



The JSE Debt Listings Requirements

BULLETIN 1 of 2014

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Dear Subscriber

[Incorporation of the provisions of the Financial Markets Act No. 19 of 2012](#)

The Financial Markets Act No. 19 of 2012 (the “**FMA**”) came into force on 3 June 2013. The FMA repeals the Securities Services Act No. 36 of 2004.

As a consequence and in line with the transitional arrangements of the FMA, the JSE must amend the Debt Listings Requirements to align same with the provisions of the FMA.

Pursuant to Board Notice 259 of 2013 as published in *Government Gazette* No. 37162, the effective date of Bulletin 1 of 2014 is 15 January 2014.

Introduction

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.

Definitions

BESA	Repealed
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;
The Companies Act	the Companies Act 71 of 2008 as amended, or any law that may replace it with wholly or in part from time to time;
Debt Listings Requirements or Requirements	the debt listing requirements of the JSE pursuant to the provisions of the FMA 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 interpreta-

	tion 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;
Exchange Control Regulations	the Exchange Control Regulations, 1961, promulgated under the Currency and Exchanges Act, 1933;
FMA	the Financial Markets Act (Act No.19 of 2012), as amended or replaced from time to time;
JSE Limited or the JSE	the JSE Limited (registration number 2005/03339/06), a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa, licensed as an “exchange” under the FMA;
Registrar	the Registrar of Securities Services, as defined in the FMA;
Rules	the exchange rules of the JSE pursuant to the provisions of the FMA;
Securities Regulations Code	Repealed
SSA	Repealed
Strate	means Strate Limited (registration number 1998/022242/06) a company licensed as a central securities depository in terms of the FMA or any successor depository operating in terms of the FMA;

Section 1 – Authority of the JSE

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) ... (unchanged)
 - (c) ... (unchanged)
 - (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 re-

moved; and

(g) ... (unchanged)

- 1.3 Nothing contained in this section shall limit the powers of the JSE or its officers to those contained herein, and the JSE or its officers may at any time exercise any further powers granted to the JSE or its officers in terms of the 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) ... (unchanged)
- 1.7 When the Listing of Debt Securities of an Issuer is under threat of suspension, the affected Issuer shall be given the opportunity to make written representations to the JSE why the suspension should not be affected 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.

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) ... (unchanged)

- 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.

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.
- 1.17 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) ... (unchanged)
 - (b) ... (unchanged)
 - (c) in the instance of either paragraph 1.18(a) or (b), impose a fine not exceeding such amount as stipulated by the FMA 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) ... (unchanged)
- 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 ... (unchanged)
- 1.22 The whole or any part of the fines issued in terms of paragraph 1.18 will be appro-

priated as follows:

- (a) ... (unchanged)
- (b) the settlement of any future costs which may arise through the enforcement of the provisions of the Debt Listings Requirements.

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 Applicant Issuer has had an opportunity to make representations to it, that the disclosure of that information to the registered Holders of the Debt Securities in question will be in the public interest, it may, by notice in writing, require such Applicant Issuer to publicly disclose that information within the period specified in the notice.

Publication

- 1.25 Without derogating from any other powers of publication referred to in these Debt Listings Requirements, the JSE may, in its absolute discretion and in such manner as it may deem fit, state or announce that it has:
- (a) ... (unchanged)
 - (b) ... (unchanged)
 - (c) ... (unchanged)
 - (d) removed the Listing of any Debt Security or registration of a Programme Memorandum; and/or
 - (e) ... (unchanged)
- 1.26 In a statement or announcement referred to in paragraph 1.25, the JSE may give reasons for such investigation, censure, suspension, removal or fine, as the case may be, and, in the case of an investigation, so much of the JSE's conclusions or findings as it may, in its absolute discretion, deem necessary.

Amendments to the Debt Listings Requirements

- 1.30 Subject to the provisions of the FMA, the JSE may amend the Debt Listings Requirements through a public consultation process. The proposed amendments to the Debt Listings Requirements will be published through SENS inviting comments from affected parties for a period of one month.
- 1.31 Once the public consultation process has been completed, the JSE will submit the proposed amendments to the Debt Listings Requirements, together with an explanation of the reasons for the proposed amendments, and any concerns or objections raised during the public consultation process, to the registrar¹ for approval.

Section 2 – Debt Sponsor

¹ Means the person referred to in section 6 of the FMA.

Qualifications

- 2.1 ... (unchanged).
- 2.2 In order for an entity to be approved as a Debt Sponsor, it must make a written application to the JSE, setting out its relevant industry knowledge and prior relevant experience.

Section 3 – Conditions of Listing

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

- 3.10 In order to satisfy the minimum criteria for listing an Applicant Issuer must:
- (a) be generally acceptable to the JSE, having regard primarily, but not solely, to the interests of investors and the objects of the FMA;
 - (b)... (unchanged)
 - (c) ... (unchanged)
 - (d) ... (unchanged)

Price stabilisation

- (a) 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.

Section 4 – Listing Particulars

Listing process

- 4.7 Repealed.

Section 8 – Documents to be submitted for listing

Documents to be submitted

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

- (d) ... (unchanged)
- (e) ... (unchanged)
- (f) ... (unchanged)
- (g) ... (unchanged)
- (h) confirmation from State that the Applicant Issuer has been authorised as a participant in terms of the central securities depository rules and directives;

Regards,

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