentation that requires approval by the JSE, satisfy itself to the best of its knowledge and belief, having made due and careful enquiry of the applicant issuer, that there are no material matters, other than those disclosed in writing to the JSE, that should be taken into account by the JSE in considering the submission;



- (i) advise the JSE immediately if they are aware or have reason to suspect that any of their debt sponsor clients have or may have breached the Debt Listings Requirements;
- (j) be present at all discussions held between the JSE and the applicant issuer. The JSE may, however, where it deems appropriate, communicate directly with an applicant issuer or with an adviser of the applicant issuer, in order to discuss matters of principle and/or the interpretation of provisions of the Debt Listings Requirements. Where discussions take place in the absence of the debt sponsor, an applicant issuer shall ensure, as soon as is practicable, that the debt sponsor is informed (preferably in writing) of the matters discussed; and
- (k) adhere to the Sponsor Code of Ethics and Standards of Professional Conduct as contained in the appendix to Schedule 16 of the JSE Listings Requirements.

### **Annual compliance**

- 2.8 Debt sponsors are required, on an annual basis, to advise the JSE whether they still meet the eligibility criteria and, specifically, whether or not they continue to have the minimum number of approved executives as required by the JSE from time to time in their employ (Schedule 3).

### **Breach of responsibilities**

- 2.9 If the JSE determines, after taking account of written representations, that a debt sponsor has breached any of its responsibilities under the Debt Listings Requirements, the JSE is entitled to take any one or more of the following actions:
- (a) censure the debt sponsor;
  - (b) remove the debt sponsor from the register of debt sponsors maintained by the JSE;
  - (c) impose a penalty not exceeding R1 000 000; and/or
  - (d) publish details of the action it has taken and the reasons for that action.
- 2.10 Where the JSE has decided to take any action described in paragraph 2.7(b), the debt sponsor shall be entitled to request that the decision be taken on appeal in accordance with the provisions of paragraph 1.5.

## **Section 3**

### **Conditions for Listing**

- 3.1 Introduction
- 3.3 Discretion of the JSE
- 3.6 Applicant to be duly incorporated
- 3.8 Status of debt securities
- 3.9 Transferability of securities
- 3.10 Minimum criteria for listing of debt securities or registration of a programme memorandum
- 3.11 Preliminary approval of placing documents
- 3.17 Pre-issued trading
- 3.19 Exchange control approval
- 3.21 Price stabilisation

#### **Introduction**

- 3.1 Registration of a programme memorandum and/or listings of debt securities are granted subject to compliance with the Debt Listings Requirements.
- 3.2 All applications for listings of debt securities or registration of the programme memorandum are to be submitted to the JSE through a debt sponsor.

#### **Discretion of the JSE**

- 3.3 It must be emphasised that, notwithstanding these Debt Listings Requirements, the JSE may, in its overriding discretion and after consultation with the Registrar, grant a listing of debt securities or the registration of a programme memorandum to an applicant issuer that does not meet the Debt Listings Requirements set out below, or refuse a listing of debt securities or the registration of a programme memorandum to an applicant issuer that does comply with the Debt Listings Requirements on the grounds that, in the JSE's opinion, the granting of or refusal of the listing or registration is in the interests of the investing public. Applicant issuers that wish to apply for a listing of debt securities or the registration of a programme memorandum, but which do not meet all of the objective criteria prescribed by these Debt Listings Requirements for the grant of a listing or registration, may discuss their intended applications with the JSE.
- 3.4 Where unusual features exist regarding a listing, the JSE must be consulted by the debt sponsor to discuss such features at the earliest possible date and to discuss any rulings required from the JSE at that time.
- 3.5 Applicant issuers are required to submit to the JSE, at the earliest practicable date, any matter or unusual feature pertaining to the listing that is not specifically provided for in, or is otherwise in conflict with, the Debt Listings Requirements.

## **Applicant to be duly incorporated**

- 3.6 The applicant issuer must be duly incorporated, or otherwise validly established under the law of the country of incorporation or establishment, and must be operating in conformity with its memorandum of incorporation or other constitutive documents, as the case may be, and all laws of its country of incorporation or establishment.
- 3.7 An applicant issuer seeking a listing of debt securities must contractually undertake to the JSE, by completing Schedule 1, that from the date of admission to listing of any of its debt securities, or from registration of the programme memorandum, the applicant issuer will comply fully with all the Debt Listings Requirements of the JSE, irrespective of the jurisdiction in which the applicant issuer is incorporated.

## **Status of debt securities**

- 3.8 Debt securities for which a listing is sought must be issued in conformity with the law of the applicant issuer's country of incorporation or establishment and in conformity with the applicant issuer's memorandum of incorporation (if applicable) or other constitutive documents as the case may be, and all authorisations needed for their creation and issue under such law must have been duly given. The JSE must be consulted for a ruling if it is not possible to comply with the Listings Requirements as a result of conflict between the Debt Listings Requirements and the relevant legislation in the applicant issuer's country of incorporation.

## **Transferability of securities**

- 3.9 The debt securities for which listing is sought must be freely transferrable and fully paid up according to the terms and conditions of the debt security, unless otherwise required by law.

## **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 FMA;
  - (b) must have obtained the necessary statutory consent;
  - (c) be duly authorised to issue debt securities in terms of its memorandum of incorporation or other constitutive documents as the case may be; and
  - (d) must make all the necessary disclosure in terms of Section 4.

## **Preliminary approval of placing documents**

- 3.11 In the event that preliminary approval is sought from the JSE, the preliminary approval of the relevant placing document must be obtained from the JSE, when any placing document or offering and any road show or other marketing of debt securities which are to be listed is done, before formal approval for listing is granted.

- 3.12 The placing document, as preliminarily approved by the JSE, may be circulated to market participants and potential investors at meetings, provided that any amendments effected following such meetings shall be limited to the insertion of dates, pricing, issue amount, and maturity or similar information. If any other amendments are effected to the placing document, potential investors and the JSE must be informed of such amendments, and the placing document must be submitted for formal approval.
- 3.13 The applicant issuer, debt sponsor, dealers, arrangers or managers shall advise potential investors that the preliminary placing document is not the final document approved by the JSE and that such document shall be subject to completion and amendment, and this fact shall be clearly evident on the face of the document.
- 3.14 Strate shall have accepted the immobilisation/dematerialisation of the debt security and confirmed that the applicant has been admitted in terms of the Central Securities Depository Rules and Directives prior to the preliminary approval by the JSE.
- 3.15 A signed, final placing document shall be made available to the JSE for formal approval and investors within 48 hours prior to the listing date.
- 3.16 Should preliminary approval not be sought pursuant to the above and a placing document is intended to be used for marketing related activities in respect of the debt securities which are to be listed, a statement in bold must be placed on the cover page that the JSE has not approved such document.

### **Pre-issued trading**

- 3.17 A member of the JSE may only execute transactions in pre-issued debt securities after such approval has been granted by the JSE.
- 3.18 The JSE may permit pre-issued trading in debt securities subject to the following conditions:
  - (a) the debt sponsor to the listing must apply, at the time of informal comment submission of the placing document or the pricing supplement, and receive approval for pre-issued trading from the JSE;
  - (b) the JSE must have approved the listing of debt securities;
  - (c) the listing of debt securities for which pre-issued trading is requested, must be an initial offering and must be of such size that, in the opinion of the JSE, it is appropriate to permit pre-issued trading;
  - (d) pre-issued trading will commence and end on such dates as specified by the JSE and contained in a market notice indicating that the pre-issued trading must end on the listing date of the debt securities;
  - (e) if the listing in respect of which pre-issued trading has been approved becomes effective, all transactions effected during the period of the pre-issued trading will settle on settlement day of official trading on the same terms as all other transactions in listed debt securities, but will not be covered by the Guarantee Fund; and
  - (f) if the listing is still ineffective on the first settlement date of official trading, every transaction effected under this requirement will be void ab initio and neither a member of the JSE nor a client will have recourse against the JSE or the member, as the case may be, in respect of such transactions.

### **Exchange control approval**

- 3.19 Where approval for a listing of debt securities or the registration of a programme memorandum is required from the Financial Surveillance Department of the South African Reserve Bank, the JSE will not grant the listing of the debt securities or the registration of the programme memorandum until such written approval is obtained.
- 3.20 The following should be considered in terms of exchange control:
- (a) information on any exchange control regulation that may be relevant to an investor;
  - (b) approval from the Financial Surveillance Department of the South African Reserve Bank is required when the applicant issuer is incorporated or domiciled in a foreign country, including the common monetary area (other than South Africa);
  - (c) where the applicant issuer issues listed debt securities that will pay higher than the interest rate to be paid/discounted in terms of exchange control policy, and where there will be foreign participation cross-border funding, the applicant/issuer is required to obtain prior Financial Surveillance Department of the South African Reserve Bank approval/directive in respect of the issue. Exchange control policy allows interest to be paid up to the prime overdraft rate (predominant rate) plus 3% per annum or as amended from time to time.

### **Price stabilisation**

- 3.21 Price stabilisation will be permitted by the JSE in accordance with the provisions of the 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.
- 3.22 There is no obligation on the applicant issuer to stabilise the price, but if the applicant issuer intends to do price stabilisation, the applicant issuer's debt sponsor must contact the JSE for a ruling.

## **Section 4**

### **Listing Particulars**

- 4.1 Introduction
- 4.2 Listing process
- 4.8 Content of the placing document
- 4.10 Details of the applicant issuer
- 4.11 Details of the issue
- 4.12 Details of the subscription process
- 4.13 Details of the guarantee, trustee and representatives
- 4.14 Taxation
- 4.15 Exchange control
- 4.16 Financial and legislation information
- 4.17 Other
- 4.18 Responsibility
- 4.19 Documents available for inspection
- 4.20 Signing and date of placing document
- 4.21 Offering circular or pricing supplement
- 4.26 Rating Agencies

#### **Introduction**

- 4.1 The placing document shall contain sufficient information to provide full disclosure of the applicant issuer's operations, financial resources and requirements and the risks associated with the applicant issuer's business and market place for the purposes of a comprehensive analysis of the applicant issuer's ability to service and redeem the debt securities. It shall also contain all relevant information with respect to the particular nature of the applicant issuer and debt securities for which application is being made. It shall also contain details of any debt securities' relation to other debt of the issuer, whether listed or not, including but not limited to details of seniority, security, covenants, warranties or pledges. The placing document shall contain that minimum disclosure which an investor would reasonably require in order to be in a position to make an informed assessment of the nature and state of the applicant issuer's business and most particularly its ability to effect agreed scheduled interest payments on debt securities and the repayment of the principal amount.

#### **Listing process**

- 4.2 The placing document and other documentation required for the listing of debt securities in terms of the Debt Listings Requirements must be submitted to the JSE in accordance with the time table detailed on the JSE website.

- 4.3 Approval for listing of debt securities is subject to the submission to the JSE of all the documents required in terms of these Debt Listings Requirements or such documents as may be requested by the JSE prior to formal approval of the listing.
- 4.4 No placing document is to be made available to the investing community unless the JSE has granted formal approval or preliminary approval as per paragraph 3.11 to paragraph 3.15.
- 4.5 No placing document shall bear the words “final” unless such placing document has been formally approved by the JSE. A placing document must be signed as provided for in these Debt Listings Requirements and a signed copy submitted to the JSE before it is issued to the public.
- 4.6 All debt securities to be listed on the JSE shall be cleared and settled through CSDPs and Strate or any other system approved by the JSE to perform electronic settlement of funds and scrip from time to time. All issuers are required to be admitted by Strate and comply with the central securities depository rules.
- 4.7 [Repealed]

### **Content of the placing document**

- 4.8 The placing document for any listing must describe the terms and conditions of the issue, including but not limited to provisions with respect to the description of the debt securities being offered, interest payments, conversions and redemption dates.
- 4.9 The following is a summary of the requirements for disclosure that must be contained in the placing document. Government issuing debt securities must comply with Section 9.

### **Details of the applicant issuer**

- 4.10 (a) The applicant issuer’s full name, registration number, date and place of incorporation. If the applicant issuer changed its name within the last year, the old name must be printed in bold type under the existing name on the cover and first page;
- (b) a general description of the business carried or to be carried on by the applicant issuer and its subsidiaries, and where the applicant issuer or its subsidiaries will carry on two or more businesses that are material having regard to the profit and losses, assets employed, or to be employed, or any other factor information as to the relative importance of each such business;
- (c) the full names of the applicant issuer’s company secretary (if a company), and the address of its offices and of the registered office (if a company). In relation to an applicant issuer that is not a company full disclosure must be made in relation to the person with corresponding powers and duties;
- (d) the full name, street and postal address of the attorneys, advisers, auditors, dealers, arrangers, managers, calculation agent, paying agent, transfer secretary, debt sponsor and other advisers or consultants; and
- (e) a description of the material risk factors and the sensitivity of the issue of debt securities to such risk factors must be provided (e.g. securitisation, derivative type issues). The risk factors must not only include matters concerning the business and financial condition of the applicant issuer, but also such matters (when applicable) like the absence of an operating history, the absence of profitable operations and future projections.

## **Details of the issue**

- 4.11
- (a) A statement that an application has been made to the JSE for the debt securities to be listed and the date from which the listing was granted or for the registration of the programme memorandum and setting out the relevant debt securities to be listed;
  - (b) if applicable, the placing document must include the total amount of the debt securities to be issued and any minimum indicated amount to be issued. If the placing document provides for multiple issues, a statement to this effect is to be made, setting out the authorised amount and initial amount to be issued;
  - (c) if applicable, the programme memorandum must specify the aggregate authorised amount of all debt securities that may be issued both listed and unlisted under the programme memorandum from time to time;
  - (d) the interest rate, the date from which interest accrues and due dates of payments in respect of the debt securities must be fully described. If several interest rates are provided for, an indication of the calculation/conditions for changes in the interest rate must be included. The interest calculation and/or method for each debt security must be set out in the placing document;
  - (e) the maturity date of the debt security, if applicable, and circumstances of the repayment and redemption are to be fully described;
  - (f) details of any legal restrictions under which the debt securities will be offered, sold, transferred or delivered;
  - (g) details of all covenants including but not limited to status of all debt securities e.g. senior, subordinated, negative pledge, cross default or any other covenants;
  - (h) a statement of the law under which the debt securities are governed;
  - (i) details of the redemption rights of the applicant issuer and/or the holders of debt securities;
  - (j) if the performance of an instrument relates to the performance of an index and/or the calculation thereof, the index calculation agent for debt securities must be registered as such with the JSE. To register as an index calculation agent the entity must make application to the JSE and must comply with the criteria as determined by the JSE from time to time and published on the JSE website; and
  - (k) details of the debt securities' in relation to other debt, either listed or unlisted, of the issuer including but not limited to details of seniority.

## **Details of the subscription process**

- 4.12
- (a) The procedures for offers for subscription and sale of debt securities. Where necessary, reference is to be made to the fact that subscriptions may be reduced. If the applicant issuer (or any third party subscribing for any debt securities) has a right to cancel the issue or subscription for the debt securities at any time prior to the issue, such right must be specified in the placing document and/or the pricing supplement;
  - (b) the arrangements for the amortisation of the debt securities, if any, including the repayment procedures and schedules;
  - (c) a statement that the debt securities shall be issued in the currency of the Republic of South Africa;



- (d) a statement that the issue will adhere to the recognised and standardised electronic clearing and settlement procedures operated within the JSE environment;
- (e) a description of the register of debt securities and registration process, the electronic method of interest and redemption payments on the JSE via Strate;
- (f) the rights conferred upon the investor of debt securities and particulars (if any) thereof; and
- (g) purpose of the issue and intended application of its proceeds must be stated.

### **Details of the guarantee, trustee and representatives**

- 4.13 (a) Where the debt security to be issued is guaranteed, secured or subject to credit enhancement, the placing document must be accompanied by certified copies of:
- (i) the guarantee or credit enhancement agreement; as the case may be; and
  - (ii) a duly executed board resolution of the guarantor or appropriate legal authority authorising the provision of the guarantee, security document and/or credit enhancement.
- (b) Details of the guarantee, security and/or credit enhancement agreement, as the case may be must be disclosed in the placing document and be provided to the JSE including but not limited to:
- (i) the identity and general business of the entity providing the guarantee, security and/or credit enhancement;
  - (ii) salient terms of the guarantee, security or credit enhancement, including:
    - (1) the name(s) of the signatories thereto;
    - (2) the name(s) of the administrator(s) or trustee(s) holding the guarantee or security;
    - (3) whether the guarantee or security is conditional or unconditional and whether revocable or irrevocable; and
    - (4) whether the guarantor undertakes to make payment of the amounts payable in terms of the guarantee or security upon the receipt of a written request from the trustee or investor.
- (c) The following details of trustees or of other representatives for the holders of debt securities if applicable (e.g. securitisation issues):
- (i) the name, function, description and address of the representative of the holders of debt securities, the main conditions of such representation and in particular the terms or conditions under which the trustee or representative may be replaced; and
  - (ii) an indication of the place where the public may have access to the contracts relating to these forms of representation.

### **Taxation**

- 4.14 (a) A statement regarding withholding tax on the income from the debt securities (in the country of origin in the case of a foreign applicant issuer listing debt securities on the JSE);
- (b) an indication as to whether the applicant issuer is required to gross up income payments where there is a withholding of tax at source; and

- (c) details of any taxation imposed or levied on the applicant issuer as a result of the issue of the debt securities as required by law.

### **Exchange control**

- 4.15 (a) Information on any Exchange control regulations to be considered that may be relevant to an investor; and
- (b) if applicable, a statement that Exchange control approval has been granted to the applicant issuer and a negative statement if Exchange control approval is not required.

### **Financial and legislation information**

- 4.16 (a) The financial information in paragraph 4.16(b) shall either be included in the placing document or incorporated by reference; and
- (b) the financial information which the applicant issuer or the guarantor, if applicable, is required to disclose is set out in Section 5, and in addition the applicant issuer must disclose:
  - (i) any material change in the financial or trading position of the applicant issuer and its subsidiaries that has occurred since the end of the last financial period for which either audited annual financial statements or unaudited interim reports have been published (which disclosure does not have to be reviewed and reported on by the applicant issuer's auditors), or an appropriate negative statement;
  - (ii) legislation under which the applicant issuer operates and the legal form which it has adopted under that legislation (i.e. incorporation);and
  - (iii) reference to the updated statutory documents and where these may be inspected and where they are available to any potential investor.

### **Other**

- 4.17 (a) The document must make provision for 66.67% (sixty-six point sixty-seven percent) of holders of debt securities approving changes to the terms and conditions of the debt securities as well as the fact that notification of holders of debt securities meetings will be published on SENS; and
- (b) if the applicant issuer obtained a credit rating for the applicant issuer itself or for the programme memorandum, such fact must be disclosed in the programme memorandum. In the case of an offering circular, the actual rating must be disclosed.

### **Responsibility**

- 4.18 (a) The applicant issuer must accept full responsibility for the accuracy of the information contained in this placing document. The placing document must include the following statement. "The applicant issuer certifies that to the best of their knowledge and belief there are no facts that have been omitted which would make any statement false or misleading and that all reasonable enquiries to ascertain such facts have been made as well as that the placing document contains all information required by law and the Listings Requirements. The applicant issuer shall accept full responsibility for the accuracy of the information contained in the placing document, pricing supplements and the an-

- nual financial report, the amendments to the annual financial report or any supplements from time to time, except as otherwise stated therein”; and
- (b) a limitation of liability provision must be provided in the placing document, that the JSE takes no responsibility for the contents of the placing document, pricing supplements, or the annual report (as amended or restated from time to time) or the amendments to the annual report, makes no representation as to the accuracy or completeness of any of the foregoing documents and expressly disclaims any liability for any loss arising from or in reliance upon the whole or any part of placing document, pricing supplements, or the annual report (as amended or restated from time to time) or the amendments to the annual report. The applicant issuer shall accept full responsibility for the accuracy of the information contained in the placing document pricing supplements, and the annual report or the amendments to the annual report, except as otherwise stated therein.

### **Documents available for inspection**

- 4.19 (a) The following documentation shall be available for inspection at the registered office of the applicant issuer and in Johannesburg for as long as debt securities are issued and outstanding under the placing document:
- (i) the current placing document;
  - (ii) any supplementary documents published since the current placing document was published;
  - (iii) any pricing supplements (with respect to outstanding issues) issued since the current placing document were published;
  - (iv) any document incorporated into the placing document by reference;
  - (v) the financial information of the issuer; and
  - (vi) the financial information of the guarantor.
- (b) The documentation referred to in paragraph 4.19(a)(i)–(iii) must also be made available in electronic form on the JSE website and the documents referred to in 4.19(a)(i)–(iii) and (v) must be available on the applicant issuer’s website. Financial information in respect of the guarantor must be available at the applicant issuer’s registered address; and
- (c) The signed placing document must be available to the public via placement of the document on the JSE and the issuer’s website at least 5 business days before the listing date of the first instrument unless otherwise agreed with the JSE. If the applicant issuer has a listing on the JSE or any exchange which is a member of the World Federation of Exchanges, the placing document must be available on the JSE’s and issuer’s websites for at least 3 business days before the listing of the first instrument.

### **Signing and date of the placing document**

- 4.20 The placing document shall:
- (a) in the case where the applicant issuer is a company, be signed by two directors of such company, or if such company has only one director, by that director and by a duly authorised official of such company;
  - (b) in the case where the applicant issuer is not a company, be signed by two duly authorised senior officials of such applicant issuer;

- (c) the signatories shall be deemed to have authorised the publication of the placing document; and
- (d) every signature to a placing document shall be dated, and the latest of such dates shall be deemed to be the date of the placing document.

### **Offering circular or pricing supplement**

4.21 The offering circular or pricing supplement relating to a specific issue of a debt security under a registered programme must provide an investor with enough information including the full terms and conditions of that debt security for an investor to fully understand the product and must include, as a minimum if applicable, the following:

- (a) instrument code;
- (b) issue date;
- (c) issue price;
- (d) nominal value;
- (e) ISIN;
- (f) the date from which interest accrues;
- (g) day and method for interest calculation methodology;
- (h) first settlement date;
- (i) interest payment dates;
- (j) coupon (limited to three decimals);
- (k) coupon rate indicator;
- (l) base CPI for linked instruments;
- (m) last day to register;
- (n) books closed period;
- (o) redemption/maturity date;
- (p) a description of the underlying asset including the identity of the reference entity in the case of a credit linked note;
- (q) value of total notes in issue;
- (r) date of approval of the programme;
- (s) date convention;
- (t) final amount payable on maturity if different from nominal value;
- (u) whether the instrument is linked to another listed instrument and the name, code and ISIN of that instrument;
- (v) credit rating for applicant issuer, programme memorandum or debt instrument, if applicable;
- (w) covenants;
- (x) events of default;
- (y) capital raising process to be followed;
- (z) date the credit rating was issued and the date it is up for review;
- (aa) responsibility statement by the issuer complying with Section 4.18(a) and (b);
- (bb) any additional terms not disclosed in the programme memorandum; and
- (cc) any other relevant information.

- 4.22 The applicant issuer must include a statement in the pricing supplement relating to a specific issue of debt securities under a registered programme memorandum that the authorised amount has not been exceeded.
- 4.23 The pricing supplement in draft form must be sent to investors as notification of the capital raising at least 48 hours before the closing time of the capital raising. If any changes are made to the pricing supplement after it was distributed, the revised pricing supplement must be sent to all investors that received it originally. If all investors agree, the time period can be shorter than 48 hours.
- 4.24 If the pricing supplement contains changes to the original programme, such changes should be brought to the attention of the investors.
- 4.25 Where asset-backed debt securities are issued under a programme memorandum, the relevant pricing supplements must comprise supplementary information on the underlying assets as required by section 6.2.

## **Rating Agencies**

- 4.26 An applicant issuer is not required to use the services of a rating agency. Should the applicant issuer elect to utilise the services of a rating agency and formally accepts the rating given to the applicant issuer, the programme memorandum or any debt securities issued by the applicant issuer, such rating must be included in the programme memorandum or the pricing supplement or in the event of amendments to the rating after the rating has been reviewed on an annual basis, then the rating has to be announced on SENS as soon as possible; and the JSE must be informed within 48 hours of the receipt by the applicant issuer of the rating or the amendments thereto.

## **Section 5**

### **Financial Information**

- 5.1 General
- 5.3 Financial statements
- 5.5 Content of financial information
- 5.6 Report of the independent auditor
- 5.7 Profit forecasts and estimates

#### **General**

- 5.1 The information referred to in this section may be included in the placing document or incorporated by reference in the placing document at the time of the listing or registration of the programme memorandum. Where information is incorporated by reference and is made available in electronic form –
  - (a) these documents shall be made easily accessible when accessing the applicant issuer's website;
  - (b) the documents cannot be modified;
  - (c) the website shall not contain hyperlinks, with the exception of links to electronic addresses where information incorporated by references is available; and
  - (d) the investor shall have access to downloading and printing of the documents.
- 5.2 Financial information referred to in paragraph 5.5 shall be prepared in accordance with IFRS or any other acceptable accounting framework as determined in consultation with the registrar.\* Government, municipalities, parastatals and utilities that are subject to enabling legislation, may require adherence to other standards and this fact should be disclosed.

#### **Financial statements**

- 5.3 An applicant issuer which makes application for the registration of a programme memorandum must have published and submitted financial statements which:
  - (a) have been prepared in respect of at least the last three financial years (except as provided for in paragraph 5.4) and the latest published audited financial statements of such applicant issuer must be in respect of a period ended not more than 18 months before the date of the placing document. If more than 9 months have lapsed since the last financial year end, interim financial statements, prepared in accordance with IAS34, must be submitted to the JSE. No audit or review opinion is required on the interim financial information.
  - (b) have been prepared in accordance with the Companies Act or other appropriate legislation; and

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\*Means the person referred to in Section 6 of the FMA.

- (c) have been independently audited by an accredited auditor pursuant to paragraph 7.31. If the financial statements of the applicant issuer for the latest financial year-end has not been audited by an accredited auditor, then the accredited auditor appointed must issue an audit report in respect of such latest period, dated the day the placing document is submitted to the JSE for formal approval. Government, municipalities, parastatals and utilities may apply for dispensation from this paragraph 5.3(c) if audited by the Auditor general.
- 5.4 Notwithstanding paragraph 5.3, financial statements of an applicant issuer relating to a period shorter than three years may be accepted if the JSE is satisfied that:
- (a) the acceptance of financial statements of the applicant issuer for such shorter period is in the interests of the applicant issuer and will not prejudice the interests of investors and that investors have sufficient information available to arrive at an informed assessment concerning the financial position and affairs of the applicant issuer and the debt securities for which the listing is sought; or
  - (b) the debt securities for which the listing is sought are guaranteed debt securities, provided that the guarantor has complied with 5.1; or
  - (c) the debt securities for which the listing is sought are asset-backed debt securities.

### **Contents of financial information**

- 5.5 The financial information prepared in accordance with IFRS must also include:
- (a) details of any material post balance sheet events occurring subsequent to the issue of the latest audited financial statements;
  - (b) details of the credit risk profile (if applicable) to draw the attention of potential investors to the risks that they will assume; and
  - (c) a statement as to the adherence to the King III Code of Corporate Governance and a description of any differences and reasons for non-adherence.

### **Report of the independent auditor**

- 5.6 The financial information of the applicant issuer together with the auditor's report must be provided to the JSE. The auditor's report must comply with IAS and must include the following:
- (a) scope of the audit; and
  - (b) audit opinion.

### **Profit forecasts and estimates**

- 5.7 An applicant issuer is not obliged to include profit forecasts or profit estimates in any placing documents or publication of any information. If the applicant issuer chooses to include a profit forecast or profit estimate in a placing document or pricing supplement, the following requirements have to be complied with. The requirements apply equally to forecasts or estimates of profits or losses, cash flows or net asset values ("collectively defined as 'profits or losses' ") of an applicant issuer or an undertaking that is to become a material part of an applicant issuer's group.

- 5.8 Any statement or information relating to the future prospects of an applicant issuer or an undertaking that is to become a material part of an applicant issuer's group, must be clear and unambiguous. The applicant issuer must determine in advance with its debt sponsor whether such a statement of information will constitute a profit forecast or an estimate. Any profit forecast or estimate must be presented in an explicit manner and must be compiled with using accounting policies applied by the applicant issuer.
- 5.9 A dividend forecast must be treated as a profit forecast where the applicant issuer has a known policy of relating dividends to earnings, or has an insufficient level of retained earnings, or the forecast otherwise implies a forecast of profit. In the event of uncertainty the JSE must be consulted.
- 5.10 In the event of an applicant issuer including a profit forecast or estimate in a placing document or pricing supplement, it must either:
- (a) produce and submit to the JSE a profit forecast or estimate and auditor's report thereon in accordance with:
    - (i) ISAE 3400 – The Examination of Prospective Financial Information and the South African Institute of Chartered Accountants Revised Guide on Forecasts, in respect of profit forecasts; or
    - (ii) ISAE 3000 – Assurance Engagements other than Audits or Reviews of Historical Financial Information, in respect of the estimate; or
  - (b) include a statement in the announcement advising holders of debt securities that the forecast financial information has not been reviewed and reported on by the applicant issuer's auditors in accordance with 5.12(a).
- 5.11 The JSE reserves the right to insist on sign-off by the auditor in accordance with paragraph 5.12(a) where it believes that it would be in the interest of holders of debt securities.
- 5.12 The period of the forecast or estimate should normally be to the end of the financial period. If it is not, then the period of the forecast or estimate must be in respect of a period for which the results will be published, or the applicant issuer must make a new forecast for such a period.
- 5.13 A profit forecast or estimate included in a placing document, must be reported on by an auditor in accordance with paragraph 5.10(a)(i) or (ii) and must include a statement of the principal assumptions for each factor that would have a material effect on the achievement of the forecast or estimate. These assumptions must:
- (a) be clearly segregated between assumptions about factors that the directors can influence and assumptions about factors that are exclusively outside the influence of the directors;
  - (b) be readily understandable by investors;
  - (c) be specific about the particular aspect of the estimate/forecast to which they refer and about the uncertainty attaching to that aspect; and
  - (d) not relate to the general accuracy of the estimates (e.g. sales estimates, expense estimates, etc.) underlying the forecasts.
- 5.14 With regards to a profit estimate the estimate may only be subject to assumptions in exceptional circumstances and such exceptional circumstances should be explained.



## **Section 6**

### **Specialised Products/Entities**

- 6.1 Special purpose vehicles/asset-backed debt securities
- 6.3 High yield debt securities

#### **Special purpose vehicles/asset-backed debt securities**

- 6.1 Due to the complex nature of asset-backed debt security transactions, the JSE should be consulted at an early stage.
- 6.2 The placing document or pricing supplement published in connection with the issue of asset-backed debt securities must, over and above those requirements in Sections 4 and 5, include the following additional information:
  - (a) details of the underlying assets;
  - (b) a full description of the assets/rights forming the subject matter of the securitisation scheme specifying at least the following, where relevant:
    - (i) the legal jurisdiction(s) where the assets are located;
    - (ii) the nature of and title to the assets;
    - (iii) the criteria for the selection of the assets;
    - (iv) the number and value of the assets in the pool;
    - (v) the seasoning of the assets;
    - (vi) the level of collateralisation:
      - (1) rights of recourse against the originator to the extent allowed in law, including a list of material representations and warranties given to the applicant issuer relating to the assets;
      - (2) rights to substitute the assets and the qualifying criteria;
      - (3) the treatment of early amortisation of the assets;
      - (4) level of concentration of the obligors in the asset pool, identifying obligors that account for 10% or more of the asset value; and
      - (5) where there is no concentration of obligors above 10%, the general characteristics and descriptions of the obligors.
  - (c) a description of the sale or transfer of the assets or assignment of any rights in the assets to the applicant issuer, indicating the extent of the right of recourse;
    - (i) a description of the structure or flow diagram of the scheme;
    - (ii) an explanation of the flow of funds stating:
      - (1) the method by which the cash flow from the assets is intended to meet the applicant issuer's obligations;
      - (2) detail on any specific credit enhancement other than disclosed elsewhere;
      - (3) an indication of where potential material liquidity shortfalls may occur, the availability and details of any liquidity support and plans to cover potential shortfalls;

- (4) information regarding the accumulation of surpluses in the applicant issuer and an indication of the investment criteria for the investment of any liquidity surpluses;
- (5) the payment methods and flows in respect of the assets;
- (6) the “trapping” of cash and the order of priority of payments made by the applicant issuer;
- (7) details of any other arrangements upon which payments of interest and principal to holders of securities are dependent;
- (8) details of any subordinated debt finance;
- (9) the name, address, description and significant business activities of the originator or creator of the assets backing the issue;
- (10) the name, address, description and significant business activities of the administrator or equivalent (if any) together with a summary of the administrator’s responsibilities and a summary of the provisions relating to the appointment or removal of the administrator and alternative administrator and their details;
- (11) similar details for trustees and their responsibilities or other representatives of holders of debt securities;
- (12) the names and addresses and brief description of:
  - (aa) any swap counterparties;
  - (bb) providers of material forms of credit enhancement; and
  - (cc) the banks with which the main accounts relating to the transaction are held;
- (13) any other information that is material to an understanding of the issue and expenses payable by the applicant issuer;
- (14) details regarding the relationship between any parties, including any relationship/s outside the ordinary course of business, in respect of any agreements relating to the asset-backed debt securities; and
- (15) information of any legal or arbitration proceedings, including any proceedings that are pending or threatened, of which the applicant issuer is aware, that may have or have had a material effect on the ability of the applicant issuer to meet its obligations in respect of the financial position of the asset-backed debt securities, or an appropriate negative statement.

## **High yield debt securities**

### **General**

- 6.3 This section stipulates the requirements for the listing of high yield debt securities. HYDS’s which will be traded in the same manner as any other form of debt securities listed on the JSE, including in respect of trade reporting and settlement system. The following additional requirements over and above those in Sections 4 and 5 and/or exceptions apply to the applicant issuer with respect to the listing of high yield debt or the registration of the programme memorandum that makes provision for high yield debt securities.

- 6.4 For the purpose of this section, covenants that will apply to the applicant issuer and its existing and future majority-owned subsidiaries are referred to as “restricted subsidiaries”, effectively building a wall of restrictions around the issue undertaking. Unless otherwise negotiated, restricted subsidiaries will be guarantors, jointly and severally, of the listed debt securities.
- 6.5 All placing documents pertinent to debt securities to be listed by the JSE that are high yield debt securities, with a speculative (below a level of BBB-/Baa3 on a global or national rating scale) grade credit rating or no credit rating, must provide in bold lettering on the front cover of the placing document or pricing supplement that the listed debt securities are of a speculative nature and that prior to investing in these debt securities investors should seek independent professional advice. Reference to sections of the placing document of the many considerations that may affect the issue in the placing document; including scope of operations, business track record, volatile or uncertain operating environments, shareholder and capital structure, levels of debt leverage, re-financing risk, the visibility and sustainability of cash flows, and relevant covenants and covenant structures should be highlighted. The additional listing particulars in respect of high yield debt securities that are required for listing are referred to in paragraph 6.6.
- 6.6 The placing document providing for the HYDS must incorporate the following information over and above the disclosure requirements in Section 4 of the Debt Listing Requirements:
- (a) the JSE requires an applicant issuer to include separate financial statements for each subsidiary guarantor, unless:
    - (i) each subsidiary guarantor is wholly-owned;
    - (ii) each subsidiary guarantee is unconditional, and the applicant issuer’s obligations are jointly and severally guaranteed by the subsidiary; and
    - (iii) the subsidiary guarantors comprise all of the direct and indirect subsidiaries of the applicant issuer.

If these conditions apply, the applicant issuer may present financial information required in terms of paragraph 5.5 on a consolidated “EBITDA” basis without having to provide separate financial statements for each subsidiary guarantor. EBITDA means earnings before interest, taxes, depreciation and amortisation projections and growth throughout the term of the listed debt security.

- (b) the JSE requires the applicant issuer to provide financial information as required in terms of paragraph 5.5 and its unaudited interim financial statements to the JSE on a semi-annual basis (however a quarterly basis is recommended), or such intervals as the JSE may, in its discretion, determine.

### **Guarantee collateral and security**

- (c) details of the guarantee, the collateral and/or the security documents, their application of proceeds, possession, use and release, limitation and effectiveness, and modification thereof;
- (d) details of the applicant issuer’s and its restricted subsidiaries ability to incur additional debt;
- (e) details of any restrictions on any specific payment types;
- (f) details of any prohibition liens imposed on the applicant issuer and its restrictive subsidiaries, if any, as well as the list of permitted liens;

- (g) details of the restrictions on the applicant issuer and its restrictive subsidiaries from entering into transaction with affiliates, or any limitations on “unrestricted subsidiaries”.

Unrestricted subsidiaries means:

- (i) any subsidiary of the applicant issuer that is designated by the applicant issuer’s board of directors to the designation of unrestricted subsidiary; and
  - (ii) any subsidiary of an unrestrictive subsidiary.
- (h) detail of any terms and/or consideration which permit the applicant issuer to revoke any designation of a subsidiary as an unrestricted subsidiary, after the issue date;
  - (i) details of the restrictions placed on the applicant issuer to enter into agreements with restricted subsidiaries that prevent restricted subsidiaries from independently obtaining financing, paying dividends or making other distributions on their capital stock, make any investments in the applicant issuer or in another restrictive subsidiary, or transfer any of their property or assets;
  - (j) details of any limitations placed on the applicant issuer and its restricted subsidiaries from making any disposition of assets or shares of capital stock of a subsidiary;
  - (k) details of any limitations placed on the applicant issuer and its restricted subsidiaries that may:
    - (i) restrict mergers, consolidations and business combinations;
    - (ii) limit any change in control of ownership of the applicant issuer;
    - (iii) restrict sale-leaseback transactions; and
    - (iv) prohibit the applicant issuer and its subsidiaries from engaging in any additional business outside of their existing operations;
  - (l) any reserve arrangements to be made for interest and redemption obligations;
  - (m) provide details of what constitutes incidents of an event of default, and any remedy in terms of the terms and conditions of the debt instrument;
  - (n) details of provisions permitting the applicant issuer to partially or fully redeem the listed debt securities with the net proceeds of any equity offering by the applicant issuer, including the specific period of time, as well as the price at which such purchase may take place;
  - (o) details of any amendments and waivers, authorised by the board of directors of the applicant issuer to modify, amend or supplement the indenture, any guarantee, to the listed debt securities, without notice or consent of any investor in the listed debt securities;
  - (p) any additional consideration with regards to:
    - (i) the role of and the duties of the appointed Trustee;
    - (ii) ranking and subordination of listed debt securities;
    - (iii) withholding tax on payment to investors;
    - (iv) notices to be issued in respect of the listed debt securities;
    - (v) default procedures;
    - (vi) defeasance covenants;
    - (vii) risk factors; and
  - (q) Placing document must fully describe the material risk factors in terms of paragraph 4.10(e) and that investors of any high yield debt security should en-

sure that they understand fully the nature of the high yield debt security, the extent of their exposure to the risks, and that they consider the suitability of the high yield debt security as an investment in the light of their own circumstances and financial position.

## **Section 7**

### **Continuing Obligations**

- 7.1 Introduction
- 7.2 Continuing obligations
- 7.13 Changes to existing debt securities or placing document
- 7.26 Communication with investors
- 7.28 Trustee or representative for the body of investors
- 7.29 SENS announcements
- 7.30 Register of Note Holders
- 7.31 Appointment of auditors

#### **Introduction**

- 7.1 The registration of a programme memorandum, the listing of a debt security on the JSE and any additional listings in respect thereof are granted subject to the Debt Listing Requirements as amended from time to time.

#### **Continuing obligations**

- 7.2 An applicant issuer granted a listing of debt securities, and where required by the JSE any guarantor in respect of such listing, shall, within six months of the end of every financial year submit its audited annual financial statements to the JSE. Where interim financial statements are prepared, they must be submitted to the JSE within three months of the end of the period to which they relate. The applicant issuer and the guarantor must publish a notice of availability announcement on SENS stating when and where such financial information will be available for inspection.
- 7.3 In the case of the type of debt securities detailed in section 6, the applicant issuer shall submit within six months of every financial year its audited annual financial statements to the JSE (or at such intervals and in respect of such periods as the JSE may in its discretion determine).
- 7.4 The following procedure shall apply to an applicant issuer or any guarantor that fails to comply with paragraph 7.2 or if applicable paragraph 7.3 above:
  - (a) five months after the applicant issuer's financial year end, the JSE will send to the applicant issuer a letter of reminder, advising that the applicant issuer still has one month within which to submit its annual financial statements, failing which the listing of the applicant issuer's debt securities may be suspended until such time as the annual financial statements have been submitted;
  - (b) if the applicant issuer has not complied with paragraph 7.2 or if applicable paragraph 7.3 above by the end of the sixth month the JSE will release an announcement over SENS, informing holders of debt securities that the applicant issuer has not submitted its annual financial statements and cautioning holders of debt securities that the listing of the applicant issuer's debt securities is under threat of suspension and possible removal;

- (c) if the applicant issuer has not complied with paragraph 7.2 or if applicable paragraph 7.3 above by the end of the seventh month after its financial year end, the listing of the applicant issuer's debt securities will be suspended and a meeting of the JSE will be convened to consider the continued suspension or removal of the listing of the applicant issuer's debt securities;
  - (d) the suspension of the applicant issuer's debt securities will be lifted after the JSE receives the applicant issuer's annual financial statements and the JSE is satisfied that these annual financial statements comply with IFRS or other acceptable accounting framework approved pursuant to paragraph 5.2 above.
- 7.5 Discretionary authority shall vest with the JSE to waive the requirement for suspension of the listing of the applicant issuer's debt securities where it has not submitted its annual financial statements timeously.
- 7.6 In the case of asset-backed debt securities, in addition to paragraph 7.3 above, an applicant issuer must disclose through SENS –
  - (a) on a semi-annual basis, historical information about all assets of the pool that were the subject of a demand to repurchase or replace due to breach of the representations and warranties contained in the agreements underlying the asset-backed debt securities; and
  - (b) on a quarterly basis, details of the performance of the underlying assets in aggregate, including details of any defaults in respect of such assets.
- 7.7 Where an applicant issuer is not obliged by law to file financial statements with the Companies and Intellectual Property Commission, the requirements of 7.2 may be varied at the discretion of the JSE.
- 7.8 An applicant issuer shall within one business day of the happening of an event of default in respect of a Debt Security, within the meaning of the relevant terms and conditions of such Debt Security, notify the JSE thereof.
- 7.9 If the JSE has reason to believe that an event of default as contemplated in 7.8 has occurred or is about to occur, it may request the applicant issuer to confirm or deny the existence of such default or potential default in writing within one business day of receipt of such request or within such longer period as agreed with the JSE.
- 7.10 Issuers shall forthwith advise the JSE in writing of:
  - (a) a change in name of the applicant issuer, together with a certified copy of the certificate of change of name; the applicant issuer must also publish an announcement relating to the name change on SENS;
  - (b) a change in the applicant issuer's registered address;
  - (c) a change in transfer agent, paying or calculation agent, index provider and index calculation agent if applicable;
  - (d) any "stops" placed against, or the reported loss of, Listed Debt Security certificates; and
  - (e) any changes to the books closed period.
- 7.11 The JSE reserves the right to request an applicant issuer, at any time after the listing of a debt security issued by it, to confirm or refute the happening of an event or existence of a state of affairs which may have a material adverse effect on the ability of such applicant issuer or its guarantor to maintain any of its obligations in respect of any specific Listed Debt Security, and the applicant issuer shall be obliged to comply with such request forthwith.
- 7.12 An applicant issuer must immediately release an announcement on SENS if the applicant issuer has failed to make a distribution to holders of debt securities on

the distribution date. The announcement should contain details of the nature and extent of such failure and suggested remedial steps.

## **Changes to existing debt securities or placing document**

### **Placing document**

- 7.13 A programme memorandum which has not lapsed in terms of 1.13 shall be updated by the applicant issuer in the event of any of the information therein being outdated in a material respect, within six months after the financial year end of the applicant issuer. The amendments to the programme memorandum must be approved by the JSE. No update of a programme memorandum in respect of the issuer's financial statements shall be required if such financial statements are incorporated by reference and such statements are published as required by the Companies Act and submitted to the JSE within six months after the financial year end of the issuer.
- 7.14 In the event that the applicant issuer makes any changes to the placing document that affect the terms and conditions of the debt securities or the guarantee, other than the changes which are of a formal, minor or technical nature or are made to correct a manifest error or to comply with mandatory provisions of the law of South Africa, the applicant issuer must obtain formal approval first from the JSE prior to sending the notice to holders of debt securities incorporating the proposed amendments and obtaining the approval from holders of debt securities holding not less than 66.67% (sixty-six point sixty-seven percent) of the value of a specific class of notes or all outstanding notes. This approval can be obtained by the relevant holders of debt securities (i) at a general meeting or (ii) may be voted on in writing by holders of debt securities entitled to exercise voting rights in relation to the proposed written resolution within 15 business days after the written resolution was submitted to holders of debt securities. A written resolution as contemplated above would have been adopted if it was supported by holders of debt securities entitled to exercise sufficient voting rights for it to have been adopted in accordance with the voting percentage prescribed above at a properly constituted meeting of holders of debt securities. The notice of the proposed written resolution to holders of debt securities should include the actual written resolution including any restrictions on voting in terms of the program memorandum, the last date on which a holder of debt securities should return the signed written resolution and the address to which it should be sent. The amended placing document must be submitted to the JSE and the amendments must be published on SENS.
- 7.15 Debt securities issued under a programme memorandum and subsequently redeemed may be re-issued under the programme memorandum unless restricted in terms of other relevant regulation or the programme memorandum itself.

### **Listed debt securities**

- 7.16 The granting of a listing of debt securities must be announced by the applicant issuer on SENS no later than close of business on the day before the listing of the debt securities. In the event of a change to an issue of the nature as set out in paragraph 7.17, the details of the change shall be submitted to the JSE for approval and published on SENS.



- 7.17 The applicant issuer shall publish on SENS details of the following of new or tap issues by the applicant issuer:
- (a) the debt security name, short name and debt security code;
  - (b) the issue price;
  - (c) the coupon rate/variable interest rate, the first interest date, and the other interest dates;
  - (d) the change from the previous coupon interest rate to the new interest rate payable;
  - (e) the original date of the issue and the proposed date of any additional issue;
  - (f) the previous authorised amount and the new authorised amount;
  - (g) the total amount issued after this additional issue;
  - (h) the effective date;
  - (i) nominal value;
  - (j) last day to register;
  - (k) maturity date;
  - (l) books closed period;
  - (m) ISIN;
  - (n) day and method for Interest Calculation Methodology;
  - (o) coupon rate indicator;
  - (p) programme size; and
  - (q) final amount payable on maturity.
- 7.18 Where an additional amount of securities to be listed causes the total amount issued to exceed the original authorised amount of the applicant issuer, if applicable, the notification to the JSE shall be accompanied by a resolution from the governing body (e.g. Board of directors) of the applicant issuer, authorising such increase in the authorised amount.
- 7.19 Applicant issuers other than the South African government, shall on formal submission be required to submit to the JSE a letter signed by two directors or two duly authorised officers of the applicant issuer confirming that there has been no material change to the financial position or affairs of the applicant issuer as reflected or incorporated in the original placing document since the date of such placing document; alternatively in the event of any such material change, detailed supplementary information shall be submitted to JSE, specifying the nature and extent of such material change. If the applicant issuer has one director only, the letter must be signed by the director and another duly authorised official.
- 7.20 The applicant issuer shall advise the JSE and publish on SENS:
- (a) at least two business days prior to the notice period as contained in the terms and conditions of its placing document or pricing supplement, to extend the maturity date of a listed debt security from its scheduled maturity date, or to step-up/call, in writing of its intention; or
  - (b) at least one business day prior to the commencement of books closed period of a listed debt security, where the issuer requires the expected maturity date to be extended if applicable. Provided that such expected maturity date cannot be extended past its legal maturity date.
  - (c) the issuer may extend the maturity date of any debt security beyond its legal maturity date, subject to the terms and conditions of the placing document and by extraordinary resolution. The issuer's written notice to the JSE and publi-

cation on SENS must be made at least two business days prior to the commencement of the notice period provided in the placing document, regarding the extension of the maturity date.

- 7.21 The issuer is required to deposit additional securities with Strate for listed debt securities prior to settlement date in the event that an issuer is issuing a tap issue.
- 7.22 In the event of a proposed permanent reduction in the authorised amount, listed and issued amount of a debt security (e.g. invitation to redeem, convert or split), an issuer shall notify the JSE and publish on SENS its intention to implement such permanent reduction, providing details of:
- (a) the reduction in the amount;
  - (b) the remaining balance;
  - (c) the proposed date of reduction;
  - (d) the issue date of the notice to the investors giving formal notice of the proposed reduction; and
  - (e) where the issuer has requested a permanent reduction in the issued amounts, the issuer is required to withdraw the existing listed debt securities from Strate on or before LDR (“last day to register”) date, with the amount of the reduction.
- 7.23 In the event of a change in the interest rate, the following information must be published on SENS not less than three business days before the interest is payable:
- (a) the name, short name and code of the debt security;
  - (b) the new rate applicable; and
  - (c) the period for which it is applicable.

## **Dividends**

- 7.24 In the event of a cash disbursement to a holder of debt securities in respect of a debt security is classified as a dividend (including in specie dividend) as defined in terms of the Income Tax Act, an announcement on SENS must be published complying with paragraphs 7.25(i) to (ix) and must include any STC (secondary tax on companies) credits and also indicate whether the distribution is made from capital or income reserves.
- 7.25 Any announcement released on SENS for cash disbursements to holders of debt securities must indicate whether the issue amount is distributed by way of a reduction of CTC (Contributed Tax Capital as defined in the Income Tax Act) or a Dividend (as defined in the Income Tax Act). Announcements released for any cash disbursements to holders of debt securities must include the following where applicable:
- (i) local dividend tax rate represented as a percentage;
  - (ii) gross local dividend amount represented as cents per debt security;
  - (iii) STC credits utilised;
  - (iv) net local dividend amount represented as cents per debt security;
  - (v) non-reclaimable foreign withholding dividend tax rate represented as a percentage;
  - (vi) dividend reclaimable tax rate applicable overseas represented as a percentage;
  - (vii) issued debt securities as at declaration date;
  - (viii) applicant issuer registration number; and

- (ix) tax reference number.

## **Communication with investors**

- 7.26 Once the listing of a debt security is granted to the applicant issuer, the applicant issuer must:
- (a) publish on SENS details of any new issue of debt securities (and, if applicable, guarantees, security or credit enhancements relating thereto), as well as any amendments to the terms and conditions attaching to existing listed debt securities;
  - (b) ensure that all information material to the financial or trading position of the applicant issuer is published on SENS to enable investors of listed debt securities to make an informed investment decision;
  - (c) ensure that all announcements made by the applicant issuer relevant to the issue must be approved by the debt sponsor and released on SENS, and where the applicant issuer is listed on another licensed or recognised exchange, all such announcements released through that licensed or recognised exchange must be published on SENS; and
  - (d) ensure that the release of any information relating to debt securities that are listed on another licensed or recognised exchange, must take place simultaneously on SENS.
- 7.27 To publish on SENS the annual financial statements as detailed in paragraph 5.5, excluding 5.5(b) and paragraph 5.6, within the following time frame:
- (a) with regards to a public entity, within 6 months of the end of the financial year; and
  - (b) with regards to a quasi-governmental entity (most commonly provincial and local authorities/municipalities and state owned entities) or a government, within 12 months of the end of each financial year.

## **Trustee or representative for the body of investors**

- 7.28 The Trustee of, or other representative body, for the holders of debt securities (“Beneficial Holders”) referred to in 4.13(c) or its successor is required to confirm in writing annually, or as the JSE may require from time to time:
- (a) that their appointment as Trustee or Representative is still valid; or
  - (b) that their appointment has been terminated and the reasons for termination;
  - (c) that the conditions of the relevant Trust Deed/Representative Agreement relating to a listing during the year have been met; and
  - (d) that they are not aware of a material event (financial or otherwise) referred to in 7.22 to 7.23 occurring, or that such material event has occurred and if so, the Trustee/Representative shall promptly give notice thereof to the JSE and investors.

## **SENS announcements**

- 7.29 All SENS announcements must be submitted to the JSE SENS department according to the procedure stipulated on the JSE website. SENS announcements must be

approved by the debt sponsor and the debt sponsor's logo must appear on the SENS announcement.

## **Register of Note Holders**

- 7.30 A holder of a note is entitled to inspect, at no charge, the Note Holder Register for that class of notes held.

## **Appointment of auditors**

- 7.31 An applicant issuer may only appoint as its auditor an audit firm and individual auditor who is accredited as such on the JSE list of Auditors and their advisers, as set out in Section 22 of the JSE Listings Requirements. This requirement must be considered by the audit committee when recommending an auditor for appointment at the annual general meeting.
- 7.32 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 holders of debt securities 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.
- 7.33 The requirements in paragraphs 7.31 and 7.32 with regard to the auditor apply equally to those foreign registered entities with debt securities listed on the interest rate market and/or the main board of the JSE. In this instance, the audit firm and individual auditor registered in a jurisdiction other than South Africa 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 8 of the JSE Listings Requirements, are, however, slightly different for auditors registered in a jurisdiction other than South Africa.

## **Section 8**

### **Documents to be submitted for listing**

- 8.1 General
- 8.2 Checklists
- 8.3 Documents to be submitted

#### **General**

- 8.1 For the guidance and information of applicant issuers, it should be noted that:
- (a) all documents submitted by applicant issuers to the JSE will become the property of the JSE and are not returnable;
  - (b) any documentation including proposed amendments to documentation by applicant issuers must be submitted to the JSE for approval before being published;
  - (c) placing documents submitted to the JSE for the first time must be accompanied by the declaration detailed in Schedule 2; and
  - (d) drafts of documents to be sent to shareholders that have been approved by the JSE will not be regarded as final documents until notification is received by the JSE that a document dispatched to shareholders was identical, other than in minor respects, to the draft approved by the JSE.

#### **Checklists**

- 8.2 All submissions must be accompanied by a checklist (available on the JSE website) duly completed indicating clearly where the specific paragraph numbers in the Debt Listings Requirements have been complied with. Comments of the JSE should be updated on the checklist on a continuing basis up to the submission for formal approval. All submissions subsequent to the first submission must be marked up to reflect changes from the previous submission.

#### **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) a copy of the placing document;
  - (b) a certified copy of the certificate of registration and certificate of incorporation of the applicant issuer;
  - (c) a copy of the resolution or resolutions of the board of directors or the governing authority of the applicant issuer authorising the establishment of the programme memorandum and/or issue of debt securities as the case may be;

- (d) a copy of the Memorandum of Incorporation of the applicant issuer or equivalent constitutive documents;
- (e) a certified copy of any applicable guarantee in respect of the debt security;
- (f) confirmation that the applicant issuer has appointed a settlement agent;
- (g) confirmation from Strate that the applicant issuer has been authorised as a participant in terms of the central securities depository rules and directives;
- (h) any trust deed relating to the debt securities;
- (i) where the applicant issuer is a bank, a copy of the Financial Surveillance Department of the South African Reserve Bank approval;
- (j) approval from the Financial Surveillance Department of the South African Reserve Bank is required when the applicant issuer is incorporated or domiciled in a foreign country, including the common monetary area (other than South Africa);
- (k) written confirmation from the trustee or relevant party holding the guarantee or other security that it has the guarantee in its possession;
- (l) application letter complying with Schedule 1;
- (m) a letter from the debt sponsor complying with Schedule 2;
- (n) confirmation by the applicant issuer:
  - (i) that all applicable regulatory disclosures have been made; and
  - (ii) that there are no material matters, other than disclosed in the placing document or otherwise in writing to the JSE, that should be taken into account by the JSE in considering suitability for the listing of debt securities;
- (o) the annual financial statements of the applicant issuer and/or Guarantor in respect of the period of three years prior to the date of such issue or for such shorter period as agreed to by the JSE in terms of Section 5.4;
- (p) the auditors consent letter;
- (q) letter from the legal adviser that all relevant agreements have been signed; and
- (r) a letter from the debt sponsor confirming that all agreements referred to in the placing documents are finalised and signed off by all the parties involved.

## **Section 9**

### **The South African Government**

- 9.1 General
- 9.3 Dispensation
- 9.4 Material risk factors
- 9.5 Amendment to terms and conditions

#### **General**

- 9.1 The National Treasury of the South African Government, as an applicant issuer of debt securities, is required to comply and satisfy all applicable Debt Listings Requirements, save for the dispensations granted in paragraph 9.3 below.
- 9.2 For the purposes of this section, the placing document is referred to as the terms and conditions.

#### **Dispensation**

- 9.3 The following dispensation is granted to The National Treasury as regards the contents of the terms and conditions:
  - (a) compliance with Section 5 (Financial Information); and
  - (b) documents to be submitted, paragraphs 8.3(b), (c), (d), (e), (h), (i), (j), (k), (n), (o), (p), (q) and (r).

#### **Material risk factors**

- 9.4 Material risk factors and the sensitivity of the issue of debt securities to such risk factors pursuant to paragraph 4.10(e) must be addressed in respect of country/government risk.

#### **Amendment to terms and conditions**

- 9.5 Notwithstanding the provisions of paragraph 7.14, in the event that the applicant issuer makes any changes to the placing document, the following shall apply and a statement to that effect must be included in the terms and conditions:

“No modification of these terms and conditions may be effected without the written agreement of the applicant issuer. The applicant issuer may effect, without the consent of the holders of debt securities, any modification of the terms and conditions which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the law of the Republic of South Africa provided that the JSE must be notified. Any such modification shall be binding on the relevant holders of debt securities.

”

The applicant issuer may with the prior sanction of an extraordinary resolution of holders of debt securities or with the prior written consent of holders of debt securities holding not less than 66.67% (sixty-six point sixty-seven percent) in nominal amount of the debt securities outstanding from time to time, amend these terms and conditions (outside the regulatory (law) changes).

Any modification of these terms and conditions which may have a direct effect on compliance with the Debt Listings Requirements will require the approval of the JSE.”



## **Debt Listing Requirements Schedules**

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- 1 Application for registration of a placing document by the applicant issuer
- 2 Declaration by debt sponsor
- 3 Debt sponsor

### **Schedule 1**

#### **Application for registration of a placing document by the applicant issuer**

Application for registration must contain the following:

- (a) A statement that “It is understood that the granting of a formal approval for registration of a placing document and pursuant therefore the application for listing of a debt security by utilising a pricing supplement shall constitute a contract between the applicant issuer and the JSE Limited to comply with the Debt Listings Requirements from time to time”;
- (b) A statement that “There are no material matters, other than those disclosed in the placing document that should be taken into account by the JSE in considering the suitability for the registration of the placing document and/or the listing of the debt securities for which application is being made”;
- (c) full name of the applicant issuer;
- (d) the addresses of the registered transfer agent of the applicant issuer in the Republic of South Africa;
- (e) where the applicant issuer is a regulated entity, the applicant issuer must state the act under which it is regulated;
- (f) the application must be signed by the two authorised signatories or equivalent, of the applicant issuer and by the debt sponsor;
- (g) the application must be accompanied by a resolution of the directors, or equivalent of the applicant issuer authorising the application for listing;
- (h) statement that the JSE will be advised in writing of any change in debt sponsor, company secretary, address of registered or transfer office; and
- (i) the contact details of the company secretary or other main contact person.

### **Schedule 2**

## Declaration by debt sponsor

The following declaration format must be used by debt sponsors when submitting the first submission of the placing document to the JSE. The declaration must be on their letter-head.

“The Issuer Regulation Division  
JSE Limited  
One Exchange Square  
Gwen Lane  
Sandown  
..... 20.....

Dear Sirs  
(Full name of the debt sponsor) Declaration

The attached application by (full name of applicant issuer) in respect of (brief description of the listing the issuer is applying for) is the subject of this declaration.

I, (full name of debt sponsor), as approved by the JSE:

- (a) hereby confirm that I have satisfied myself to the best of my knowledge and belief, having made due and careful enquiry of the applicant issuer (and its advisers), that all the documents required by the Debt Listings Requirements to be included in the application have been supplied to the JSE, that all other relevant requirements of the Debt Listings Requirements have been complied with, and that there are no material matters other than those disclosed in writing to the JSE that should be taken into account by the JSE in considering the suitability of the application. Should any further information come to my notice before the approval of the application, I will immediately inform the JSE; and
- (b) hereby confirm that I will review each submission for full compliance with the Debt Listings Requirements before submitting it to the JSE.

This declaration is furnished to you in accordance with the Debt Listings Requirements of the JSE and may not be relied upon for any other purpose or by any other person.

.....

Yours faithfully

.....  
(Signature of debt sponsor)

.....  
(Initials and surname of debt sponsor)”

## Schedule 3

## **Debt sponsor**

This schedule contains certain requirements applicable to debt sponsors and should be read in conjunction with Section 2 of the Debt Listings Requirements.

### **Introduction**

- 3.1 This schedule sets out the requirements of the JSE pertaining to the eligibility criteria of debt sponsors.
- 3.2 A debt sponsor may be a company, partnership or sole proprietor with sufficient executive staff to execute all debt sponsor requirements and responsibilities in accordance with the Debt Listings Requirements.
- 3.3 The responsibilities of a debt sponsor are set out in Section 2.

### **Qualifications for approval**

- 3.4 A debt sponsor must satisfy the JSE –
  - (a) that it is competent to discharge the responsibilities of a debt sponsor; and
  - (b) that it accepts the responsibilities of a debt sponsor and agrees to discharge those responsibilities at all times to the satisfaction of the JSE.

### **Eligibility criteria**

- 3.5 The following criteria must be met by a debt sponsor in order to satisfy the JSE that it is competent to fulfil the role of debt sponsor:
  - (a) Employment of staff with relevant experience
    - (i) a debt sponsor will be expected to have staff that has considerable relevant debt market experience;
    - (ii) a debt sponsor must be able to demonstrate to the JSE's satisfaction, that at least three of its executive staff have relevant debt market experience. Such Executive staff will be classified as Debt approved executives and recorded as such by the JSE.
    - (iii) the debt sponsor's approved executives must not have been:
      - (1) convicted of an offence resulting from dishonesty, fraud or embezzlement;
      - (2) censured or fined by a self-regulatory organisation, or recognised professional body;
      - (3) barred from entry into any profession or occupation; or
      - (4) convicted in any jurisdiction of any criminal offence, or an offence under legislation relating to the Companies Act, or been a director or alternate director or officer of a company at the time such company was convicted of any similar offence;
    - (iv) if the relevant criteria detailed in 3.5(a)(i) to (iii) above are not satisfied, the JSE may still accept the applicant as a debt sponsor, provided that such debt sponsor has demonstrated to the JSE's satisfaction that it has the necessary expertise and adequacy of staff to properly discharge the responsibilities of a debt sponsor. In such instance such debt sponsor must have at least one executive approved as a Debt Approved Executive by the JSE. In this instance the JSE will record whichever executive

staff members have qualified for approved executive classification as well as the details of the other debt sponsor staff employed (“employment status”). The JSE reserves the right to review such debt sponsor’s status if and when there is any change to such debt sponsor’s employment status, which must be notified to the JSE within 48 hours of such change.

- (b) Adequate supervision of staff –
  - (i) a debt sponsor must ensure that all staff who do not qualify for classification are supervised and managed by debt approved executives whenever they are involved in debt sponsor activities; and
  - (ii) a debt sponsor must have appropriate controls and procedures to ensure that staff involved in debt sponsor activities do not act beyond their authority.
- (c) Sufficiency of staff –
  - (i) arrangements must be in place to ensure that a sufficient number of debt approved executives are always available to ensure that the debt sponsor’s responsibilities are properly discharged at all times.

### **The application process**

- 3.6 Application to become a debt sponsor must be made to the JSE by submitting the debt sponsor application form (as set out in the Appendix to this Schedule).
- 3.7 An applicant will be required to nominate a person to act as the primary contact with the JSE concerning the application.
- 3.8 The JSE will advise the applicant of the result of the application in writing.

### **Fees**

- 3.9 The relevant fees for application and to act as debt sponsor as determined by the JSE from time to time are available on the JSE’s website “[www.jse.co.za](http://www.jse.co.za)”.
- 3.10 If annual subscription fees payable by a debt sponsor are not paid by 31 January of any year, no document from such debt sponsor will be accepted for submission to the JSE until the fees have been paid in full.

### **Register**

- 3.11 A register of debt sponsors will be published by the JSE.

### **Designations**

- 3.12 A debt sponsor is permitted, but not required, to state on its business documentation that it is a debt sponsor approved by the JSE and may similarly disclose its debt approved executives.

### **Continuing requirements**

#### **Annual confirmation**

- 3.13 Each time the annual subscription is paid, the debt sponsor is required to advise the JSE whether or not it still meets the eligibility criteria, and, specifically, whether or not it continues to have a minimum of three approved executives in its employ.
- 3.14 Individuals who wish to remain as registered Debt approved executives must submit a sworn affidavit to the JSE by no later than 31 January of each year confirming that they were actively involved in providing advice on the application of the Debt Listings Requirements during the previous twelve months and that they will continue to do so in the next twelve months. Failure to make this submission will result in the removal of the individual from the register.

### **Issues affecting approved executive status**

- 3.15 Whenever an approved executive of a debt sponsor resigns and moves employment to another debt sponsor, such person must notify the JSE.

### **Issues affecting debt sponsor status**

- 3.16 A debt sponsor must inform the JSE within 48 hours, in writing, if any of its approved executives leave its employment (including the situation where an approved executive is no longer physically present in the debt sponsor's offices and providing advice to applicant issuers), and, if such departure causes the debt sponsor to have less than three approved executives in its employ it will have a period of three months in which to re-satisfy the eligibility criteria detailed in 3.5 above, failing which (unless the JSE provides dispensation in terms of Schedule 3.5(a)(iv)) the debt sponsor's status will be suspended until such criteria are satisfied. The JSE will publish such details of the suspension of debt sponsors.
- 3.17 A debt sponsor may resign as a sponsor by giving written notice to the JSE and the relevant applicant issuer's on whose behalf it acts.
- 3.18 If the departure of approved executives results in a debt sponsor no longer meeting the eligibility criteria in 3.5 above, the JSE will suspend the debt sponsor's status, announcing same through SENS, until the debt sponsor re-qualifies in accordance with 3.5.
- 3.19 If at any time the JSE considers that a debt sponsor or approved executive is no longer competent, the JSE may suspend the debt sponsor or approved executive on reasonable notice to the debt sponsor. If the debt sponsor or approved executive is dissatisfied with the JSE's decision in this regard they should notify the JSE in accordance with paragraph 1.4 of Section 1.
- 3.20 Notwithstanding acceptance by the JSE of a debt sponsor's resignation, or withdrawal by the JSE of a debt sponsor's status, the debt sponsor shall continue to be subject to the jurisdiction of the JSE for a period of one year following the resignation or withdrawal of status.
- 3.21 A debt sponsor must immediately notify the JSE by email, facsimile and letter if any of the events below occur (failure to make full disclosure to the JSE may result in disciplinary action against the sponsor):
  - (a) any of the debt sponsor's executives are:
    - (i) convicted of an offence resulting from dishonesty, fraud or embezzlement;
    - (ii) censured or fined by a self regulatory organisation, or recognised professional body;

- (iii) barred from entry into any profession or occupation; or
  - (iv) convicted in any jurisdiction of any criminal offence, or an offence under legislation relating to the Companies Act, or was a director or alternate director or officer of a company at the time such company was convicted of any similar offence; or
- (b) an approved executive ceases to meet the criteria for approved executive classification.

## Appendix to Schedule 3

### Application to be a debt sponsor

The criteria to be complied with by the applicant for approval as a debt sponsor by the JSE are listed in the debt sponsor's application and declaration below. The information is required to satisfy the JSE that the applicant is competent to fulfil the role of debt sponsor:

Details of the sponsor application form to be submitted by the applying debt sponsor to the JSE are set out below:

1. Name of applicant  
.....
2. Trading name (if different)  
.....  
Tel:..... Fax: .....  
Website: .....  
e-mail: .....  
Address:  
.....  
.....  
.....
3. Nature of entity (private company, public company, unlimited company, partnership, sole trader)  
.....  
.....  
.....  
.....
4. Name of contact person and contact details  
.....  
.....  
.....  
.....
5. Is the applicant a member of any self-regulating organisation or recognised professional body (specify)?

.....  
.....  
.....

6. Which debt related financial service does the applicant intend offering?

.....  
.....  
.....

7. Describe debt market experience of the applicant and its executive staff in the last three years (provide a suitably detailed table)

.....  
.....  
.....

8. Names and other details of executive staff that will be involved in debt sponsor activities

.....  
.....  
.....

9. What procedures and controls are in place to ensure that personnel do not act outside their authority?

.....  
.....  
.....

10. Please state any other information that you may think is relevant to your application

.....  
.....  
.....

11. With respect to your approved executives, have any of them ever been:

(a) convicted of an offence resulting from dishonesty, fraud or embezzlement? If yes, provide details:

.....  
.....

(b) censured or fined by a self regulatory organisation, or recognised professional body? If yes, provide details:

.....  
.....

(c) barred from entry into any profession or occupation?

.....  
.....

(d) convicted in any jurisdiction of any criminal offence, or an offence under legislation relating to the Companies Act, or was a director or alternate director or officer of a company at the time such company was convicted of any similar offence? All such convictions must be disclosed even though they may now be "spent convictions".

12. Applicant's undertaking to the JSE:

We hereby apply for approval as a debt sponsor as defined in the Debt Listings Requirements. Should such application be successful we undertake to:

- (i) be bound by and discharge our responsibilities as a sponsor under the Debt Listings Requirements as amended from time to time;
- (ii) advise the JSE, in writing, without delay, of our resignation or dismissal from a Sponsor appointment, giving details of any relevant facts or circumstances;
- (iii) acknowledge that the JSE may censure us if the JSE considers that we are in breach of our responsibilities, and that the JSE may publicise the fact that it has done so; and
- (iv) apply the spirit of the Debt Listings Requirements and uphold the integrity of JSE.

We declare that the information supplied is complete and correct, and we agree to comply with the additional notification requirements.

We have read the eligibility criteria for a debt sponsor and believe that this application conforms to the criteria (except as specifically notified to you with this application).

.....	.....
Signature	Signature
.....	.....
Name of signatory	Name of signatory
.....	.....
Position	Position
.....	.....
Date	Date



# Debt Listings Requirements Guidance Letters

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Guidance letters are supplemental to the Debt Listings Requirements and are issued by the JSE from time to time to address various matters pertaining to the Listings Requirements such as:

- (1) Administrative and procedural issues; and
- (2) guidance on the application of specific Debt Listings Requirements.

# Debt Listings Requirements Guidance Letters Contents

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# Guidance letter: Interest rate market – Procedures

Date: 1 May 2011

## Procedure for approval – Placing document

Please note that all terms contained herein are defined in the JSE Debt Listings Requirements. The procedure for approval of documentation is as follows:

### 1. Informal comment

- (a) a copy of the documentation required to be approved in terms of the Debt Listing Requirements (“documents”) should be submitted to the JSE as early as possible for informal comment;
- (b) if documents are received by the JSE on or before 10h00 on a business day, they will be deemed to have been lodged at 10h00 on such business day; and if they are received after 10h00 on a business day, they will be deemed to have been lodged at 10h00 on the following business day (“the deemed lodgment time”);
- (c) within 120 hours of the deemed lodgment time of the first submission, the JSE will provide the relevant debt sponsor with informal comment. The JSE may insist on a further informal comment submission where additional information is inserted after the initial lodgment of the documentation;
- (d) the issuer is required to prepare its timetable on the basis that JSE approval shall be obtained not less than 10 business days prior to the proposed listing date of the relevant debt securities. An issuer may make use of marketing material to assist with the book-building exercise and/or auctioning as the case may be, prior to the JSE granting final approval, provided it is not misleading and it is stated in the placing document that the JSE's approval has not been granted yet;
- (e) it is the obligation of the debt sponsor to advise the JSE if it intends bringing an instrument to market that is not currently listed on the Debt market of the JSE as early as possible as the New Products Committee of the JSE and the FSB will be consulted in this regard. If there is uncertainty regarding the nature of the instrument, a formal ruling request may be sent to the JSE. The JSE will process rulings in 5 business days.

### 2. Informal approval

- (f) once the informal comment amendments have been incorporated into the documents by the applicant issuer, such amended documents may be submitted to the JSE for informal approval;
- (g)
  - (i) within 72 hours of the deemed lodgment time for informal approval, the JSE may grant informal approval or may refuse informal approval and return the documents to the relevant debt sponsor with comments (if they are found not to be in accordance with the Debt Listings Requirements) or without comment (if an incomplete set of documents was submitted or (“omission”));
  - (ii) within 7 days of the deemed lodgment time for informal approval, the JSE may, in certain cases, submit the documents to the FSB in order to obtain comments/approval from the FSB. This will apply when a new placement document is submitted to the JSE in which provision is made for the listing of instruments that are not currently listed on the Interest Rate market or the Main board (i.e. it is a new type of security), when there is an amendment to an existing programme memorandum to make provision for instruments that are not currently listed on the Interest Rate

market or the Main board (i.e. it is a new type of security), and in any other case that the JSE deem necessary;

- (h) in the event of 2(g)(i) the debt sponsor may re-submit the documents after incorporating the JSE's comments or rectifying the omission, whereupon Section 2(g)(i) and (ii) will again apply;
- (i) the procedures stipulated above will apply until the JSE grants informal approval. Informal approval will not be granted until all comments made by the FSB (if applicable) are addressed. After a third submission, the JSE reserves the right to charge an additional fee equal to 100% of the original fee for every subsequent submission.

### **3. Formal Approval**

- (j) once informal approval has been granted by the JSE 5 copies of the final documents must be submitted to the JSE
- (k) upon submission for formal approval, the JSE may:
  - (i) within 48 hours of the deemed lodgement time for formal approval, grant formal approval (if necessary, subject to conditions); or
  - (ii) within 48 hours of the deemed lodgement time for formal approval, refuse formal approval (with comment, if the documents are capable of repair);
- (l) in the event of 3(k)(i) and (ii), the debt sponsor may re-submit the documents after incorporating the JSE's comments or after repairing the documents, whereupon 3.(j) and (k) will again apply; and
- (m) if the documents are returned to the debt sponsor after a third submission, the JSE reserves the right to charge an additional fee equal to 100% of the original fee for every subsequent submission.

It is the responsibility of debt sponsors and applicant issuers to ensure that the above procedure regarding the approval of documents can be accommodated within the timetables set out in the listings requirements. In addition, debt sponsors and applicant issuers are advised to structure their timetables relating to extremely complex or voluminous submissions, in order to allow the JSE, upon notification to the debt sponsor and applicant issuer, an additional 48 hours, per submission (informal or formal submissions), to consider the relevant documents.

Applicant issuers and debt sponsors must not assume approval of any aspect of a transaction, including documentation relating thereto, until formal approval has been granted by the JSE.

### **4. Procedure for approval of pricing supplement**

Application for listing of securities and/or additional listings, are as follows:

- (n) all applications under a programme memorandum must be made by submitting draft pricing supplement by 10h00 three days prior to the listing of the debt securities (if material amendments are made to the terms of the programme memorandum a supplement to the programme memorandum must be submitted to the JSE for approval);
- (o) all signed documents including the pricing supplement must be submitted to the JSE by 10h00 on the day prior to the listing date or 13h00 for commercial paper issues that has been cleared three days in advance;
- (p) in the case of a further issue of debt securities made under an existing issue (tap issue), the issuer must submit a signed pricing supplement by 10h00 the day before the listing;

- (Q) the pricing supplement must be supported by a duly executed resolution of the board, or legal authority, specifically authorising the issue of debt securities and subsequent listing from time to time;
- (r) the listing must be announced on sens prior to the listing date of debt securities.

## Guidance letter: Listing of debentures on the JSE

Date: 4 April 2012

The JSE addresses this communication to you to ensure that all issuers of debentures listed on the JSE that were classified as private companies in terms of the 1973 Companies Act, are aware of the consequences and implications of the provisions of the new Companies Act, No. 71 of 2008.

All issuers of listed debentures that were classified as private companies in terms of the 1973 Act are now, by virtue of the provisions of Section 8(2) of the 2008 Companies Act no longer classified as private companies. Furthermore, by virtue of the provisions of section 8(2)(d) of the 2008 Companies Act they are classified as public companies. All issuers of securities listed on the JSE must ensure that they comply, in all aspects, with the provisions of the 2008 Companies Act.

This communication is addressed to you for information purposes only and should not be construed to be advice of any kind. Issuers have to consult their sponsors, professional and legal advisors to ensure that they comply with, and are aware of, the contents and implications of the provisions of the 2008 Companies Act.

## Guidance Letter: Section 4.19(c) of Debt Listings Requirements

Date: 7 September 2011

The JSE would like to remind debt sponsors of the provisions of paragraph 4.19 (c) of the Debt Listings Requirements ("DLRs"):

4.19(c) "The placing document must be made available to investors at least two weeks before the listing date of the first instrument,"

Placing document is clearly defined in the DLRs as:

"An offering circular, a programme memorandum or any other placing document, as the case may be, which contains inter *alia* the provisions required by the Debt Listings Requirements for an issue of debt securities"

The requirement serves a very important purpose of ensuring that investors participating in a placing and potential investors that wish to trade in the instrument once listed are given sufficient time to analyse the documentation with a view of making informed decisions. The JSE would like to point out that the proper interpretation of the requirement is that there must be at least two weeks for investors to assess and study the final documentation. The final documentation must be available for this two – week period on the JSE's website and the documentation may only be added to the JSE's website once formal and final approval has been granted by the JSE. The JSE will in certain exceptional circumstances consider alternative arrangements but debt sponsors must approach the JSE early in the process for a formal ruling.

There have been a number of instances recently where this requirement was either ignored or misinterpreted and the JSE therefore deemed it appropriate to issue this guidance.

This is currently the correct interpretation of the requirement and the JSE has been approached by a number of parties with a view of shortening this two week period or alternatively for the period to commence earlier than is currently the case, The JSE is in the process of considering this request and will also be discussing it at the Advisory Committee scheduled for early October. Depending on the outcome of our discussions, there will have to be a further consultation process with the market and the Financial Services Board before the Debt Listings Requirements can be amended. However, in the mean time the JSE expects full compliance with the requirements.

## Guidance Letter: Auditors letters in terms of section 8.3(t) of the Debt Listings Requirements (“DLR”)

Date: 2 November 2011

Since implementation of the Debt Listings Requirements in June 2011 the JSE has been approached by various parties regarding the difficulties experienced in the market to provide the auditors letter detailing the material subsequent events since the date of the last audit report in terms of Section 8.3(t) of the DLR.

In light of the above the JSE decided to commence a consultation process to address these difficulties experienced in terms of Section 8.3(t). In the Interim, in keeping to the principle behind this requirement the JSE will allow the board of directors to take full responsibility for this statement The JSE will therefore expect to see the following:

1. the board of directors of the applicant issuer will make the statement in the placement document detailing the material changes or a negative statement;
2. the board of directors will confirm that the statement has been made after due and careful enquiry; and
3. a statement must be included confirming that there has been no involvement by the auditors in making such statement. If the auditors were involved, their exact involvement including their scope and conclusion must be clearly explained.

Please feel free to contact us if you have any questions.