

Section 5

Methods and Procedures of Bringing Securities to Listing

Scope of section

This section describes the different methods and procedures by which securities may be brought to listing.

Additional and alternative requirements relating to methods of bringing securities to listing are set out in Section 12 (Mineral Companies), Section 13 (Property Companies), Section 15 (Investment Companies), Section 18 (Dual Listings and Listings by External Companies) and Section 19 (Specialist Securities), respectively. Schedule 24 details the timetable requirements for corporate actions in a dematerialised environment.

The main headings of this section are:

- Section 5.1 Methods open to applicants for bringing securities to listing
- Section 5.4 Introductions
- Section 5.9 Placings
- Section 5.13 Offers for sale or subscription
- Section 5.22 Renounceable offers
- Section 5.28 Rights offers
- Section 5.38 Claw-back offers
- Section 5.39 Capitalisation issues
- Section 5.44 Scrip dividend and cash dividend elections
- Section 5.50 Issues for cash
- Section 5.58 Acquisition or amalgamation/merger issues
- Section 5.62 Vendor consideration placings
- Section 5.63 Exercise of options to subscribe for securities (including options in terms of executive and staff share schemes)
- Section 5.66 Issues with participating or conversion rights
- Section 5.67 Repurchase of securities
- Section 5.85 Payments to securities holders
- Section 5.93 Exchange control approval
- Section 5.94 Share certificates
- Section 5.95 Securities registered in the name of nominee companies
- Section 5.97 Pre-issued trading
- Section 5.99 Price stabilisation
- Section 5.123 Odd lot offers
- Section 5.127 Shares issued to sponsors and advisers in lieu of fees

Methods open to applicants for bringing securities to listing

Without securities already listed

- 5.1 New applicants may bring securities to listing by way of:
- (a) an introduction, being a listing where the applicant complies fully with all Listings Requirements and is not effecting any offer or marketing of securities at or immediately prior to listing; or
 - (b) by the methods referred to in paragraph 5.2 below.

With or without securities already listed

- 5.2 New applicants, or those with securities already listed, may bring securities to listing by way of:
- (a) an offer for sale (including a placing);
 - (b) an offer for subscription (including a placing);
 - (c) an issue with participating or conversion rights; or
 - (d) a renounceable offer.

With securities already listed

- 5.3 Applicants with securities already listed may bring securities, whether or not of a class already listed, to listing by way of:
- (a) a rights offer;
 - (b) a claw-back offer;
 - (c) a capitalisation issue;
 - (d) an issue for cash;
 - (e) an acquisition or amalgamation/merger issue;
 - (f) a vendor consideration placing;
 - (g) an exercise of options to subscribe for securities (including options in terms of executive and staff share schemes);
 - (h) a conversion of securities of one class into securities of another class; and
 - (i) such other method as may be approved by the JSE, either generally or in any particular case.

Introductions

Specific requirements

- 5.4 With regard to a listing by way of introduction:
- (a) the JSE will require a certified copy of the share register of the applicant; and
 - (b) the applicant must comply with the conditions for listing set out in Section 4.
- 5.5 An applicant may not bring securities to listing by way of an introduction if there are any pre-existing intentions by any holder(s) (other than public

shareholders) to dispose of a material number of their securities at or immediately after listing. The applicant must satisfy the JSE in respect hereof in so far as it has knowledge of any such intention(s).

- 5.6 In the case of an applicant whose listing has been suspended or terminated:
- (a) because it was a cash company (refer to paragraph 3.26); or
 - (b) in connection with a reverse take-over (refer paragraphs 9.23 and 9.24);
- and is seeking re-admittance to listing, the JSE may require some form of marketing of the applicant's securities in order to improve or ensure compliance with the "Shareholder spread" requirements set out in Section 4, before approving the listing.

Documents to be submitted to the JSE

- 5.7 The Part I and II documents described in paragraphs 16.10 to 16.13 must be submitted to and approved by the JSE in accordance with Section 16.

Documents to be published

- 5.8 The documents that require publication with regard to a listing by way of an introduction are set out in paragraphs 11.3 to 11.5.

Placings

Specific requirements

- 5.9 The applicant must comply with all relevant conditions for listing set out in Section 4.

Documents to be submitted to the JSE

- 5.10 In the case of a new applicant, the Part I and II documents described in paragraphs 16.10 to 16.13 must be submitted to and approved by the JSE in accordance with Section 16.
- 5.11 In the case of an applicant with securities already listed, the documentation requiring submission to and approval by the JSE will be determined by the listing method applicable in terms of paragraph 5.3.

Documents to be published

- 5.12 The documents that require publication with regard to a placing are set out in paragraph 11.6 and must be actioned in accordance with the relevant timetable in Schedule 24.

Offers for sale or subscription

Specific requirements

- 5.13 An offer for subscription by a new applicant must comply with the requirements detailed under "Placings" in this section. An offer for subscription by an issuer with securities already listed on the JSE is regarded as being an issue for cash and must comply with the requirements of paragraphs 5.50 to 5.57.

5.7 amended with effect from 15 October 2007.

5.10 amended with effect from 15 October 2007.

- 5.14 An offer for sale by a listed company of securities in the listed company's subsidiary must be done in compliance with paragraphs 4.11 and 4.12 (Listing of subsidiary companies or assets).

Underwriting

- 5.15 An offer for sale or subscription need not be underwritten. However, with respect to new applicants, if an offer for subscription is not underwritten, the offer must be conditional upon the minimum subscription being received that will fulfil the purpose of the offer. A statement to this effect, in bold, must be made in the "Salient details" section of the pre-listing statement or prospectus, and repeated again, in bold, in the section dealing with and detailing the minimum subscription required. With respect to existing issuers, if the offer is not underwritten, it must not be conditional on a minimum subscription being received.
- 5.16 The following must be complied with if the offer is underwritten:
- (a) the underwriter must submit sworn affidavits by at least two of its directors confirming that it has the financial resources to meet its commitments in terms of the underwriting; and
 - (b) the prospectus/pre-listing statement/circular must include a statement by the directors that they have made due and careful enquiry to confirm that the underwriter can meet its commitments in terms of the offer.
- 5.17 Any underwriting commission paid to a securities holder of the company should not be greater than the current market rate payable to independent underwriters. The applicant must present evidence to the JSE proving the reasonableness of such underwriting commission.

Over-subscriptions

- 5.18 In the event of an over-subscription, the formula for the basis of allotment must be calculated in such a way that a person will not, in respect of his application, receive an allocation of a lesser number of securities than any other subscriber applying for the same number or a lesser number of securities. Random allocations are allowed only where prior approval has been granted by the JSE. Where a listing is over-subscribed or cancelled and persons are owed subscription refunds in terms of applications made, the sponsor must ensure that the subscription monies are refunded to such persons on the day of listing or on the day following the decision to cancel the listing, together with all interest earned on such monies calculated from the date of receipt of such monies by the company concerned.

Documents to be submitted to the JSE

- 5.19 In the case of a new applicant, the Part I and II documents described in paragraphs 16.10 to 16.13 must be submitted to and approved by the JSE in accordance with Section 16.
- 5.20 In the case of an applicant with securities already listed, the documents detailed in paragraph 16.14 must be submitted to the JSE in accordance with the relevant timetable in Schedule 24.

5.14 amended with effect from 1 April 2010.

5.16 amended with effect from 1 April 2010.

5.19 amended with effect from 15 October 2007.

Documents to be published

5.21 The documents that require publication regarding an offer for sale or subscription are set out in paragraphs 11.7 to 11.9, and must be actioned in accordance with the relevant timetable in Schedule 24.

Renounceable offers

Specific requirements

5.22 The applicant must comply with all relevant conditions for listing set out in Section 4.

Ability to trade

5.23 The enforcement of the right of securities holders of the listed company to subscribe for securities in the applicant must be done by means of a renounceable offer to such securities holders, through the issue of a renounceable LA or other negotiable document, traded as “nil paid” rights for a period in accordance with the relevant timetable in Schedule 24.

5.24 This requirement has been repealed.

General

5.25 The requirements of a rights offer (see paragraphs 5.28 to 5.37) will apply to a renounceable offer in so far as they are applicable.

Documents to be submitted to the JSE

5.26 The documents detailed in paragraph 16.15 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

5.27 The documents that require publication regarding a renounceable offer are referred to in paragraph 11.10 and Schedule 24 and must be actioned in accordance with the relevant timetable in Schedule 24.

Rights offers

Specific requirements

5.28 LAs are to be issued in dematerialised form for the rights offer and must be renounceable. The JSE may, in exceptional circumstances, waive this requirement.

Underwriting

5.29 A rights offer need not be underwritten; however, if it is underwritten, the following must be complied with:

- (a) the underwriter must submit sworn affidavits by at least two of its directors confirming that it has the financial resources to meet its commitments in terms of the underwriting; and
- (b) the prospectus/pre-listing statement/circular must include a statement by the directors that they have made due and careful enquiry to confirm that the underwriter can meet its commitments in terms of the offer.

5.24 deleted in its entirety with effect from 1 April 2010.

5.29 amended with effect from 1 April 2010.

- 5.30 If the rights offer is not underwritten, it must not be conditional on a minimum subscription being received.
- 5.31 Any underwriting commission payable to a securities holder of the company effecting the rights offer must not be greater than the current market rate payable to independent underwriters. The applicant must present evidence to the JSE proving the reasonableness of the underwriting commission payable.

Excess security applications

- 5.32 A rights offer may include the right to apply for excess securities, subject to such right being transferable upon renunciation of the LAs.
- 5.33 In the event of a rights offer including the right to apply for excess securities, applications having been received for such excess securities and there being an excess of securities available for allocation, the pool of such excess securities should be allocated equitably, taking cognisance of the number of securities held by the securities holder just prior to such allocation, including securities taken up as a result of the rights offer, and the number of excess securities applied for by such securities holder. Non-equitable allocations of excess securities will only be allowed in instances where they are used to round holdings up to the nearest multiple of 100 securities.

General

- 5.34 Unless circumstances are such as to warrant a concession being granted, the JSE will require the LAs to be listed.
- 5.35 Forms of instruction in respect of LAs must be sent to certificated holders, in terms of which: Form A (Instruction to Sell) and Form B (Form of Renunciation) must require the signature of the offeree(s); Form C (Registration Application Form) must require the signature of the renouncee(s); and Form D (Documents of Title) must not require a signature.

Documents to be submitted to the JSE

- 5.36 The documents detailed in paragraph 16.15 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

- 5.37 The documents that require publication regarding a rights offer are set out in paragraphs 11.11 to 11.15, and must be actioned in accordance with the relevant timetable in Schedule 24.

Claw-back offers

Specific requirements

- 5.38 The requirements of paragraphs 5.28 to 5.37 in respect of rights offers apply equally to claw-back offers.

Capitalisation issues

Specific requirements

- 5.39 The issuer may not publish any announcement, advertisement or circular in

which a capitalisation issue is proposed to be effected in lieu of the declaration of a dividend and where holders of securities are not entitled to elect to receive a cash payment.

- 5.40 Capitalisation issues must comply with Section 47 of the Act. Schedule 10.6 provides for the basis on which a capitalisation issue may be done.

Documents to be submitted to the JSE

- 5.41 The documents detailed in paragraph 16.16 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

- 5.42 The documents that require publication regarding a capitalisation issue are set out in paragraphs 11.16 and 11.17, and must be actioned in accordance with the relevant timetable in Schedule 24.

Submission of letter of application

- 5.43 The capitalisation issue will not be allowed to proceed if the JSE has not received the letter of application by the finalisation date.

Scrip dividend and cash dividend elections

- 5.44 The grant of the right of election must not be prohibited by the MOI.
- 5.45 The issuer may not publish an announcement or circular in which a capitalisation issue is in any way described or presented as a dividend if holders of securities are not entitled to elect to receive a cash dividend.
- 5.46 A form of election must be dispatched with the circular containing the following:
- (a) a statement that the election may be made in respect of all or part of the securities held at the close of business on the record date, failing which capitalisation shares or cash will be distributed at the option of the issuer; and
 - (b) the ratio of the entitlement and full details of the cash dividend including the STC (Secondary Tax on Companies as defined in the Income Tax Act) credits which will accrue to the recipient shareholder.
- 5.47 This requirement has been repealed.

Documents to be submitted to the JSE

- 5.48 The documents detailed in paragraph 16.16 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

- 5.49 The documents that require publication regarding a scrip dividend are set out in paragraphs 11.16 and 11.17, and must be actioned in accordance with the

5.40 amended with effect from 1 May 2011.

5.44 amended with effect from 1 May 2011.

5.45 amended with effect from 15 October 2007.

5.46 amended with effect from 1 April 2012.

5.47 repealed with effect from 1 May 2011.

relevant timetable in Schedule 24.

Issues for cash

Description

- 5.50 An issue for cash is an issue of equity securities for cash (or the extinction of a liability, obligation or commitment, restraint, or settlement of expenses) in compliance with paragraphs 5.50 to 5.57:
- (a) on terms that are specifically approved by equity securities holders in general meeting (if applicable in terms of paragraph 5.51(g)) in respect of that particular issue (“a specific issue for cash”); or
 - (b) generally approved by securities holders in general/annual general meeting by the giving of a renewable mandate, which will be valid until the company’s next annual general meeting or for 15 months from the date of the ordinary resolution, whichever period is shorter, to the directors of the issuer to issue equity securities for cash subject to the requirements of the JSE and to any other restrictions set out in the mandate (“a general issue for cash”).

Requirements for specific issues for cash

- 5.51 An applicant may only undertake a specific issue for cash subject to satisfactory compliance with the following requirements:
- (a) the equity securities which are the subject of the issue for cash must be of a class already in issue or, where this is not the case, must be limited to such securities or rights that are convertible into a class already in issue;
 - (b) if any of the equity securities are to be issued to non-public shareholders, as defined in paragraph 4.25 to 4.27, this fact must be disclosed;
 - (c) the number or maximum number of equity securities to be issued must be disclosed;
 - (d) if the discount at which the equity securities are to be issued is not limited, this fact must be disclosed;
 - (e) if the discount at which the securities are to be issued is limited, such limit must be disclosed;
 - (f) if the issue is :
 - (i) to a related party/ies as described in paragraphs 10.1 to 10.3, and
 - (ii) the price at which the equity securities are issued is at a discount to the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue is agreed in writing between the issuer and the party subscribing for the securities (the JSE should be consulted for a ruling if the applicant’s securities have not traded in such 30 business-day period)

then such issue shall be subject to the inclusion of a statement by the board of directors confirming whether the issue is fair insofar as the shareholders (excluding the related party/ies if it/they are equity securities holders) of the issuer are concerned and that the board of directors has

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

5.51(f) amended with effect from 15 October 2007.

been so advised by an independent expert acceptable to the JSE. The board of directors must obtain a fairness opinion prepared in accordance with Schedule 5 before making this statement; and

- (g) approval of the specific issue for cash ordinary resolution, by achieving a 75% majority of the votes cast in favour of such resolution by all equity securities holders present in person or represented by proxy at the general meeting convened to approve such resolution, on which any parties and their associates participating in the specific issue for cash have not voted or whose votes have not been counted. If the dilution, as a result of a once-off issue (calculated by taking the number of equity securities to be issued and dividing it by the number of listed equity securities, excluding treasury securities held in terms of the Act and shares held in terms of Schedule 14.10) is equal to or less than 0.25% and the price at which the equity securities are issued is equal to or at a premium to the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue is agreed in writing between the issuer and the party subscribing for the securities (the JSE should be consulted for a ruling if the applicant's securities have not traded in such 30 business day-period) then shareholder approval is not required.

Requirements for general issues for cash

5.52 An applicant may only undertake a general issue for cash subject to satisfactory compliance with the following requirements:

- (a) the equity securities which are the subject of the issue for cash must be of a class already in issue or, where this is not the case, must be limited to such securities or rights that are convertible into a class already in issue;
- (b) the equity securities must be issued to public shareholders, as defined in paragraph 4.25 to 4.27, and not to related parties;
- (c) securities which are the subject of general issues for cash:
 - (i) in the aggregate in any one financial year may not exceed 15% of the applicant's equity securities in issue of that class (for purposes of determining the securities comprising the 15% number in any one year, account must be taken of the dilution effect, in the year of issue of options/convertible securities, by including the number of any equity securities which may be issued in future arising out of the issue of such options/convertible securities);
 - (ii) of a particular class, will be aggregated with any securities that are compulsorily convertible into securities of that class and, in the case of the issue of compulsorily convertible securities, aggregated with the securities of that class into which they are compulsorily convertible;
 - (iii) as regards the number of securities which may be issued (the 15% number), same shall be based on the number of securities of that class in issue added to those that may be issued in future (arising from the conversion of options/convertible securities), at the date of such application:

- (1) less any securities of the class issued, or to be issued in future arising from options/convertible securities issued, during the current financial year;
- (2) plus any securities of that class to be issued pursuant to:
 - (aa) a rights issue which has been announced, is irrevocable and is fully underwritten; or
 - (bb) an acquisition (in respect of which final terms have been announced) which acquisition issue securities may be included as though they were securities in issue at the date of application;
- (d) the maximum discount at which equity securities may be issued is 10% of the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the issue is agreed between the issuer and the party subscribing for the securities. The JSE should be consulted for a ruling if the applicant's securities have not traded in such 30 business day period;
- (e) approval of the general issue for cash ordinary resolution, by achieving a 75% majority of the votes cast. The resolution must be worded in such a way as to include the issue of any options/convertible securities that are convertible into an existing class of equity securities, where applicable.

Options and convertible securities granted/issued for cash

5.53 In respect of options and convertible securities granted/issued for cash:

- (a) Where options or convertible securities, excluding executive and staff share schemes, are granted/issued for cash (or for the extinction or payment of any liability, obligation or commitment, restraint(s), or settlement of expense), such options/convertible securities, issued otherwise than to existing holders of equity securities in proportion to their existing holdings, will be permitted in respect of:
 - (i) a specific issue of such options/convertible securities, provided specific approval is obtained for such grant/issue in terms of paragraph 5.51, and
 - (ii) a general issue of options/convertible securities, provided approval for such grant/issue is obtained in terms of paragraph 5.52 (and in respect thereof, refer to the second sentence in paragraph 5.52(e)).
- (b) The grant/issue will be subject to the inclusion of a statement by the board of directors (the board of directors must obtain a fairness opinion prepared in accordance with Schedule 5 before making this statement) confirming whether the issue is fair insofar as the shareholders (excluding the related party/ies if it/they are equity securities holders) of the issuer are concerned and that the board of directors has been so advised by an independent expert acceptable to the JSE if:
 - (i) in respect of 5.53(a)(i) the issue is to a related party as defined in paragraphs 10.1 to 10.3, and
 - (ii) in respect of 5.53(a)(ii) the discount to the market price at the time

5.52(d) amended with effect from 15 October 2007.

5.52(e) amended with effect from 1 May 2011.

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

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

of exercise of the option or conversion of the convertible security is not known at the time of grant/issue of the option or convertible security or if it is known that the discount will exceed 10% of the 30 day weighted average traded price of the security at the date of exercise. In this instance, the grant/issue may only proceed if the independent expert confirms that it is fair.

JSE discretion

5.54 The JSE may waive some or all of the requirements contained in paragraphs 5.51 to 5.53 if it is satisfied that the conditions as stipulated in Schedule 13 exist.

Affected transactions

5.55 Where any issue for cash constitutes an “affected transaction” as defined in the Takeover Regulations and the Act such affected transaction must be referred to the Panel by the issuer.

Documents to be submitted to the JSE

5.56 The documents detailed in paragraph 16.17 must be submitted to the JSE.

Documents to be published

5.57 The documents that require publication regarding issues for cash are set out in paragraphs 11.19 to 11.22.

Acquisition or amalgamation/merger issues

Specific requirements

5.58 Admission to listing will only be granted to securities issued as consideration for a bona fide acquisition or amalgamation/merger and not in support of a circumvention of securities holders’ rights of pre-emption.

5.59 Accordingly, the JSE must be consulted when a listed company proposes to issue securities as consideration for an acquisition or amalgamation/merger.

Documents to be submitted to the JSE

5.60 The documents detailed in paragraph 16.18 must be submitted to the JSE.

Documents to be published

5.61 The documents to be published with regard to an acquisition or amalgamation/merger issue are set out under the various categories in Section 9.

Vendor consideration placings

Specific requirements

5.62 In a vendor consideration placing:

the minimum placing price is the lower of:

- (i) a 10% discount to the 30 business day weighted average traded price prior

5.54 amended with effect from 15 October 2007.

5.55 amended with effect from 1 May 2011.

“Acquisition or Merger issues” heading amended with effect from 1 May 2011 and all references made thereto have subsequently been changed to reflect this amendment.

- to the date that the placing is authorised by the directors; or
- (ii) a 10% discount to the 3 business day weighted average traded price prior to the date of the placing:

provided that these limits may be exceeded if securities holders give their specific approval of such necessary ordinary resolution, voted on by 75% of all equity securities holders present or represented by proxy at the general meeting convened to approve such resolution, excluding any vendor and its associates or other party participating in the placing;

Exercise of options to subscribe for securities (including options in terms of executive and staff share schemes)

- 5.63 Applications for listings of securities issued in terms of options must be made in terms of Section 16.
- 5.64 Application for listing of shares in terms of executive and staff share schemes may either be for block listings or for specific allotments.
- 5.65 The JSE will grant a block listing only in multiples of R5 million for securities issued in terms of approved schemes. Subsequent issues of securities in terms of the scheme will be subtracted from the initial block until such time as that block is exhausted, at which time an application for a further block listing will be necessary.

Issues with participating or conversion rights

- 5.66 Classes of securities that have participating rights to profits or have equity conversion rights must be offered to equity securities holders of a company by means of a rights offer, unless issued:
- (a) by way of a claw-back offer;
 - (b) by way of an issue for cash;
 - (c) for the acquisition of assets or for an amalgamation/merger; or
 - (d) in circumstances that the JSE considers to be exceptional and warranting special approval.

Repurchase of securities

Description

- 5.67 (A) In the event that a shareholder of an issuer exercises its rights in terms of Section 164 of the Act and the issuer, in terms thereof, purchases its shares from the shareholder, the purchase of such shares will not be regarded as a repurchase of securities in terms of the Listings Requirements. The issuer must, however, within 48 hours of repurchasing the shares from the shareholder:
- (a) apply to the JSE for the delisting of such shares in terms of Schedule 22 of the Listings Requirements. The application letter need only comply with Schedule 22.1(a) to (e); 22.3; 22.4; 22.5, however, and must state the reason for the application to delist the shares; and
 - (b) on the same day that the issuer applies to the JSE for the delisting of the shares, the applicant issuer must announce on SENS the following

details concerning the delisting of the shares:

- (i) the effective date of the delisting of the shares;
- (ii) the number of shares that will be delisted (expressed in a number and a percentage of the issued share capital of the applicant issuer):
 - a. the price paid by the issuer for the shares;
 - b. the identity of the shareholder from whom the shares were repurchased; and
 - c. in respect of which resolution the shareholder exercised its rights in terms of Section 164(2) of the Act.

(B) A pro rata repurchase by the applicant issuer of its securities from all its shareholders will not require shareholder approval, save to the extent required in terms of the Act. In all other instances, an acquisition by an issuer of its own securities or a purchase by a subsidiary of securities in its holding company (in accordance with Section 48 of the Act), will be regarded as a repurchase of securities in terms of the Listings Requirements, in which case the holding company must comply with paragraphs 5.67(B) to 5.84:

- (a) on terms that are approved by securities holders in a general meeting in respect of that particular repurchase (“a specific repurchase of securities”), which shall be valid until such time as the approval is amended or revoked by a special resolution; or
- (b) generally approved by securities holders by the giving of a renewable mandate, which shall be valid until the company’s next annual general meeting or for 15 months from the date of the resolution, whichever period is shorter, to the directors of the company to repurchase its securities subject to the requirements of the JSE and to any other restrictions set out in the mandate (“a general repurchase of securities”).

5.68 The general repurchase by a company of its own securities shall not, in the aggregate in any one financial year exceed 20% of that company’s issued share capital of that class in any one financial year.

Requirements for specific authority to repurchase securities (“specific repurchase”)

5.69 In respect of specific repurchases (which includes the grant of an option in terms of which an issuer may or will be required to repurchase its securities in future) and a specific offer (being an offer from securities holders specifically named) an applicant may only make a specific repurchase subject to the following:

- (a) authorisation thereto being given by its MOI;
- (b) approval being given in terms of a special resolution excluding, in the case of a specific offer, the votes of any shareholder and its associates that are participating in the repurchase;
- (c) a statement by the directors that, after considering the effect of such repurchase, the provisions of Section 4 and Section 48 of the Act have been complied with and that the:

- (i) company and the group will be able in the ordinary course of business to pay their debts for a period of 12 months after the date of approval of the circular; and
 - (ii) assets of the company and the group will be in excess of the liabilities of the company and the group for a period of 12 months after the date of the approval of the circular. For this purpose, the assets and liabilities should be recognised and measured in accordance with the accounting policies used in the latest audited consolidated annual financial statements which comply with the Act; and
 - (iii) share capital and reserves of the company and the group will be adequate for ordinary business purposes for a period of 12 months after the date of the circular (refer to paragraph 7.E.7); and
 - (iv) working capital of the company and the group will be adequate for ordinary business purposes for a period of 12 months after the date of approval of the circular (refer to paragraph 7.E.7);
- (d) a resolution by the board of directors of the issuer that it has authorised the repurchase, that the company and its subsidiary/ies have passed the solvency and liquidity test and that, since the test was performed, there have been no material changes to the financial position of any company of the group;
- (e) if the repurchase is:
- (i) from a related party/ies as described in paragraphs 10.1 to 10.3, and
 - (ii) the price at which the securities are purchased is at a premium to the weighted average traded price of such equity securities measured over the 30 business days prior to the date that the price of the repurchase is agreed in writing between the issuer and the party selling the securities (the JSE should be consulted for a ruling if the applicant's securities have not traded in such 30 business day period)

then such repurchase shall be subject to the inclusion of a statement by the board of directors stating whether the repurchase is fair insofar as the shareholders (excluding the related party/ies if it/they are equity securities holders) of the issuer are concerned and that the board of directors has been so advised by an independent expert acceptable to the JSE. The board of directors must obtain a fairness opinion (which must be included in the circular) prepared in accordance with Schedule 5 before making this statement;

- (f) this requirement has been repealed;
- (g) if a company has announced that it will make a specific repurchase, it must pursue the proposal, unless the JSE permits the company not to do so; and
- (h) a company or its subsidiary may not repurchase securities during a prohibited period as defined in paragraph 3.67 unless they have in place a repurchase programme where the dates and quantities of securities to be

5.69(d) introduced with effect from 1 May 2011.

5.69(e), previously (f), renumbered and amended with effect from 15 October 2007 and 1 May 2011.

5.69(f), previously (g), renumbered with effect from 15 October 2007.

5.69(g), previously (h), renumbered with effect from 15 October 2007.

traded during the relevant period are fixed (not subject to any variation) and full details of the programme have been disclosed in an announcement over SENS prior to the commencement of the prohibited period.

Documents to be submitted to the JSE

5.70 The documents detailed in paragraph 16.32 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

5.71 The documents that require publication regarding a repurchase of securities are set out in paragraphs 11.23 to 11.25, and must be actioned in accordance with the relevant timetable in Schedule 24.

Requirements for general authority to repurchase securities (“general repurchase”)

5.72 A company may only make a general repurchase of securities subject to the following:

- (a) the repurchase of securities being effected through the order book operated by the JSE trading system and done without any prior understanding or arrangement between the company and the counter party (reported trades are prohibited);
- (b) authorisation thereto being given by its MOI;
- (c) approval by shareholders in terms of a special resolution of the company, in annual general/general meeting, which shall be valid only until the next annual general meeting or for 15 months from the date of the resolution, whichever period is shorter;
- (d) repurchases may not be made at a price greater than 10% above the weighted average of the market value for the securities for the five business days immediately preceding the date on which the transaction is effected. The JSE should be consulted for a ruling if the applicants securities have not traded in such five business day period;
- (e) at any point in time, a company may only appoint one agent to effect any repurchase(s) on the company’s behalf;
- (f) this requirement has been repealed;
- (g) a resolution by the board of directors that it has authorised the repurchase, that the company and its subsidiary/ies have passed the solvency and liquidity test and that, since the test was performed, there have been no material changes to the financial position of the group; and
- (h) an issuer or its subsidiary may not repurchase securities during a prohibited period as defined in paragraph 3.67 unless they have in place a repurchase programme where the dates and quantities of securities to be traded during the relevant period are fixed (not subject to any variation) and full details of the programme have been disclosed in an announcement over SENS prior to the commencement of the prohibited period.

5.69(h), previously (i), renumbered and amended with effect from 2007.

5.72(b) amended with effect from 1 May 2011.

5.72(g) introduced with effect from 1 May 2011.

5.72 (h), previously (g), renumbered with effect from 1 May 2011.

Documents to be submitted to the JSE

- 5.73 The documents detailed in paragraph 16.32 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

- 5.74 The documents that require publication regarding a repurchase of securities are set out in paragraphs 11.26 to 11.27, and must be actioned in accordance with the relevant timetable in Schedule 24.

General

- 5.75 Whenever an issuer wishes to use repurchased shares, held as treasury securities by a subsidiary of the issuer, such use must comply with the Listings Requirements as if such use was a fresh issue of securities.
- 5.76 The requirements of paragraphs 5.67 to 5.84 also apply to purchases by a subsidiary of securities in its holding company, except in the case of transactions entered into on behalf of bona fide third parties, either by the company or any other member of its group on arm's length terms. An issuer must obtain approval from its shareholders, in accordance with paragraphs 5.69 or 5.72, before any subsidiary of the listed company undertakes to purchase securities in its holding company.
- 5.77 Where there are securities in issue that are high/low voting shares or are convertible into, exchangeable for, or carry a right to subscribe for securities of the class proposed to be repurchased, a separate meeting of the holders of such convertible securities or high/low voting shares must be held and their approval by special resolution obtained before the company enters into any contract to repurchase securities of the relevant class unless the trust deed or terms of issue of the convertible securities provides for the company purchasing its own equity securities. A circular and notice of meeting must also be sent to them as stipulated in paragraphs 11.23 (in terms of a specific repurchase) and 11.26 (in terms of a general repurchase).

Purchase of securities other than equity securities

Notification of decision to repurchase

- 5.78 Where a company intends to make an offer, which is to be open to all holders in respect of all or part of their holdings, to repurchase any of its securities other than equity securities, it must:
- (a) while the offer is being actively considered, ensure that no dealings in the relevant securities are carried out by or on behalf of the company or another member of its group, associate or subsidiary, until the proposal has either been submitted to the JSE or abandoned; and
 - (b) notify the JSE of its decision to proceed with the offer to repurchase.

Announcement of repurchases, early redemptions and cancellations

- 5.79 Any repurchases, early redemptions or cancellations of the issuer's securities, other than equity securities, must be announced when an aggregate of 3% of the initial number of the relevant class of securities has been purchased, redeemed or cancelled and for each 3% in aggregate of the initial number of that class acquired thereafter. Such announcement must be made as soon as possible and, in any event, by not later than 08h30 on the business day following the day on which the relevant threshold is reached or exceeded. The announcement must state the number of securities purchased, redeemed or cancelled since the most

recent announcement, the number of the class of securities that remain outstanding, and when the securities repurchased are to be cancelled and the listing terminated, if applicable.

Period between repurchase and notification

5.80 In circumstances where the repurchase is not being made pursuant to an offer announced in accordance with paragraph 5.78 and the repurchase results in the company reaching or exceeding a relevant threshold as specified in paragraph 5.79, no further repurchases may be effected until after notification in compliance with paragraph 5.79 has been made.

Convertible securities

5.81 In the case of securities that are convertible into, exchangeable for, or carry a right to subscribe for equity securities, unless a partial offer is made to all holders of that class of securities on the same terms, repurchases must not be made at a price more than 10% above the 5 business day weighted average price of the securities immediately preceding the date of repurchase.

Derivative transactions relating to the repurchase of securities (general authority)

5.82 Issuers who enter into derivative transactions that may or will result in the repurchase of securities in terms of their general authority must comply with paragraphs 5.67 to 5.81 subject to the exemptions in paragraph 5.83 and additions in paragraph 5.84.

5.83 The following paragraphs need not be complied with (exemptions):

- (a) 5.72 (a), (d) and (g);
- (b) 11.27.

5.84 The following paragraphs must be complied with (additions):

- (a) with regard to the price of the derivative the:
 - (i) strike price of any put option written by the company less the value of the premium received by the company for that put option may not be greater than the fair value of a forward agreement based on a spot price not greater than that stipulated in 5.72 (d);
 - (ii) strike price of any call option may be greater than that stipulated in 5.72(d) at the time of entering into the derivative agreement, but the company may not exercise the call option if it is more than 10% “out the money”;
 - (iii) strike price of the forward agreement may be greater than the price indicated in 5.72(d) but limited to the fair value of a forward agreement calculated from a spot price not greater than that stipulated in 5.72(d);
- (b) all new derivative transactions entered into each week as part of a general authority must be reported to the JSE by 16h00 on Friday of that week;
- (c) an announcement must be made when the aggregate of the delta equivalent of the underlying shares (relating to derivative transactions), as well as any shares already repurchased as part of the repurchase, are greater than 3% of the initial number of shares and for each 3% in aggregate thereafter. The delta equivalent will be calculated by multiplying the cumulative deltas of the written puts or purchased calls, of the company, by the notional amounts of these contracts. The delta will be determined by using standard option pricing models. The delta of forward agreements will be a

delta of 1. This announcement must be made as soon as possible and, in any event, by not later than 08h30 on the second business day following the day on which the relevant threshold is reached or exceeded and must contain the following:

- (i) a general statement that the company has entered into derivative transactions as part of its general authority and that the possibility exists that, if these contracts are exercised, the applicable thresholds relating to the repurchases will be reached or exceeded;
- (ii) the extent of the authority outstanding, taking into account the securities already repurchased plus the delta equivalent of the derivative transactions, by number and percentage (calculated on the number of securities in issue before any repurchases were effected);
- (iii) a statement by the directors, after considering the effect of the repurchase, taking into account the shares already purchased plus the delta equivalent of the derivative transactions, that the:
 - (1) company and the group will be able in the ordinary course of business to pay their debts for a period of 12 months after the date of the announcement of the derivative contract;
 - (2) assets of the company and the group will be in excess of the liabilities of the company and the group for a period of 12 months after the date of the announcement of the derivative contract. For this purpose, the assets and liabilities should be recognised and measured in accordance with the accounting policies used in the latest audited group annual financial statements;
 - (3) share capital and reserves of the company and the group will be adequate for ordinary business purposes for a period of 12 months after the date of the announcement of the derivative contract; and
 - (4) the adequacy of working capital of the company and the group will be adequate for ordinary business purposes for a period of 12 months after the exercise date of the derivative contracts (in terms of paragraph 7.E.7);
- (d) a further announcement must be made when the derivative transactions entered into are exercised and, due to the exercise of these transactions, the effected repurchases are greater than 3% of the initial number of securities and for each 3% in aggregate of the affected repurchase thereafter. This announcement must be made as soon as possible and, in any event, by not later than 08h30 on the second business day following the day on which the relevant threshold is reached or exceeded and must contain all the information as per paragraph 11.27;
- (e) in addition to 5.84(d) the issuer effecting the repurchase must ensure that the writer or the purchaser of the derivative contract, other than the company utilising the derivative as part of its general authority, conducts all trading in the underlying shares through the order book operated by the JSE trading system;
- (f) the following requirements will apply if the company is under a cautionary or during a closed period (excluding the case of a written put option,

which legally requires the company to purchase the shares put to it):

- (i) in the case of a purchased American style call option, the company will not be allowed to exercise its right other than on the expiry date of the contract, regardless of the terms of the options contract. If the contract is exercisable due to the fact that the expiry date falls within the prescribed period, then the contract must be exercised if it is “in the money” and may not be exercised if it is “out the money”;
- (ii) in the case of a purchased European style call option, the company must exercise the option if it is “in the money” and may not exercise the option if it is “out the money”; and
- (iii) the company is not allowed to enter into a forward purchase agreement on its own shares during the periods as stipulated, however the settlement of the forward contract is allowed during these periods.

Payments to securities holders

- 5.85 (a) Companies wishing to make payments to their securities holders must comply with all relevant provisions of the Act and specifically with Section 46 of the Act.
- (b) Subject to paragraph 5.85(c), a pro rata payment to all shareholders will not require shareholder approval. Any payment to shareholders which is not pro rata to all shareholders will be regarded as a specific payment and the company must obtain the approval of its securities holders in a general meeting, which approval is not required in respect of cash dividends paid out of retained income, scrip dividends or capitalisation issues (“specific payment”).
- (c) Where the underlying securities are unlisted when the company effects a distribution in specie by way of an unbundling (either by way of pro rata or specific payment) or where such securities become unlisted as a result of the unbundling, shareholder approval is required.

5.86 This requirement has been repealed.

Requirements for specific payments

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

Documents to be submitted to the JSE

- 5.88 The documents detailed in paragraph 16.33 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

- 5.89 The documents that require publication regarding specific payments are set out in paragraphs 11.28 and 11.29, and must be actioned in accordance with the

5.85 amended with effect from 1 May 2011.

5.86 repealed with effect from 1 May 2011.

relevant timetable in Schedule 24.

Requirements for general payments

5.90 This requirement has been repealed.

Documents to be submitted to the JSE

5.91 This requirement has been repealed.

Alteration of share capital, authorised shares and rights attaching to a class/es of shares

- 5.92 (A) Any alteration to the share capital of the applicant and/or to its authorised shares and/or any amendments to the rights attaching to any class of securities in the applicant, whether in issue or not, must be subject to the passing in general/annual general meeting of a special resolution of securities holders in respect of and including, but not limited to –
- (a) any action under Section 36 of the Act; and
 - (b) the conversion of securities of any class into securities of any other class, whether issued or not.

Documents to be submitted to the JSE

- (B) The documents detailed in paragraph 16.34 must be submitted to the JSE in accordance with the relevant timetable set out in Schedule 24.

Documents to be published

- (C) The documents that require publication regarding alterations to share capital are set out in paragraph 11.37 and must be actioned in accordance with the relevant timetable in Schedule 24.

Exchange control approval

5.93 Where approval for an issue and listing of securities is required from the Financial Surveillance Department of the South African Reserve Bank (“SARB”), JSE approval of an issue and listing of such securities will not be given until such time as copies of the requisite authority from SARB, giving a ruling regarding the use of funds introduced through normal banking channels from abroad or from a non-resident account or from an emigrant’s blocked Rand account relating to such issue, is received (refer to paragraph 16.25).

Share certificates

- 5.94 With respect to the certificated environment:
- (a) the normal requirement of the JSE is that all share certificates must be issued on the date of commencement of the listing of new securities or within seven days from the date of lodging of the certificates for transfer or splitting.
 - (b) applicants that have not yet adopted Certified Transfer Deed Procedures

5.90 repealed with effect from 1 May 2011.

5.91 repealed with effect from 1 May 2011.

5.92 amended with effect from 1 May 2011.

5.93 amended with effect from 1 July 2012.

must effect registration of scrip within 24 hours of receipt.

- (c) the JSE will not normally grant a listing for an issue of securities until the relevant share certificates, or other documents of title, have been made available, except where the relevant securities arise out of an entitlement derived from a holding in a listed security. Deals entered into between the date of commencement of the listing and the date the document of title is made available shall be for settlement during the week following the date the document of title is made available.
- (d) Where it is proposed to issue share certificates, which of necessity are required to be distinguishable from existing listed securities, a copy of the proposed certificate and a copy of the existing certificates are to be submitted to the JSE. The procedures to be adopted thereafter are to be agreed at this stage.

Securities registered in the name of nominee companies

- 5.95 Where an issuer intends entering into a transaction or scheme that may, in its effect, discriminate between shareholders holding securities in dematerialised form through a CSDP or broker nominee company (“the nominee company”) and shareholders holding securities directly in certificated form in such issuer, the issuer is to ensure that Strate provides it with a list of dematerialised beneficial shareholders on the relevant record date, in order to ensure that all shareholders in the issuer are treated fairly.
- 5.96 The requirement of paragraph 5.95 shall be applied in respect of all corporate actions and the issuer must ensure that the ratio of entitlement is applied to the beneficial securities holders within a nominee company.

Pre-issued trading

- 5.97 A broking member (equities) may only execute transactions in pre-issued securities after such trading has been permitted by the JSE.
- 5.98 The JSE may permit trading in pre-issued securities, subject to the following conditions:
 - (a) the sponsor, with the consent of the issuer, must apply, at the time of informal comment submission, and receive approval for pre-issued trading from the JSE;
 - (b) the JSE must have approved the listing particulars in respect of the issue;
 - (c) the issue for which pre-issued trading is requested must be an initial public offer and must be of such a 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 the JSE specifies in the JSE Gazette, provided that the pre-issued trading must end on the commencement date of official trading in the securities; and
 - (e) if the listing in respect of which the pre-issued trading has been approved becomes effective, all transactions effected during the period of the pre-issued trading will settle on the same terms as all other transactions in JSE listed securities. If the listing is still ineffective on the commencement date of official trading, every transaction effected under this rule will be void ab initio and neither the broking member nor any client will have recourse against the JSE or a broking member, as the case may be, in respect of such transactions.

Price stabilisation

5.99 Description

- (a) The purpose of this section is to define the circumstances and manner in which price stabilisation will be permitted by the JSE, in accordance with the provisions of [SSAthe FMA](#), and as a defence against ~~prohibitedthe offences of manipulative, false or improper~~ trading practices, as stipulated in [SSAthe 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 securities or securities the subject of a substantial offer, for a limited period after the listing or offer. The main purpose is to establish an orderly market for securities in the immediate secondary market after an offer.
- (b) The process of price stabilisation usually involves the stabilising manager, on behalf of the Bookrunners, allotting a greater number of securities than will be issued or sold, resulting in a net “short” position for the stabilising manager. Should the price of the securities drop below or remain at the issue price when securities begin to trade in the secondary market, the stabilising manager may purchase the securities to cover its “short” position and counteract the selling pressure. The “Greenshoe” from the issuer or substantial holder of relevant securities allows the stabilising manager to obtain the same number of securities that have been over-allotted, by exercising the option at the issue price. The stabilising manager may also allot more securities than the greenshoe, which is known as a naked short, or fewer securities. The stabilising manager may either close the net “short” position by exercising all or part of the greenshoe or by purchasing the securities in the market.

Definitions

5.100 For the purposes of this section, the following definitions apply:

Term	Meaning
ancillary stabilising action	action permitted under paragraph 5.103 enabling the stabilising manager to over allot securities in order to facilitate the subsequent purchase of the securities;
greenshoe	an option or other right, granted for a specified period of time, exercisable by the stabilising manager, to acquire up to a specified number of securities in addition to the initial issue number, to enable it to honour the commitments made during the stabilisation period;
introductory period	the shorter of (i) the period starting at the time of the first public announcement of the offer and (ii) the period starting 45 days before the commencement of the stabilisation period, and ending at the beginning of the stabilising period;
issue price	the price at which securities are issued or sold in the relevant offer;
over-allotment	the allotment of shares in excess of the number of securities to be issued or sold in the offer;
stabilising manager	the entity responsible for stabilising action under these requirements and referred to in paragraphs 5.102(a), 5.103(a), 5.112 and 5.113;
stabilising action	any action contemplated by paragraphs 5.102 and 5.103;

stabilising price	the initial price, at or below the issue price, up to which the stabilising manager has determined that it may wish to intervene in the market by way of stabilising action; and
relevant exchange	the JSE or any exchange approved by the JSE, for the purpose of price stabilisation.

Specific Requirements

5.101 Price stabilisation may only be effected in respect of an offer of securities, and must comply with the following criteria:

- (a) the offer must be an offering or issue of securities for cash, made at a specified price;
- (b) the offer must be for securities which are already listed or are to be listed;
- (c) the offer must be of sufficient size to satisfy the JSE that price stabilisation is warranted. Such size is to be determined in consultation with the JSE.

Permitted stabilising action

5.102 The stabilising manager may, subject to compliance with paragraph 5.104 undertake:

- (a) to purchase, agree to purchase, or offer to purchase any relevant securities with the aim of stabilising the market price of the relevant securities; and
- (b) to take certain ancillary action with the aim of stabilising the market price of the relevant securities or liquidating any positions taken as a result of the stabilising process.

Permitted ancillary stabilising action

5.103 The stabilising manager may, subject to compliance with paragraph 5.104:

- (a) with a view to stabilising action in relevant securities:
 - (i) make allotments of a greater number of the relevant securities than will be offered;
 - (ii) sell, offer to sell, or agree to sell relevant securities in order to establish a short position in them;
 - (iii) achieve a result equivalent to that in paragraph 5.103(a)(ii), by the use of derivatives; or
- (b) purchase, offer to purchase, or agree to purchase relevant securities in order to close out or liquidate any position established under the process of stabilising action; or
- (c) sell, offer to sell, or agree to sell relevant securities in order to close out or liquidate any position that has been established by stabilising action; or
- (d) achieve a result equivalent to that in paragraph 5.103(c), by the use of derivatives.

Conditions to be fulfilled

5.104 The following are conditions which the stabilising manager must reasonably believe have been fulfilled before any stabilising action is taken:

- (a) from the beginning of the introductory period, adequate disclosure has been made in all communications issued by or on behalf of the issuer or

- the stabilising manager to prospective investors in the securities, of the fact that stabilisation may take place in relation to the relevant offer, as stipulated in paragraphs 5.110 and 5.111;
- (b) the relevant exchange on which the securities are or will be traded has been informed in writing that stabilising action in such securities may take place during the stabilising period;
 - (c) that the price is not already artificial at the start of the stabilising period;
 - (d) the terms on which the securities may be issued, sold, exchanged for, or converted into, or the rights of the holders of the securities to subscribe for, or to acquire other securities, have been finally settled and publicly announced;
 - (e) the stabilising manager has established a register to record, in relation to each stabilising transaction effected in the securities, the matters required to be recorded in terms of paragraphs 5.112 to 5.115; and
 - (f) stabilisation may only take place during the stabilisation period.

Stabilisation period

- 5.105 If the JSE permits trading in the securities prior to listing, the stabilisation period will commence on the date such trading commences. Otherwise, the stabilisation period will commence on the date of the listing of the securities, or the date of their sale if already listed. The stabilisation period will end 30 calendar days after the relevant listing or sale date.
- 5.106 The stabilising manager is under no obligation to stabilise securities.

Pricing

- 5.107 The initial stabilising price (Price X) cannot exceed the offer price (or starting price) (Price Y), and subsequent stabilising action must equally be at or below the level of Price X. If there are no sales and purchases which are independent of the stabilising manager on both sides on the relevant exchange above Price X, the stabilising manager can operate at a price or at prices below Price X, moving up or down in that area as he wishes. But if an independent buyer and seller do a deal on the relevant exchange, at a price (Price Z) between Price X and Price Y, then the stabilising manager has a new maximum price (Price Z) instead of Price X.
- 5.108 The provisions of paragraph 5.107 will not prevent the stabilising manager from purchasing, offering to purchase or agreeing to purchase securities in order to close out a short position that is not covered by a greenshoe.

Over-allotment size

- 5.109 The over-allotment may not be more than 15% of the issue size.

Disclosures

- 5.110 Disclosure of the fact that stabilisation may take place should be provided in all communications issued by or on behalf of the issuer or stabilising manager to prospective investors in the securities in respect of the relevant offer.
- 5.111 For the preliminary offering circular (or prospectus) and/or final offering circular (or prospectus) the disclosure should contain:
- (a) the following text “In connection with this offer [name of stabilising manager] may over-allot or effect transactions which may support the

market price of [description of securities] at a level higher than that which might otherwise prevail for a limited period after the listing date. However, there is no obligation on [name of stabilising manager] to do so. Such stabilising action may under no circumstances continue beyond the 30th calendar day after the listing date”; and

- (b) where the stabilising manager has an option or other right to purchase relevant securities from the issuer or an existing securities holder for the purposes of stabilisation; and that option or right may be exercised or relied on after the start of the introductory period and during or after the remainder of the stabilising period, the existence and terms of such an option or right must be disclosed in the relevant prospectus or offering document.

Register

5.112 No bid may be made or transaction effected in the course of stabilising action unless:

- (a) the stabilising manager concerned has established the relevant register in compliance with 5.113 and 5.114; and
- (b) the stabilising manager is in compliance with the registration requirements in 5.113 and 5.114 in respect of all earlier transactions effected by it in the course of stabilising action in connection with the relevant offer in question.

5.113 The person responsible for the register must ensure that it contains, either in real time or updated overnight (from business day to business day), information on:

- (a) the name of the stabilising manager appointed as such;
- (b) the general parameters, including the initial stabilising price, laid down by the stabilising manager and the date and time of their communication, variation or revocation;
- (c) each transaction effected in the course of stabilising action including:
 - (i) the type of security;
 - (ii) the unit price;
 - (iii) the size;
 - (iv) the date and time; and
 - (v) details of the counter-party, if known;
- (d) details of the original allotment of securities (allottee and amount allotted); and
- (e) details so far as are known to the person responsible for the register of any deal which counts as a deal at a price above the then stabilising price.

5.114 The register must be kept in South Africa, or else be capable of being brought to or reconstituted inside South Africa within 48 hours of a request for access from the JSE or Financial Services Board, and, it must be retained for a period of at least twelve months from the date of the end of the stabilising period.

5.115 Disclosures by stabilising managers to issuers must comply with:

- (a) subject to the issuer agreeing to keep such information confidential, the stabilising manager shall permit the issuer of the securities to inspect the register kept under this section during the stabilising period, and for three months thereafter, on any business day;
- (b) the stabilising manager must inform the issuer that the information

- specified in paragraph 5.113(c)(i) to (iv) will be available to be shown to the issuer, if so requested, within 14 calendar days after the close of the stabilising period;
- (c) In addition to the above requirements, it is recommended that the issuer obtains an undertaking from the stabilising manager to disclose the following:
- (i) the date, time, number and value of all transactions effected with a view to supporting the market price of the relevant securities;
 - (ii) the number and value of all transactions entered into by way of permitted ancillary action under paragraph 5.103;
 - (iii) the profit or loss accruing to the stabilising manager, as a result of any transactions effected in terms of paragraph 5.115(c)(i) and (ii); and
 - (iv) the remuneration earned by the stabilising manager by way of commission or otherwise in relation to any transactions effected in terms of paragraph 5.115(c)(i) and (ii);
- (d) the recommendation in paragraph 5.115(e) applies, where:
- (i) a stabilising manager, or its associate, has an option or other right to purchase relevant securities from the issuer; and
 - (ii) that option or right may be exercised or relied on after the date of the offer and during or after the remainder of the stabilising period, and applies whether or not the exercise or reliance counts as permitted ancillary action under paragraph 5.103;
- (e) upon exercise of the right to acquire securities during the stabilising period, it is recommended that the issuer should require the stabilising manager to inform it, in writing, of the reason for the exercise of the right at that time, specifying in particular, to what proportionate extent the exercise is attributable to:
- (i) a need to deliver relevant securities to persons unconnected with the stabilising manager;
 - (ii) an opportunity for profit taking for the benefit of the stabilising manager or its associate in the course of the stabilising period;
 - (iii) a need to make good any failures to deliver by any other counterparty; and
 - (iv) any other circumstance, if so what; and if the exercise has led to any profit for the stabilising manager or its associate, whether or not paragraph 5.115(e)(ii) is specified, the stabilising manager must also specify the amount of profit taken by it or its associate as a result of the exercise; and
- (f) the stabilising manager is not under any obligation to disclose the names of the individual clients to the issuer.

Criteria for stabilising managers

- 5.116 The issuer must appoint a stabilising manager to take the responsibility for stabilisation.
- 5.117 The overall responsibility for stabilisation must be allocated to one entity (the stabilising manager), for:
- (a) each issue (an issue with two or more tranches shall be treated as one

issue); and

(b) in each jurisdiction.

5.118 If the stabilisation is in South Africa, the stabilising manager must satisfy the following criteria, or appoint an agent that satisfies the following criteria, to act on its behalf in South Africa:

- (a) it must be a member of the JSE, Life Offices' Association of South Africa, Council of South African Banks, Merchant Bankers' Association, [Banking Association of South Africa](#)~~and Exchange of South Africa~~ or any other person in South Africa or elsewhere (whether natural or juristic), in good standing and acceptable to the JSE;
- (b) it must prove to the JSE that it has the relevant expertise to undertake stabilisation action or has access to such expertise;
- (c) it must disclose to the JSE any material dealings (including those of a corporate finance nature), other than in the ordinary course of business, by it or its associates in the securities in respect of which stabilisation is to be undertaken during the six week period prior to the date of formal application for listing of the securities; and
- (d) it must satisfy the JSE that it has net tangible assets of not less than R2 billion in jurisdictions acceptable to the JSE and undertake that, throughout the stabilisation period, it will maintain at least R2 billion of its assets in the above-mentioned jurisdictions.

Documents to be submitted to the JSE

5.119 The following information in respect of the stabilising manager must be submitted to the JSE by the sponsor:

- (a) its full name;
- (b) its date and place of incorporation;
- (c) the full names and addresses of its directors;
- (d) its audited consolidated annual financial statements for the last two completed financial years. Where more than nine months have elapsed since the end of the financial year to which the last audited annual financial statements relate, an interim report, covering at least the first six months following the end of that financial year, must be included in the documentation. If such an interim report is unaudited, that fact must be stated;
- (e) a description of any material changes in the financial or trading position of the issuer since the end of the last financial period for which annual financial statements have been published, or an appropriate negative statement;
- (f) information on any legal or arbitration proceedings (including any such proceedings that are pending or threatened of which the issuer is aware) that may have, or have had, a material effect on its financial position, or an appropriate negative statement; and
- (g) any other details that the JSE may deem appropriate.

5.120 The stabilising manager is required to have a scrip lending agreement with a CSDP, a copy of which must be submitted to the JSE for approval.

Documents to be published

- 5.121 A SENS announcement in accordance with paragraph 5.110 and 5.111 must be published and a further announcement that the greenshoe has been exercised and the extent to which it has been exercised.

Stabilisation jurisdiction requirements

- 5.122 Where the issuer's primary listing is in another country/ies, there must be compliance with the relevant requirements of the overseas country/ies in which stabilisation transactions are effected or which may otherwise be affected by stabilisation activity, and compliance with such requirements will be deemed to be compliance with the requirements of the JSE.

Odd lot offers

- 5.123 An "odd-lot" offer is an offer where the listed company intends reducing administrative costs resulting from a large number of "odd-lot" holders. The JSE interprets an "odd-lot" as a total holding of:

- (a) less than 100 securities; or
- (b) 100 or more securities, provided that it can be illustrated to the JSE that the cost associated with a holder disposing of such number of shares is equal to or exceeds the total value of such number of securities.

- 5.124 When a listed company proposes to make an odd lot offer, the following criteria will apply:

- (a) in all instances a two-way election must be provided for in terms of which securities holders may:
 - (i) elect to retain their odd-lot holding; or
 - (ii) elect to sell their odd-lot holding;
- (b) this requirement has been repealed;
- (c) this requirement has been repealed; and
- (d) expropriation resulting from 5.124(a)(ii), being the default action applicable if securities holders do not make any election in terms of 5.124, will only be allowed where the issuer's MOI is amended to make provision for expropriation of odd-lots and where the specific odd-lot offer has been approved by shareholders in general meeting.

Documents to be submitted to the JSE

- 5.125 The documents detailed in paragraph 16.35 must be submitted to the JSE.

Documents to be published

- 5.126 The document that requires publication regarding odd lot offers is set out in paragraph 11.53.

5.123 amended with effect from 15 October 2007.

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

5.124(b), previously (c), renumbered with effect from 15 October 2007.

5.124(c), previously (d), renumbered with effect from 15 October 2007 and repealed with effect from 31 July 2012.

5.124(d), previously (e), renumbered and amended with effect from 15 October 2007 and 1 May 2011.

Shares issued to sponsors and advisers in lieu of fees

- 5.127 For existing companies, where shares are issued to the sponsor or to the adviser(s) of the issuer in lieu of fees, such shares must be issued in compliance with paragraph 5.50. For new listings, such shares of the issuer must be held in trust by the issuer's auditors or attorneys and may not be disposed of within 2 years from the date of listing.

Restrictive Funding Arrangements

- 5.128 Any restrictive funding arrangements undertaken by an issuer and/or any of its subsidiaries must comply with paragraph 11.60.