



# HARMONIZATION INITIATIVE FOR SADC STOCK EXCHANGES

**Submitted by:  
Sam Mensah**

**Submitted by:  
The Services Group**

**Submitted to:  
USAID / Southern Africa**

**April 2007**

**Gaborone, Botswana**

**USAID Contract No. 690-M-00-04-00309-00 (GS 10F-0277P)**



# TABLE OF CONTENTS

<b>PART 1</b> .....	<b>1</b>
CAPITAL MARKET INTEGRATION AND HARMONIZATION .....	1
INTRODUCTION.....	1
BACKGROUND.....	1
CAPITAL MARKET INTEGRATION .....	3
HARMONIZATION OF LISTINGS RULES: BENEFITS AND CHALLENGES .....	9
METHODOLOGY.....	9
RELEVANT LAWS .....	12
RECOMMENDED APPROACH TO HARMONIZATION.....	14
<b>PART 2</b> .....	<b>16</b>
ANALYSIS OF LISTING RULES RELATIVE TO JSE .....	16
SECTION 2 SPONSORS.....	17
Qualifications .....	17
Appointment.....	17
Responsibilities of a sponsor .....	18
Direct access.....	19
SECTION 3 CONTINUING OBLIGATIONS .....	22
General obligation of disclosure .....	22
Disclosure of periodic financial information.....	27
Cash companies (“cash companies” or “cash shells”) .....	32
Rights between holders of securities .....	33
Profit warranties .....	34
Issues by a major subsidiary other than on listing.....	35
Directors .....	36
Auditors .....	40
Miscellaneous obligations.....	41
SECTION 4 CONDITIONS FOR LISTING.....	44
Conditions Applicable to all Markets .....	44
Main Board Listing Criteria.....	49
SECTION 5 METHODS AND PROCEDURES FOR BRINGING SECURITIES TO THE LISTING.....	51
Introductions.....	52
Offers for sale or subscription.....	53
Renounceable offers.....	55
Rights offers .....	56
CAPITALIZATION issues .....	57
Scrip dividend and cash dividend elections.....	58
Issues for cash .....	59
Acquisition or merger issues.....	62
Vendor consideration placings.....	62
SECTION 6 PRE-LISTING STATEMENTS.....	64
Requirement for pre-listing statements.....	64
Responsibility.....	64
Formal approval .....	64
Supplementary pre-listing statements.....	65
Omission of information .....	65
Omission of material contracts from disclosure.....	65
Issues not requiring pre-listing statements .....	66
Acquisition and merger issues .....	66
Revised take-over offers .....	67
SECTION 7 LISTING PARTICULARS .....	68
7. A The applicant and its capital.....	68
7.B Directors, Managers and Advisors.....	73
7.C Securities for which application is being made .....	80
7.D GROUP ACTIVITIES .....	83
7.E FINANCIAL INFORMATION .....	85
7.F GENERAL INFORMATION.....	87
7.G DOCUMENTS AND CONSENTS TO BE AVAILABLE FOR INSPECTION .....	91
7.H VENDORS .....	92
Section 8 FINANCIAL INFORMATION.....	94
Report of historical financial information .....	94
Pro forma financial information.....	98

Profit forecasts and estimates.....	102
Accountant’s report .....	105
Minimum contents of interim reports, preliminary reports, provisional annual financial statements (“provisional reports”) and abridged annual financial statements (“abridged reports”).....	108
Minimum contents of annual financial statements .....	110
<i>SECTION 9 TRANSACTIONS .....</i>	<i>116</i>
General .....	116
CATEGORIZATION and explanation of terms .....	116
Category 3 requirements .....	120
Category 2 requirements .....	121
Category 1 requirements .....	121
Reverse take-over requirements.....	122
<i>SECTION 10 TRANSACTIONS WITH RELATED PARTIES .....</i>	<i>123</i>
Definitions .....	123
Consultation with the JSE.....	123
Usual requirements for a related party transaction.....	124
Transactions not regarded as related party transactions.....	124
Small related party transactions .....	125
Aggregation.....	125
<i>SECTION 18 DUAL LISTINGS AND LISTINGS BY EXTERNAL COMPANIES.....</i>	<i>128</i>
General .....	128

## LIST OF ACRONYMS AND ABBREVIATIONS

BCEAO	Banque Centrale des Etats de l'Afrique de l'Ouest
BRVM	Bourse Régionale des Valeurs Mobilières
BSE	Botswana Stock Exchange
BVM	Bolsa de Valores de Maputo (Maputo Stock Exchange)
COSSE	Committee of SADC Stock Exchanges
DSE	Dar es Salaam Stock Exchange
EU	European Union
FIP	Finance and Investment Protocol
FSAP	Financial Services Action Plan
IAASB	International Auditing and Assurance Standards Board
IFRS	International Financial Reporting Standards
ISA	International Standards on Auditing
ISAE	International Standards on Assurance Engagements
ISD	Investment Services Directive
ISRE	International Standards on Review Engagements
ISRS	International Standards on Related Services
JSE	JSE Securities Exchange
LA	Letters of Allocation
LDM	Licensed Dealing Member
LuSE	Lusaka Stock Exchange
MSE	Malawi Stock Exchange
NSX	Namibia Stock Exchange
SADC	Southern Africa Development Community
SAICA	South African Institute of Chartered Accountants
SEM	Stock Exchange of Mauritius
SME	Small and Medium Scale Enterprise
SSX	Swaziland Stock Exchange
UCITS	Undertaking for Collective Investments in Transferable Securities
UEMOA	Union Economique et Monétaire Ouest Africaine
ZSE	Zimbabwe Stock Exchange

# PART 1

---

## CAPITAL MARKET INTEGRATION AND HARMONIZATION



---

## INTRODUCTION

---

This report has been prepared pursuant to a Consulting Agreement between the Consultant and The Services Group Inc. under USAID-funded Trade Facilitation and Capacity-Building Project. The Terms of Reference of the assignment require the Consultant to:

- Review the potential benefits for harmonized listing requirements in the region, and draw comparisons with other regions where exchanges have harmonized listing requirements
- Collect all information related to the current listings requirements in all the exchanges
- Gather information on the legal framework pertaining to the stock exchanges to establish the impact of achieving harmonization
- Establish the changes needed in each jurisdiction to achieve harmonization of listings requirements based on JSE rules
- Establish any particular challenges faced by individual member exchanges in achieving harmonization
- Highlight any other issues relevant to the listings harmonization initiative

The Report is presented in two parts. Part 1 deals with the significance of harmonization of listings requirements within the broad framework of a capital markets integration agenda. The concepts of capital markets integration and harmonization are clarified and the benefits and challenges of harmonization are analyzed drawing comparisons with integration efforts in other regions. Part 2 of the Report analyzes the listings rules of SADC stock exchanges relative to JSE's listings requirements.

The Draft Report was issued for comments on 24 December 2006. Comments were received from the Lusaka Stock Exchange and the Botswana Stock Exchanges. These have been incorporated into the final report.

## BACKGROUND

Originally known as the Southern African Development Co-ordination Conference (SADCC), the Southern African Development Community (SADC) was formed in Lusaka, Zambia on 1 April 1980, following the adoption of the Lusaka Declaration. The Declaration and Treaty establishing the Southern African Development Community (SADC) which has replaced the Co-ordination Conference was signed at the Summit of Heads of State or Government on 17 August 1992, in Windhoek, Namibia. Member states of SADC are Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

The aim of SADC is to create a Community providing for regional peace and security, and an integrated regional economy. As a regional institution it has laid the basis on which regional planning and development in southern Africa could be pursued. It also provides the desired instrument by means of which member states should move along the path towards eventual economic integration.

Within the SADC region, there are 10 stock exchanges and one bond exchange. Table 1 indicates that there is a significant variation in the size of SADC exchanges:

Table 1: Market Statistics of SADC Stock Exchanges (As at December 2004)

MARKET	COMPANY LISTINGS	MARKET CAPITALIZATION (US\$ BILLIONS)	MARKET CAP/GDP	TURNOVER RATIO (%)
Botswana	18	2.55	28	0.2
Malawi	9	5.80	386	0.3
Mauritius	41	2.38	38	0.4
Namibia	13	0.44	8	0.4
South Africa	403	455.5	214	3.5
Swaziland	6	0.18	8.7	0.01
Tanzania	7	0.73	7.6	0.5
Zambia	12	1.65	38	0.4
Zimbabwe	79	1.94	43	0.4

Sources: Standard and Poor's, Emerging Stock Markets Review (March 2005), national stock exchanges;

The Committee of SADC Stock Exchanges (COSSE) was established in January 1997 as a private-sector initiative within the SADC framework with the following objectives:

- improve the operational, regulatory and technical underpinnings and capabilities of SADC exchanges
- make their securities markets more attractive to both regional and international investors
- increase market liquidity and enhance trading in various securities and financial instruments
- promote the development of efficient, fair and transparent securities markets within the SADC region
- encourage the transfer of securities markets' intellectual capital and technical expertise among member countries of COSSE
- encourage the development of a harmonized securities market environment within the SADC region
- maximize cooperation among the member stock exchanges

COSSE works under the ambit of the draft SADC Finance and Investment Protocol (FIP) which seeks to contribute to the establishment of a regional common market by facilitating regional integration between Member States in the finance and investment field. The policy objectives of FIP are to:

- 1) Achieve macroeconomic convergence
- 2) Harmonise fiscal and monetary policies
- 3) Mobilise intra-regional savings and investment and facilitate foreign investment
- 4) Co-ordinate central banking and nonbanking institutions and harmonise regulatory frameworks and practices;



- 5) Co-operate in managing international capital flows; and
- 6) Promote effective functioning of Development Finance Institutions.

In 1999, COSSE members agreed to harmonize their listings rules to a basic minimum standard of 13 agreed principles. The harmonization would be based on JSE rules as the basic framework, structure and format.

---

## CAPITAL MARKET INTEGRATION

---

The harmonization of listings rules is part of a broader process of achieving capital market integration. In an integrated capital market, capital moves freely across borders and investors and users of capital face the same opportunities within a region. Achieving this idealized integration requires minimal friction, rational investors and free and equal access to information. In practice, however, market integration is a process, usually driven by market forces and formal efforts within the context of regional integration, towards the idealized state. Formal integration efforts involve eliminating restrictions to cross-border financial operations by firms in the region, as well as the harmonization of rules, taxes and regulations. During the process, separate national markets eventually become one market characterized by converging prices, product supply and converging efficiency among financial service providers.

The following benefits of integration are widely accepted:

**Higher levels of economic growth:** Economic growth potential increases in integrated markets because of better allocation of capital among investment opportunities. For example, research in 2002 by London Economics and PricewaterhouseCoopers predicted that European-wide financial market integration would reduce the cost of equity by 40 basis points and increase GDP by 1.1% in the long term.<sup>1</sup>

**Economies of Scale:** Market integration provides cost savings to market institutions because of economies of scale. Economies of scale produces lower user cost because of common technology, common standards and common regulation.

**Better Risk Management:** Because of the imperfect correlation of returns, the ability to invest across a wider range of financial instruments with varying risk-return combinations provides better opportunities for risk sharing and diversification.

**Greater Liquidity by Pooling Order Flow:** The pooling of orders increases the liquidity of markets as investors face a common screen of buy and sell orders across the entire region.

In practice, we can evaluate the degree of integration of markets by looking at the similarity of access, rules and treatment. According to Baele et al (2004)<sup>2</sup>, a given set of financial instruments and/or services can be considered to be fully integrated if all potential market participants with the same relevant characteristics:

- 1) have equal access to the available set of financial instruments and/or services in the region

---

<sup>1</sup> PricewaterhouseCoopers, January 2004, "Building the European Capital Market: A Review of Developments" [www.pwc.com/corporatereporting](http://www.pwc.com/corporatereporting)

<sup>2</sup> Baele L., A. Ferrando, P. Hördahl, E. Krylova, and C. Monnet, 2004, "Measuring Financial Integration in the Euro Area", European Central Bank, Occasional paper Series, No 14 (April)

- 2) face a single set of rules when they decide to deal with those financial instruments and/or services; and
- 3) are treated equally when they are active in the market.

Because regions are at various levels of the integration process, capital market integration can be viewed along a continuum. At one extreme we have fully segmented markets with limited or no integration. At the other extreme we have a single capital market. It is rare today for capital markets to be closed because of globalization and the increase in cross border capital flows. Even in most highly segmented markets, there are some minimal rules to facilitate cross border flows reflected in rules governing foreign investor participation in domestic capital markets and dual listings of securities.

#### BRVM AND THE SINGLE MARKET MODEL

The single market approach is best typified by the Bourse Régionale des Valeurs Mobilières of (BRVM) of the UEMOA<sup>3</sup> region of West Africa. BRVM is a single stock exchange with branches in each UEMOA country and its headquarters in Abidjan, Cote D'Ivoire. Although the bourse is majority owned by the private sector, the member states own 13.4% of the capital. The operational features of BRVM include the following:

- Computerized trading with satellite links, which allow brokers to transmit orders from any of the member countries to the central site in Abidjan, to check and interact with the order book and to see information about the market and the central depository.
- 15 brokerage firms.
- Trades are cleared and settled at the Depositaire Central/Banque de Reglement SA

BRVM opened in 1998 and is underpinned by the following initiatives that have been undertaken to promote financial integration in the UEMOA region.

- Since 1962, the UEMOA treaty has laid the basis for a monetary union with a single currency and regional central bank (Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO)) responsible for the conduct of monetary policy. There are no capital controls within UEMOA.
- A single banking commission (Commission Bancaire de l'UEMOA) was created in 1990 to strengthen regional banking supervision. The commission is managed by a Secretary-General and headed by a president, who is also the Governor of the BCEAO. Since 2004, a single banking license is sufficient to set up banking operations in the UEMOA. The decision to grant or withdraw a banking license involves both the banking commission and the relevant national finance minister.
- There are no cross-border restrictions on banking and other financial services except insurance. Approval is granted on a nondiscriminatory basis. However, for "prudential" reasons, countries will not be prevented from taking certain measures, such as requiring approval by the minister responsible for finance or the central bank and/or any other measures, which have or may have a prudential effect.

---

<sup>3</sup> Union Economique et Monétaire Ouest Africaine (UEMOA) was established in 1973 and is made up of eight countries - Benin, Burkina Faso, Cote d'Ivoire, Guinea Bissau, Mali, Niger, Senegal, and Togo.

- Insurance contracts for residents or for property located in a given UEMOA country can only be concluded with entities that have been approved for such purpose in that country. The minister responsible for insurance grants approval after consultation with the Insurance Control Commission.
- The 1995 PARMEC law (Projet d'Appui à la Réglementation sur les Mutuelles d'Épargne et de Crédit) for savings and credit institutions laid the basis for a regulatory framework for cooperative financial institutions in the region.
- The regional capital market includes a common interbank market and a single market (Bourse Régionale des Valeurs Mobilières—BRVM) for both bond and stock trading and fund management (SICAV) which is supervised by a regional securities commission (Conseil Régional de l'Épargne Publique et de Marchés Financiers—CREPMF). In addition, pension funds have been supervised since 1996 by a regional body, Conférence Interafricaine de la Prévoyance Sociale—CIPRES.
- Insurance companies are supervised under the 1992 Inter-African Conference on Insurance Markets (Conférence Interafricaine du Marché des Assurances—CIMA) treaty among the African Franc zone countries by a single regional authority (Commission Régionale de Contrôle des Assurances—CRCA). There is a regional reinsurance company (CICA-RE).
- Since 1996, a regional commercial legal framework (Organisation pour l'Harmonisation du Droit des Affaires en Afrique—OHADA) has been put in place.
- Accounting standards for financial institutions have been modernized to bring them in line with international standards. Similarly, accounting standards for corporations have been harmonized in the context of the West African Accounting System (Système Comptable Ouest Africain—SYSCOA). Moreover, a balance sheet center (centrale des bilans) is maintained at the BCEAO and includes balance sheet information for a number of borrowing firms.
- A reform of the payment system is underway with key steps finalized in the area of the RTGS and interbank settlement system. A centralized database tracking unpaid checks (centrale des incidents de paiement) is also maintained by the BCEAO.
- In the area of microfinance, a regional institution (Banque Régionale de Solidarité) with regional institutional shareholders has been created and branches are being opened in member countries.

The BRVM is the world's only model of a single market serving eight countries in a region. In terms of market participants facing a single set of rules, financial integration in the UEMOA region is very advanced. However, the BRVM model also indicates that a degree of regulatory uniformity is a prerequisite for a single regional market. While the harmonization of listings requirements for stock exchanges is a step in the direction of regulatory uniformity, the single market model requires a lot more than the harmonization of stock exchange listings requirements.

#### EUROPEAN CAPITAL MARKET INTEGRATION

The components necessary to achieve a single capital market in Europe were set out in the Financial Services Action Plan (FSAP) published by the European Commission in 1999. FSAP comprised a five-year legislative process with three strategic objectives: a single EU wholesale

securities market, open and secure retail markets and state-of-the-art prudential rules and supervision. Subsequently, the Lamfalussy Process was developed in March 2001. It is named after the chair of the EU advisory committee that created it, Alexandre Lamfalussy. It is composed of four "levels," each focusing on a specific stage of the implementation of legislation as follows:

- Level 1: the European Parliament and Council of the EU adopt a piece of legislation, establishing the core values of a law and building guidelines on its implementation.
- Level 2: Sector-specific committees and regulators advise on technical details, and then bring it to a vote in front of member-state representatives.
- Level 3: National regulators work on coordinating new regulations with other nations.
- Level 4: Involves compliance and enforcement of the new rules and laws.

A key outcome of the Lamfalussy process is a series of “directives” that provide a basic framework, leaving many detailed matters to be tackled through implementation guidance. The directives that are currently in place are:

- 1) **Undertaking for Collective Investments in Transferable Securities (UCITS) Directive (1985)**: As amended in 1988, UCITS paved the way for Funds established in any Member State to receive a “European Passport”. The intention behind the Directive was that once the UCITS is established and registered with the competent supervision body of the EU Member State in which the legal entity of the fund is situated, its shares or units can be ‘freely marketed’ in all of the Member States of the EU.
- 2) **The Investment Services Directive (ISD) 1993** set the legislative framework for investment firms and securities markets in the EU, providing for a single passport for investment services.
- 3) **Admission and Listings Particulars Directive, 2001**: The aim of this Directive is to coordinate the conditions for the admission of securities to official stock-exchange listing and the information to be published on those securities in order to provide equivalent protection for investors at Community level.
- 4) **Prospectus Directive, 2004**: The Prospectus Directive provides a framework for a consistent approach when a prospectus is required and sets a common standard for disclosure. The Prospectus Directive is a “maximum harmonization directive”. Member states will not be able to impose additional requirements on issuers from other member states as to when a prospectus might be required or its content.
- 5) **Insider Trading Directive, 2003**: It is intended to guarantee the integrity of European financial markets and increase investor confidence
- 6) **The Markets in Financial Instruments Directive (MIFID) (2004)** – comes into effect on 1 November 2007, when it will replace the existing ISD. MiFID extends the coverage of the current ISD and introduces new and more extensive requirements that firms will have to adapt to, in particular for their conduct of business and internal organisation. The aim of the ISD was to set out some

basic high-level provisions governing the organisational and conduct of business requirements that should apply to firms.

In summary, the key pillars of EU market integration are:

- Freedom of capital and of payments as reflected in Articles 56 - 60 (ex 73b - 73g) of the EU Treaty. This recognizes the fact that the complete liberalisation of payments and capital movements is a prerequisite to the single capital market.
- The key principles of market integration have been accepted as follows:
  - Harmonisation through Directives, not by unification
  - Home state control principle
  - Mutual recognition

Perhaps, the major lesson to be derived from the European approach is the incremental approach which allows harmonization to be achieved through the incremental adoption of a common set of standards over a long period of time. We should also note that at this point, European stock exchanges do not have harmonized listings requirements although it is expected that harmonization will be achieved over time.

#### EURONEXT

In 2000, the Amsterdam, Brussels and Paris stock exchanges teamed up to form Euronext, the first pan-European market. The alliance took concrete form with the incorporation of holding company Euronext N.V. Shareholders of the Amsterdam Exchanges, Brussels Exchanges and ParisBourseSBF SA received shares in the new company in exchange for their existing interests. To meet regulatory requirements, in particular as regards listing, and to ensure the integration of Euronext in the business culture of each country, the three market operators – all now wholly-owned subsidiaries of Euronext N.V. – retain their identity under the new names Euronext Amsterdam N.V., Euronext Brussels S.A./N.V. and Euronext Paris S.A. Each represents a portal offering issuers, intermediaries and investors access to a single market.

Before Euronext, Amsterdam, Brussels and Paris were three distinct exchanges each with its own organisation, operating rules, trading platform, clearing house, and procedures for payment and delivery. This was against the background of a common currency, the euro, which came into being on January 4, 1999. This market structure did not allow investors to make the most of monetary union. Investors in Belgium, France or the Netherlands wishing to invest in a market in one of the other two countries thus had to:

- seek out information about companies and their securities – with no guarantee of obtaining it – including prices, trading volumes, bids, asks, and more
- place an order through their usual broker or bank, which in turn had to pass this on to correspondents in the other two countries and make costly crossborder payments
- face delays due to the complexity of the transaction.

For companies, the same difficulties were an obstacle to the development of a broader shareholder base in the euro zone.

Euronext, the first pan-European market for equities and derivatives has brought investors

unified access to a broader range of issues and products. This unified market combines:

- a single trading platform serving all trading members and providing access to all shares and other products in accordance with unified rules
- a single order book for each stock, a change which makes for greater market transparency and liquidity (in the past, an issue listed on all three markets was traded at prices generated by different order books)
- a single clearing house acting as a central counterparty to guarantee payments and deliveries
- a single payment and delivery system.

Functional and technical integration of Euronext is designed to be in harmony with the legal and cultural environment of each country. Companies applying for listing with Euronext can do this through Amsterdam, Brussels or Paris. While they remain subject to the supervision of authorities in the country of access, the three centres are portals to a single list.

The Euronext List brings together the 1,653 companies from its three founding markets, making it Europe's largest market in terms of trading volumes through a central order book, and number two in terms of both the number of companies listed and total market capitalization.

The Euronext Rule Book currently consists of two books:

- Book I contains the harmonized rules, including rules of conduct that are designed to protect the markets, as well as rules on trading and membership;
- Book II contains all rules of the individual markets that have not been harmonized.

Many of the matters covered in Book II are currently being harmonized but will remain specific to each Euronext market operator during the transitional period. The notices adopted by Euronext for the enforcement of Book I apply to all Euronext markets (unless otherwise specified), while those for the enforcement of Book II are specific to local jurisdictions. The regulators in Belgium, France, the Netherlands, Portugal and the United Kingdom have approved the market rules of Books I and II. Apart from provisions directly linked to and implied by national laws and regulations, listing conditions for issuers remain the only domain not yet harmonized in Book I. The following rules have been integrated in Book I:

- membership rules for cash and derivatives markets;
- trading rules for cash and derivatives markets;
- rules of conduct for cash and derivatives markets;
- transparency obligations for certain issuers (applicable only to cash markets);
- enforcement of the rules (applicable to cash and derivatives markets).

Euronext intends to pursue harmonization as rapidly as possible in order to transfer rules from Book II to Book I.

The Euronext model indicates that it is possible to achieve a relatively large pool of liquidity combining several markets with partially harmonized rules. In the EU, this has been made

possible through a common currency, absence of capital account restrictions and adoption of common trading and post trade technology platforms.

---

## HARMONIZATION OF LISTINGS RULES: BENEFITS AND CHALLENGES

---

The harmonization of listings rules is made more difficult by the fact that the term “harmonization” is loosely used. In some contexts, harmonization is interpreted to mean uniformity. In other contexts, harmonization applies to a minimization of differences. In the context of the effort to harmonize the listings rules of SADC stock exchanges, we will need to reach a common understanding of harmonization. The proposed definition of harmonization is: **the process through which two or more institutions achieve consistency in their rules and regulations.**

There are important corollaries to this definition. Most importantly, harmonization means setting boundaries to degrees of variation. However, harmonization does not imply uniformity. Thus in harmonizing the listing rules of SADC stock exchanges, the goal is not to achieve uniformity but rather rules that are more compatible with the listing rules of the JSE.

The harmonization of listings rules within a region can make the following contributions towards capital market integration:

- Reduction of duplication of regulatory effort
- Simplification of compliance by issuers across markets
- Ease of market entry: The Euronext model indicates that harmonized listing rules provides ease of market entry for issuers and investors

However, harmonization also comes with a number of challenges. These include the following:

- Achieving consensus is difficult and slow
- Harmonization of listings rules still requires compliance with multiple regulatory regimes
- Harmonization reduces competition between rules
- The harmonization approach assumes that all markets have equal enforcement capacity. Thus the problem of implementation is not easily resolved.

Despite the challenges, the decision by COSSE members to harmonize listings requirements is a major step forward and overcomes the critical barrier of achieving consensus.

---

## METHODOLOGY

---

The approach to the analysis of COSSE listing rules against the JSE benchmark has been guided by a number of considerations. First, SADC stock exchanges exhibit significant differences in size, operating characteristics and economic environment. The challenge of harmonization is to achieve consistency while still allowing flexibility, especially for the relatively small and undeveloped markets. Second, there was the need to keep the scope of the assignment manageable within the time and resources available. Based on this reasoning, harmonization should primarily focus on standards and principles. Harmonization should also focus on core

listing requirements. Thus, the following items will not be harmonized

### **Debt Markets**

The listings requirements for SADC exchanges other than JSE cover both equity and debt securities. However, the JSE listing rules cover only equity and equity-related securities. This may be because of the existence of the Bond Exchange of South Africa. Thus, harmonization that is presented in this report is benchmarked against the JSE listing rules for equity-related securities. While the establishment of minimal harmonized requirements for debt instruments is equally important, it is the view of the Consultant that this should be dealt with as a later project given the available resources and the limited capacity in the region for implementation.

### **Scale-based requirements**

There are many listing requirements that are closely related to the size of the market. Because of the wide disparity in market sizes, harmonizing these against JSE would create requirements that would not be feasible for many markets. Examples include the following:

- Listing and Other Fees
- Spread of Shares: It is common in listing rules to establish the minimum percentage of each class of securities to be held by the public. In addition, the minimum number of securityholders for each class of securities is prescribed. In the view of the Consultant, both the percentage and the number of securityholders should be country-specific depending on population, level of financial deepening and investing culture. Many of the smaller stock exchanges have been able to attract listings by being flexible on the public float requirement. Removing this flexibility would affect the ability of the small markets to grow.
- Subscribed Capital: Each exchange has requirements regarding the minimum subscribed capital of listed companies. In the Consultant's view, these need not be harmonized but should be country specific. The appropriate capitalization will be determined by factors such as the size of the company and the average size of companies.

### **Penalties and Sanctions, Disciplinary Action**

It is assumed that these will be appropriate for the particular country and will be adequate to motivate compliance.

### **Procedures**

In general, procedures have been excluded from harmonization. Such procedures will differ among countries depending on the institutional structure of the stock exchange. Examples of such procedures include:

- 1) Procedures for dealing noncompliance
- 2) Procedures for the approval of documents required to be submitted to the JSE
- 3) Listing application procedures

### **Communication Requirements**

Methods of communication with holders of securities have been excluded. It is assumed that local conditions will determine the most effective method/medium of communication



**Main Board versus Alternative Boards:**

Many markets have a number of trading boards. Typically, there is a Main Board that lists companies that meet the listing requirements of an exchange. Subsidiary boards are designed for companies that do not meet the listing requirements of the Main Board but are accommodated with less stringent listing requirements. Subsidiary boards are usually designed for small and medium-scale enterprises (SMEs) and venture capital investee companies. Stock exchanges design these alternative boards depending on their respective business environments. For example, the JSE has the Main Board, the Development Board, the Venture Capital Market and Alt-X while Tanzania has a Main Board and Second Tier board. In the Consultant's opinion, it is not necessary to harmonize stock exchanges with respect to the number of trading boards and the requirements for each board. Harmonization should focus on achieving a harmonized set of rules for the Main Board only with countries maintaining the flexibility to design any number of additional boards depending on their economic environment and the state of development of the SME sector. Accordingly, the harmonization recommendations have been limited to the Main Board requirements for each country.

**Specialist Companies and Securities**

The following specialist companies and securities will not be harmonized.

- Mineral Companies
- Property companies
- Pyramid Companies
- Investment entities
- Specialist Securities

**Recommended Changes in Listing Rules**

The analysis of listing rules relative to the JSE focuses on identifying differences and similarities. The recommendations indicate changes that are needed to align with the JSE and not necessarily an endorsement of a particular JSE rule. Some exchanges might find that there might be reasons why the recommended changes may not be feasible in their setting. COSSE members are advised to carefully weigh the recommended alignment with JSE listing rules against the specific conditions in their markets.

---

**RELEVANT LAWS**

---

In many SADC countries, listings requirements must be read in conjunction with the provisions of securities laws as well as regulations of the regulatory authority. In all cases, the listings requirements include a provision that an issuer must comply with various laws and regulations. Listed below are the relevant laws in each country. In some cases, listing requirements that are apparently missing when compared to JSE requirements may be found in the other laws that must be complied with by issuers.

<b>Stock Exchange</b>	<b>Relevant Laws</b>	<b>Regulatory Authority</b>
Botswana	<ol style="list-style-type: none"> <li>1) The Companies Act (CAP. 42:01)</li> <li>2) The Botswana Stock Exchange Act, 1994</li> </ol>	The Committee of the Botswana Stock Exchange
Malawi	<ol style="list-style-type: none"> <li>1) The Companies Act (Cap 46.03)</li> <li>2) Capital Market Development Act (Cap 46.06)</li> </ol>	Reserve Bank of Malawi
Mauritius (SEM)	<ol style="list-style-type: none"> <li>1) The Companies Act, 1984</li> <li>2) The Stock Exchange Act, 1988</li> </ol>	Financial Services Board
Mozambique	Not Available	Not Available
Namibia	<ol style="list-style-type: none"> <li>1) Stock Exchange Control Act, 1985</li> <li>2) The Namibia Financial Institutions Supervisory Authority Act, 2001</li> </ol>	Namibia Financial Services Supervisory Authority (NAMFISA)
South Africa	<ol style="list-style-type: none"> <li>1) The Companies Act, 1973</li> <li>2) Insider Trading Act, Act 135, 1998</li> <li>3) Securities Services Act, Act 36, 2004</li> </ol>	Financial Services Board
Swaziland	The Companies Act, No. 6, 1912	Central Bank
Tanzania	<ol style="list-style-type: none"> <li>1) Companies Ordinance</li> <li>2) Capital markets and Securities Act, 1994</li> </ol>	Capital Markets and Securities Authority
Zambia (LuSE)	<ol style="list-style-type: none"> <li>1) Securities Act, CAP 354, 1993</li> <li>2) The Companies Act, 1994</li> <li>3) Banking and Financial Services Act, 1994</li> <li>4) The Competition and Fair Trading Act, 1999</li> <li>5) Securities (Registration of Securities) Rules, 1993</li> <li>6) Collective Investment Schemes Rules, 1993</li> </ol>	Securities and Exchange Commission

Zimbabwe	<ol style="list-style-type: none"><li>1) The Companies Act 1951</li><li>2) Zimbabwe Stock Exchange Act, 1996</li></ol>	A draft Securities Bill is to be presented to Parliament seeks to establish the Securities Exchange Commission
----------	--	--

---

## RECOMMENDED APPROACH TO HARMONIZATION

---

There is broad consensus among COSSE members and indeed the wider financial community that there are positive economic benefits to be gained through a progressive integration of capital markets in the SADC region. The major factors driving this consensus are the small size of markets with the related problems of illiquidity, high operating costs and the limited options available to both issuers and investors in the region.

The analysis of listings requirements indicates the following:

1. There many countries in the SADC region that are already harmonized with JSE to a very significant extent. The countries that stand out in this regard are Namibia, Malawi, Swaziland and Zambia.
2. The Listings Requirements of the Stock Exchange of Mauritius are comprehensive and substantially cover the same items as JSE although there are more items to harmonize than Namibia, Malawi, Swaziland and Zambia
3. Tanzania appears to have the most harmonization to do.

Experience in other parts of the world indicates that the harmonization of listing rules without a broader market integration strategy is unlikely to achieve the intended results. The chosen model of integration would provide a guide for the scope and intensity of the harmonization process. This suggests that SADC stock exchanges should agree on a model for integration. The various models of integration reviewed above suggest the following:

1. The BRVM model with a single market has been facilitated by a comprehensive regime of economic and regulatory integration involving all members of UEMOA. Currently SADC is in the very early stages of achieving the levels on regulatory and economic integration in the UEMOA region.
2. The Euronext approach is primarily a private-sector driven model involving the operational integration of the Amsterdam, Brussels and Paris stock exchanges under a single holding company with three wholly owned subsidiaries. Euronext has made possible the integration of organizational structure, operating rules, trading platform, clearing house and procedures for payment and delivery thus giving investors access to a single market. The prerequisite for achieving the Euronext model are independent exchanges with the flexibility to operate as subsidiaries of a single company. The Euronext model has also been significantly facilitated by wider European integration involving a single currency with no capital account controls and a harmonization of national regulatory frameworks. SADC stock exchanges may not be in a position to adopt the Euronext approach for a number of reasons. First the wider integration underpinnings of both UEMOA and EU are largely absent. Second, there is the major political hurdle of demutualizing stock exchanges in SADC into corporate structures that allow them to operate under one unified organizational and operational structure.
3. The European Union capital market integration is a carefully planned incremental approach aimed at achieving regulatory integration within the context of a complete liberalization of payments and capital movements. Harmonization is achieved through directives, home state control and mutual recognition. The approach, although slow, has achieved some breakthroughs with some six key directives now in place.

The European experience indicates that it is not easy to achieve harmonization through a “Big Bang” approach. In many cases, legislation has to be changed which is slow. Indeed some

COSSE members believe that a high degree on integration among SADC members is not realistic at this time. In the view of one COSSE member,<sup>4</sup>

*To make the listing rules of SADC exchanges identical to those of the JSE would be detrimental to the development of individual member exchanges as it will adversely impact on the brand that makes each exchange unique and different from each other.*

It may therefore be more realistic to to adopt the EU model of integration by prioritizing the various components of regulatory harmonization and implementing them through a series of directives adopted one at a time. Such directives should allow individual exchanges flexibility to respond to specific conditions in their markets so long as the requirements of the directive are satisfied.

Listings requirements would undoubtedly be a major part of this approach and could be broken down into a series of directives adopted over a period of time. In this process the JSE as the most developed market could still provide an important point of reference for the development of specific directives.

---

<sup>4</sup> Botswana Stock Exchange in a submission to the Consultant.

## PART 2

---

### ANALYSIS OF LISTING RULES RELATIVE TO JSE

---

## SECTION 2 SPONSORS

---

This section sets out the requirements relating to sponsors. Sponsors will normally be corporate brokers, banks and other professional advisers, including accountants and attorneys. Such sponsors must undertake to the JSE that they accept certain responsibilities. These responsibilities are detailed in Section 2 and Schedule 16 of the Listings Requirements. The responsibilities of a sponsor appointed by an applicant issuer are twofold, namely:

- (a) to assist applicant issuers with applications for listing which require the production of listing particulars and/or other relevant documentation; and
- (b) to provide advice on a continuing basis regarding the application of the Listings Requirements, including the application of the spirit of the Listings Requirements and upholding the integrity of the JSE, and in particular, the continuing obligations set out in Section 3.

### QUALIFICATIONS

- 2.1 In order for an applicant to become a sponsor and to perform its responsibilities in accordance with the Listings Requirements, it must:
- (a) submit a written application as set out in Schedule 16 of the Listings Requirements or in such other form as the JSE may from time to time approve;
  - (b) be entered on the JSE's Register of Sponsors, having successfully completed all necessary application forms prescribed by the JSE; and
  - (c) have paid the necessary fees.

The authority to act as a sponsor will be reviewed on an annual basis in accordance with the provisions of Schedule 16.

### APPOINTMENT

- 2.2 An applicant issuer is required to have an appointed sponsor at all times.
- 2.3 A joint sponsor is required to be appointed:
- (a) where the sponsor is also the applicant issuer;
  - (b) where the sponsor is a subsidiary or associate of the applicant issuer;
  - (c) where the JSE, in respect of any transaction, deems it necessary to appoint a joint sponsor; or
  - (d) where the sponsor is not independent in terms of Schedule 16.
- 2.4 Where a joint sponsor is required to be appointed in terms of paragraph 2.3, such appointed joint sponsor shall be the lead sponsor of the applicant issuer. Where an applicant issuer has appointed more than one sponsor, the applicant issuer must appoint one of the sponsors as the lead sponsor. The lead sponsor must be identified as such in all communication with holders of securities and to the public.
- 2.5 Where a sponsor other than an applicant issuer's appointed sponsor initiates a specific transaction for the applicant issuer, such sponsor may be appointed as joint sponsor for that transaction. In such a case, one of the joint sponsors must be appointed as lead sponsor.
- 2.6 An applicant issuer must advise the JSE in writing (providing a copy to the sponsor) of the appointment, resignation or dismissal of any sponsor. Where a sponsor is dismissed or resigns, the applicant issuer and the sponsor must immediately inform the JSE separately in writing of the reason for the dismissal or resignation. In such a situation, the applicant issuer has 30 days to appoint a new sponsor from the date of dismissal or resignation of the sponsor, unless the JSE decides otherwise. Failure to comply with this requirement may result in disciplinary action being taken in terms of Section 1 of the Listings Requirements.

## RESPONSIBILITIES OF A SPONSOR

### Nature of responsibilities

- 2.7 The responsibilities of a sponsor are contained in Schedule 16 and in paragraphs 2.8 to 2.12. Failure to carry out these responsibilities may result in the JSE taking one or more of the steps referred to in paragraph 2.17.
- 2.8 A sponsor, or in the case of more than one sponsor, the lead sponsor (as contemplated in paragraph 2.4) must:
- (a) at the date of first submission, of any documentation submit a confirmation in the form set out in Schedule 17 to the JSE;
  - (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 whether the Listings Requirements are being and have been complied with by it or by an applicant issuer;
  - (c) submit all documentation required in terms of paragraph 16.2 to the JSE, ensuring that such announcements and documents (excluding all periodic financial announcements and the annual financial statements), in both principle and content, are in compliance with the Listings Requirements. The sponsor must obtain confirmation, preferably in writing, from applicant issuers in respect of periodic financial announcements and for annual financial statements that such announcements and documents have been prepared in compliance with the Listings Requirements. All first submissions, together with the required checklist as contained in the Appendix to Section 16, must be signed by at least one of the approved executives of the sponsor;
  - (d) ensure that the applicant issuer is guided and advised as to the application of the Listings Requirements, including the application of the spirit of the Listings Requirements and upholding the integrity of the JSE;
  - (e) manage the submission of all documentation to the JSE and ensure its completeness and correctness before submission;
  - (f) satisfy itself as to the credentials of the reporting accountants, auditors, competent persons, valuers, providers of fair and reasonable statements and any other party deemed necessary by the JSE;
  - (g) carry out any activities so requested by the JSE;
  - (h) discharge its responsibilities with due care and skill; and
  - (i) 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 and its advisers:
    - (i) about the matters described in paragraphs 2.9 to 2.12; and
    - (ii) 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.

### Directors

- 2.9 The sponsor must be satisfied that the directors of new applicants and newly appointed directors of issuers:
- (a) have completed and submitted the directors' declaration as set out in Schedule 21;
  - (b) have had explained to them by the sponsor the nature of their responsibilities and obligations arising from the Listings Requirements; and
  - (c) in particular, understand what is required of them to enable holders of securities and the public to be able to appraise the position of an applicant issuer on an ongoing basis and to avoid the creation of a false market in the applicant issuer's securities once they are listed.



### **Financial reporting procedures**

- 2.10 Before the application for a new listing is made, or in the event of a sponsor accepting appointment to act as such to an issuer, the sponsor must report to the JSE in writing that it has obtained written confirmation from the applicant issuer that the directors have established suitable information communication procedures providing for a flow of information that provides a reasonable basis for the directors to make proper judgments as to the financial position and prospects of the issuer and its group.

### **Profit forecast**

- 2.11 Where a profit forecast or estimate is required and produced in accordance with paragraphs 8.35 to 8.44, the sponsor must report in writing to the JSE that it has made due and careful enquiry of the issuer's board of directors that the profit forecast or estimate has been properly prepared.

### **Working capital statement**

- 2.12 Where an issuer prepares listing particulars, or any circular or communication to holders of securities that requires a working capital statement (refer to paragraphs 5.69 (c), 11.23 (g), 11.26 (d), 11.28 (e), 11.30 (d) and 7.E.7 to 7.E.9) the sponsor must report to the JSE in writing that it has discharged all of its responsibilities in terms of Schedule 25.

### **DIRECT ACCESS**

- 2.13 A sponsor must be present at all formal discussions held between the JSE and an applicant issuer.
- 2.14 Notwithstanding the provisions of this section, the JSE may, in appropriate circumstances, communicate directly with the applicant issuer or with an adviser of the applicant issuer, in addition to its sponsor, to discuss matters of principle and/or the interpretation of the Listings Requirements.
- 2.15 Where discussions take place without the sponsor being involved, the applicant issuer or adviser concerned must ensure that the sponsor is informed (preferably in writing) of the matters discussed as soon as practicable.
- 2.16 Any information to be released will not be released until consent has been received from the sponsor.

### *COMMENT*

There are two main differences between the JSE sponsor requirements and the other COSSE member stock exchanges:

- 1) The JSE definition of who is eligible to be a sponsor is broader and includes corporate brokers, banks and other professional advisers, including accountants and attorneys. By contrast most of the remaining stock exchanges only allow their dealing members to be sponsors.
- 2) JSE requires that issuers retain sponsors on a continuing basis for the purposes of assisting the issuer in meeting continuing obligations. The majority of remaining stock exchanges only require the use of sponsors during the listing application.

The responsibilities of sponsors are broadly similar across all member exchanges of COSSE.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	Section 2. Provides for sponsoring brokers	Section 2 should be amended to provide for: <ul style="list-style-type: none"> <li>■ A wider definition of who is eligible to be a sponsor (corporate brokers, banks and other professional advisers, including accountants and attorneys)</li> <li>■ Continuing obligations of sponsors</li> </ul>
Malawi (MSE)	MSE 1.1 – 1.18 covers sponsors. The requirements are broadly the same as JSE except the following: <ol style="list-style-type: none"> <li>1) Section 1 (Sponsoring Broker) requires a sponsor only at the listing application stage.</li> <li>2) Sponsors have to be members of the Malawi Stock Exchange</li> </ol>	<ul style="list-style-type: none"> <li>■ Adopt JSE specification of who can be a sponsor (corporate brokers, banks and other professional advisers, including accountants and attorneys)</li> <li>■ Expand sponsor’s responsibilities to cover continuing obligations as required by JSE</li> </ul>
Mauritius (SEM)	<ul style="list-style-type: none"> <li>■ An issuer must have a sponsor appointed at all times while it is an applicant or listed (4.2.a)</li> <li>■ The sponsor must be registered with the Stock Exchange and be a stockbroking company, financial institution, or any other person acceptable to the stock exchange (4.3(a))</li> </ul>	A more comprehensive definition of who is qualified to be a sponsor is recommended. The JSE specifies corporate brokers, banks and other professional advisers, including accountants and attorneys
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX requirements for sponsors are identical to JSE	
Swaziland (SSX)	SSX Section 2 covers sponsors. The requirements are broadly the same as JSE except the following: <ol style="list-style-type: none"> <li>1) Sponsors have to be brokers. The JSE admits as sponsors corporate brokers, banks and other professional advisers, including accountants and attorneys.</li> <li>2) SSX 2.2 requires a sponsor only at the listing application stage. JSE 2.2 requires issuers to have sponsors at all times.</li> <li>3) The circumstances under which a joint sponsor is needed are not spelled out as in JSE 2.3</li> </ol>	Adopt the following JSE requirements: <ol style="list-style-type: none"> <li>1) Definition of who can qualify as a sponsor should be broadened to include corporate brokers, banks and other professional advisers, including accountants and attorneys.</li> <li>2) JSE 2.2</li> <li>3) JSE 3.3</li> </ol>

Tanzania (DSE)	<p>1) A sponsor should be an LDM of the Exchange</p> <p>2) A sponsor is required only during the issuing process</p>	<p>1) Definition of Sponsor to be broadened to include non-members (corporate brokers, banks and other professional advisers, including accountants and attorneys)</p> <p>2) Adopt JSE requirement for an issuer to have a sponsor at all times.</p>
Zambia (LuSE)	<p>Section 2 provides for sponsoring brokers. A sponsoring broker is required only during the listing process and in a limited number of special circumstances. Sponsoring brokers are members of the exchange</p>	<p>1) Definition of Sponsor to be broadened to include non-members (corporate brokers, banks and other professional advisers, including accountants and attorneys)</p> <p>2) Adopt JSE requirement for an issuer to have a sponsor at all times.</p>
Zimbabwe (ZSE)	Not Available	

---

## SECTION 3 CONTINUING OBLIGATIONS

---

This section sets out certain of the continuing obligations that an issuer is required to observe once any of its securities have been admitted to listing.

- 3.3 An issuer is required to have a sponsor at all times and all necessary correspondence between an issuer and the JSE must be communicated through the independent sponsor of the issuer.

### GENERAL OBLIGATION OF DISCLOSURE

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

(a) **Material price sensitive information excluding trading statements**

With the exception of trading statements, an issuer must, without delay, unless the information is kept confidential for a limited period of time in terms of paragraph 3.6, subject to approval by the JSE, release an announcement providing details of:

- (i) any circumstance(s) or event(s) that have or are likely to have a material effect (either positive or negative) on the financial results, financial position or cash flow of such issuer and/or any of its material subsidiaries, and/or information necessary to enable holders of such issuer's securities and the public to avoid the creation of a false market in such issuer's listed securities; and/or
- (ii) any new developments in such issuer's sphere of activity that are not public knowledge and may, by virtue of the effect of those developments on its financial results, financial position or cash flow or on the general course of its business, lead to material movements of the reference price of such issuer's listed securities.

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

(b) **Trading statements**

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

- (i) Issuers must publish a trading statement as soon as they are satisfied that a reasonable degree of certainty exists (refer to 3.4(b)(ii) that the financial results (refer to 3.4(b)(v)) for the period to be reported upon next will differ by at least 20% from the most recent of the following (collectively referred to as the "base information"):
  - (1) the financial results for the previous corresponding period;
  - (2) a profit forecast (in terms of paragraphs 8.35 to 8.44) previously provided to the market in relation to such period. Issuers may publish a trading statement if the difference referred to in 3.4(b)(i) are less than 20% but which are viewed by the issuer as being important enough to be made the subject of a trading statement.
- (ii) (ii) The determination of a reasonable degree of certainty in terms of 3.4(b)(i) is a judgmental decision which has to be taken by the issuer and its directors and is one in which the JSE does not involve itself. This determination may differ from issuer to issuer depending on the nature of business and the factors to which they are exposed.

- (iii) Trading statements must provide specific guidance by the inclusion of a specific number or percentage to describe the differences. Issuers will also be permitted to use ranges (i.e. XYZ is expecting an increase of between 15% and 25%) to describe the differences. Where an issuer elects to use a range, the range may not exceed 20% (e.g. 20% to 40%, 25% to 45% etc). If, after publication of a trading statement but before the publication of the relevant periodical financial results, an issuer becomes reasonably certain that their previously published number, percentage or range in the trading statement is no longer correct, then the issuer must publish another trading statement providing the revised number, percentage or range in accordance with paragraph 3.4(b).
- (iv) In light of the existing Listings Requirements' definitions of "significant", "material" and "substantial", these words may not be used in trading statements because to do so would imply a range differing from that permitted in terms of 3.4(b)(i) (i.e. more than 20%)
- (v) Financial results in terms of 3.4(b)(i) are relevant criteria that are of a price sensitive nature which, in the first instance, comprise headline earnings per share ("heps") and earnings per share ("eps"), and , in the second instance, and only if more relevant (because of the nature of the issuer's business) headline earnings per linked unit ("heplu"), cash flow per share ("cps") or net asset value per share ("navps"). If an issuer wishes to adopt heplu, cps, or navps, it must announce in advance of the first period ending which uses heplu, cps, navps, that it will be adopting heplu, cps or navps for trading statement purposes. Thereafter, such policy adoption must be confirmed annually in the annual financial statements.
- (vi) In the event of an issuer publishing a trading statement, such issuer must either:
  - (1) produce and submit to the JSE a profit forecast or estimate, and accountants report thereon in accordance with:
    - (aa) ISAE 3400 – The Examination of Prospective Financial Information and the SAICA Revised Guide on Forecasts, in respect of profit forecasts; or
    - (bb) ISAE 3000 (Revised) – Assurance Engagements other than Audits or Reviews of Historical Financial Information in respect of the estimate;
      - in compliance with paragraphs 8.35 to 8.44 and 8.48 (c); or
  - (2) include a statement (which is not deemed to be a cautionary statement and which does not give rise to the commencement of a closed period) in the trading statement advising securities holders that the forecast financial information has not been reviewed and reported on by the issuer's auditors either in accordance with 3.4(b)(vi)(1)(aa) or 3.4(b)(1)(vi)(bb),
- (vii) Issuers who have a policy of publishing quarterly results will be exempt from the provisions of 3.4(b)(i)-(vi) but must instead include a general commentary in each quarterly results announcement to ensure that shareholders are guided on the expected performance of the issuer for the next quarter (which may be as detailed or broad as the issuer chooses). Such guidance is exempt from compliance with paragraphs 8.35 to 8.44 of the Listings Requirements.

### **Confidentiality**

- 3.5 Information that is required to be announced in terms of paragraph 3.4 or any other Listings Requirement, including price sensitive information, may not, subject to paragraphs 3.6 to 3.8, be released (even subject to a time embargo) to any third party (which for the purposes of clarity, includes, inter alia, an analyst, the media (including the Internet) or a printer (unless there is a confidentiality agreement in place with such printer):
- (a) during JSE trading hours (as defined in Schedule 19), until such time as such information has been published in accordance with paragraph 8 of Schedule 19;

- or
- (b) outside of JSE trading hours until such time as such information has been authenticated and, if necessary, approved (in accordance with paragraphs 6 and 7 of Schedule 19), and arrangements have been made for such information to be published before the next business day's opening of JSE trading hours.
- 3.6 An issuer may provide price sensitive information in the strictest confidence to its sponsors, advisers and/or any person(s) with whom it is negotiating with a view to effecting a transaction or raising finance; which persons may include prospective underwriters of an issue of securities, providers of funds or loans or potential places of the balance of a rights issue not taken up by shareholders. In such cases, the issuer must advise, preferably in writing, the recipients of such information that it is confidential and constitutes inside information.
- 3.7 Price sensitive information required by and provided in confidence to, any government department, the South African Reserve Bank, the SRP, the Financial Services Board or any other statutory or regulatory body or authority need not be published, unless there is a breach of confidentiality and the market is made aware of such information, in which event the issuer must immediately announce details of such information.
- 3.8 When an issuer intends to release price sensitive information at any meeting of holders of listed securities, arrangements must be made for the publication of such information to ensure that the announcement of such information at the meeting is made simultaneously with the publication. If any price sensitive information is disclosed in an unplanned manner during the course of a meeting of holders of listed securities, immediate steps must be taken for an appropriate announcement to be made containing such price sensitive information.

#### **Cautionary announcements**

- 3.9 Immediately after an issuer acquires knowledge of any material price sensitive information and the necessary degree of confidentiality of such information cannot be maintained or if the issuer suspects that confidentiality has or may have been breached, an issuer must submit a copy of a cautionary announcement to the JSE for approval, and once such approval has been obtained, must publish such cautionary announcement. An issuer that has published a cautionary announcement must provide updates thereon in the required manner and within the time limits prescribed in paragraph 11.41.

#### **Exception**

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

#### **COMMENT:**

The General Obligation of Disclosure is covered at varying levels of detail in all the listing requirements of COSSE member stock Exchanges. The primary differences lie in the JSE detailed requirements for the publication of trading statements as soon as an issuer is satisfied that a reasonable degree of certainty exists that the financial results for the period to be reported upon next will differ by at least 20% from the most recent of (1) the financial results for the previous corresponding period and (2) a profit forecast (previously provided to the market in relation to such period). Trading statements are considered an effective antidote to problems of asymmetric information and insider trading and will move markets closer to the efficient markets ideal of security prices reflecting all available information.



<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	Paragraphs 3.3 – 3.8 cover the General Obligation of Disclosure. The BSE requirements do not provide for trading statements	Adopt JSE paragraph 3.4 (b) on Trading Statements.
Malawi (MSE)	Section 7.3 is substantially the same as JSE	
Mauritius (SEM)	Provided for in 11.3-11.10. However, SEM rules do not provide for : 1) trading statements 2) confidentiality (the circumstances under which price-sensitive information may be released confidentially) 3) cautionary announcements	Adopt JSE 3.4 – 3.10
Mozambique (BVM)	Not Available	
Namibia (NSX)	Sections 3.1-3.10 are almost identical to JSE except Trading Statements JSE 3.4(b). The major differences are: 1) JSE requires the publication of a trading statement whenever a reasonable degree of certainty exists that the financial results for the period to be reported upon next will differ by at least 20% from the most recent base information 2) NSX 3.4(b)(3) admits as base information shareholders expectations of financial results obtained from various sources 3) JSE requirements prohibit the use of the words “significant”, “material” and “substantial” in trading statements (JSE 3.4(b)(iv))	Section 3.4 (b) should be replaced with 3.4(b) of JSE Listing requirements for consistency.
Swaziland (SSX)	1) SSX does not require the publication of trading statements as in JSE 3.4 (b) 2) SSX does not provide for the release of information to statutory agencies as in JSE 3.7 3) JSE 3.9 (cautionary statements) is not provided for by SSX.	Adopt the following JSE requirements: 1) JSE 3.4 (b) 2) JSE 3.7 3) JSE 3.9
Tanzania (DSE)	No specific provisions on General Obligation of Disclosure	Adopt JSE 3.4 – 3.10
Zambia (LuSE)	LuSE 3.11 – 3.13 are substantially the same as JSE requirements	
Zimbabwe (ZSE)	Not Available	



## DISCLOSURE OF PERIODIC FINANCIAL INFORMATION

### Dividends and interest

- 3.11 The declaration of dividends, interest and other similar payments (“distribution payments”) by an applicant issuer should immediately be announced.
- 3.12 If an applicant issuer decides not to declare distribution payments, and such decision is deemed to be price sensitive, the decision must be announced immediately after it is taken.
- 3.13 An issuer declaring a final dividend prior to the publication of its annual financial statements or provisional report must ensure that the dividend notice announced and given to shareholders contains a statement of the calculated or estimated consolidated profits before taxation of the issuer’s group for the year, including particulars of any amounts not comprising current year income appropriated to provide wholly or partly for such dividend.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	Paragraphs 3.11-3.18 are substantially the same as JSE	
Malawi (MSE)	Substantially the same as JSE	
Mauritius (SEM)	Chapter 12 (Part B) provides requirements for periodic disclosure of financial information. SEM has no specific requirements on disclosure of the declaration of dividends and interest	Adopt JSE 3.11 – 3.13
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 3.11-3.14 are identical to JSE requirements	
Swaziland (SSX)	SSX 3.12 – 3.14 are substantially the same as JSE requirements.	
Tanzania (DSE)	No specific provisions on Disclosure of Periodic Financial Information	Adopt JSE 3.11 – 3.22
Zambia (LuSE)	LuSE 3.11 – 3.13 substantially the same as JSE requirements	
Zimbabwe (ZSE)	Not Available	

### Interim and quarterly reports

- 3.15 Interim reports shall be published and distributed to the shareholders after the expiration of the first six month period of a financial year, by no later than three months after that date. Where the financial period covers more than 12 months, interim reports shall be distributed in respect of the first and second six month of this period (as well as complying with section 303 of the Act). In the case of issuers that report to shareholders on a quarterly basis, the quarterly reports shall be published and distributed to all shareholders as soon as possible after the expiration of each quarter (such issuers must still comply with the provisions of this paragraph in respect of interim reports). Interim reports must comply with the Statement of Generally Accepted Accounting Practice or IFRS<sup>5</sup> and AC 500 Standards as issued by the Accounting Practices Board or its successor for Interim Reporting and paragraphs 8.57 to 8.61.

<sup>5</sup> The JSE Securities Exchange South Africa (JSE) has approved substantial amendments to its listing rules that will require all companies listed on the exchange to comply with International Financial Reporting Standards (IFRS) for years commencing on or after 1 January 2005. Previously, a company whose primary listing is on the JSE could elect to comply with either South African Statements of Generally Accepted Accounting Practices (SA GAAP) or IFRS.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	<p>Paragraph 3.19 differs from JSE as follows:</p> <ul style="list-style-type: none"> <li>■ BSE allows the financial period to cover up to 15 months before an interim report is required. JSE only allows 12 months.</li> <li>■ BSE does not state an accounting standard for interim reports</li> </ul>	<p>Harmonize with JSE by</p> <ol style="list-style-type: none"> <li>1) reducing financial period for interim reporting to 12 months</li> <li>2) Adopt IFRS for interim reports</li> </ol>
Malawi (MSE)	Interim Report (7.19) same as JSE. There is no requirement for quarterly reports	
Mauritius (SEM)	<ol style="list-style-type: none"> <li>1) Interim report required within three months of end of each six-month period. This is consistent with JSE.</li> <li>2) SEM requires reporting in accordance of Mauritius Accounting and Auditing Standards and International Accounting Standards. JSE requires that interim reports must comply with the Statement of Generally Accepted Accounting Principles or International Financial Reporting Standards (IFRS) and the AC500 standards as issued by the Accounting Practices Board.</li> </ol>	Adopt IFRS for interim reporting.
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 3.15 identical to JSE requirement	
Swaziland (SSX)	<ol style="list-style-type: none"> <li>1) SSX 3.20 allows financial periods to cover up to 15 months before an interim statement is required. The JSE requirement is 12 months</li> <li>2) JSE requires IFRS</li> </ol>	Adopt JSE 3.15
Tanzania (DSE)	No specific provisions on Disclosure of Periodic Financial Information	Adopt JSE 3.11 – 3.22
Zambia (LuSE)	<ol style="list-style-type: none"> <li>1) Interim report required every six months. Consistent with JSE</li> <li>2) Accounting standard is not specified. JSE requires IFRS</li> </ol>	Adopt IFRS for interim reports.
Zimbabwe (ZSE)	Not Available	

### **Provisional reports**

3.16 If an issuer has not distributed annual financial statements to all shareholders within three months of its financial year end, it must publish and distribute to all holders of securities provisional annual financial statements (“provisional reports”) within the three months as specified, even if the financial information is unaudited at that time. The provisional reports are to be prepared in accordance with paragraphs 3.15 and 8.57 to 8.61. Where the provisional report has been audited the announcement must state that the signed audit report is available for inspection at the issuer’s registered office. Although the audit report of the auditors need not be included in the provisional

report, if such report is modified, details of the nature of such modification shall also be stated therein.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	3.20 provides for “Preliminary Reports” similar to JSE’s “Provisional Reports”. However, JSE Provisional Reports have the following additional requirements (paragraphs 3.15 and 8.57-8.61): <ul style="list-style-type: none"> <li>■ IFRS</li> <li>■ Supplementary information (e.g. exceptional increase in borrowings and effect on earnings per share and headline earnings, itemized reconciliation between head line and earnings used to calculate earnings per share).</li> </ul>	Expand requirements for Preliminary reports to include <ol style="list-style-type: none"> <li>1) IFRS</li> <li>2) Supplementary information.</li> </ol>
Malawi (MSE)	7.20 deals with “Preliminary Report” which is similar to JSE requirement	
Mauritius (SEM)	SEM 12.20 requires the issue of preliminary statement of annual results if an issuer. However, JSE Provisional Reports have the following additional requirements (paragraphs 3.15 and 8.57-8.61): <ul style="list-style-type: none"> <li>■ IFRS</li> <li>■ Supplementary information (e.g. exceptional increase in borrowings and effect on earnings per share and headline earnings, itemized reconciliation between head line and earnings used to calculate earnings per share.</li> </ul>	JSE requirements 3.16 are more comprehensive. Adoption of JSE requirements is recommended.
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 3.16 is identical to JSE requirement	
Swaziland (SSX)	SSX 3.22 is substantially the same as JSE requirements.	
Tanzania (DSE)	No specific provisions on Disclosure of Periodic Financial Information	Adopt JSE 3.11 – 3.22
Zambia (LuSE)	LuSE 3.20 provides for preliminary reports similar to provisional reports. Requirements are similar to JSE.	Adopt JSE 3.11 – 3.22
Zimbabwe (ZSE)	Not Available	

#### **Requirement for review by auditors**

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

- (a) subject to 3.18(b), unaudited interim reports are not required to be reviewed by an issuer’s auditors;

- (b) unaudited interim reports shall be reviewed by an issuer’s auditors if the issuer’s auditors disclaimed, qualified, gave an adverse opinion or noted an emphasis of matter in the issuer’s last annual financial statements, unless the JSE otherwise decides;
- (c) unaudited provisional reports shall be reviewed by an issuer’s auditors;
- (d) unaudited quarterly reports are not required to be reviewed by an issuer’s auditors, unless otherwise requested by the JSE;
- (e) when conducting a review of an unaudited interim or provisional report, the auditors shall follow the guidance provided in the International Standard on Review Engagements (ISRE) 2400, Engagements to Review Financial Statements.
- (f) if an interim or provisional report has been reviewed by auditors, this fact and the name of the auditors shall be stated in the published interim or provisional report. Although the report of the auditors need not be included in the published interim or provisional report, if such report is modified, details of the nature of such modification shall also be stated therein. If the report of the auditors is not included in the published interim or provisional report, it shall state that the report of the auditors is available for inspection at the issuer’s registered office; and
- (g) if during the course of a review of a provisional report, the auditors become aware of any unresolved matter that could result in an emphasis of matter or a qualified, adverse or disclaimer of opinion in the annual financial statements for the period under review, that fact and the nature thereof shall be stated.
- (h) Where the financial period covers more than 12 months and interim reports are distributed in accordance with paragraph 3.15, a review opinion must be obtained for the second six month period.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	3.22 provides for review by auditors. The requirements are similar to JSE except that JSE requires review to be based on the International Standard on Review Engagements (ISRE) 2400, Engagements to Review Financial Statements.	Require review of preliminary reports to be based on the International Standard on Review Engagements (ISRE) 2400, Engagements to Review Financial Statements.
Malawi (MSE)	MSE 7.22 is similar to JSE requirement. The major difference is that MSE uses guidelines issued by the Institute of Chartered Accountants rather than the JSE standard based on the International Standard on Review Engagements (ISRE) 2400, Engagements to Review Financial Statements.	Require review of preliminary reports to be based on the International Standard on Review Engagements (ISRE) 2400, Engagements to Review Financial Statements.
Mauritius (SEM)	Both SEM and JSE do not require interim reports to be audited or reviewed by an issuer’s auditors. However 1) JSE requires a review by issuer’s auditors if the issuer’s auditors disclaimed, qualified, gave an adverse opinion or noted an emphasis of matter in the issuer’s last annual financial statements 2) unaudited provisional reports shall be reviewed by an issuer’s auditors	Adopt JSE requirements (3.18)
Mozambique (BVM)	Not Available	

Namibia (NSX)	NSX 3.18 identical to JSE requirements	
Swaziland (SSX)	JSE 3.18 (e) requires that when conducting a review of an unaudited interim or provisional report, the auditors shall follow the guidance provided in the International Standard on Review Engagements (ISRE) 2400, Engagements to Review Financial Statements	Adopt JSE 3.18 (e)
Tanzania (DSE)	No specific provisions on Disclosure of Periodic Financial Information	Adopt JSE 3.11 – 3.22
Zambia (LuSE)	LuSE 3.22 is similar to JSE requirement. However, LuSE requires adherence to guidelines issued by the Zambia Institute of Certified Accountants while JSE requires ISRE.	Adopt ISRE for Interim and Provisional Reports.
Zimbabwe (ZSE)	Not Available	

### Annual financial statements

- 3.19 Every issuer shall, within six months after the end of each financial year and at least twenty-one clear days before the date of the annual general meeting, distribute to all holders of securities and submit to the JSE in accordance with paragraph 16.21:
- (a) a notice of the annual general meeting; and
  - (b) the annual financial statements for the relevant financial year, which financial statements will have been reported on by the issuer's auditors.
- 3.20 Where annual financial statements have not been distributed to holders of securities within three months of its financial year end, the issuer must distribute and publish a provisional report as detailed in paragraph 3.16.

Stock Exchange	Relevant Provisions	Recommendations
Botswana (BSE)	3.23 is identical to JSE requirements.	
Malawi (MSE)	7.23 is similar to JSE. However, there is no requirement for provisional reports as in JSE 3.20	Adopt JSE 3.20
Mauritius (SEM)	1) Annual report should be issued not less than 14 days before the issuer's AGM and not more than six months after the end of the financial year. This is consistent with JSE. However JSE requires release of annual report at least 21 days before AGM  2) Annual report must have been prepared in accordance with Mauritian Accounting and Auditing Standards or International Accounting Standards. JSE requires IFRS	1) Adopt JSE requirement for annual report to be distributed at least 21 days before Annual General Meeting.  2) Adopt IFRS
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX b3.19 – 3.22 are identical to JSE requirements.	

Swaziland (SSX)	SSX 3.25 is substantially the same as the JSE requirement except the JSE requirement (3.22) on annual financial information published voluntarily by an issuer in advance of being required to do so.	Adopt JSE 3.22
Tanzania (DSE)	No specific provisions on Disclosure of Periodic Financial Information	Adopt JSE 3.11 – 3.22
Zambia (LuSE)	LuSE provides that audited accounts are to be made available to the Exchange within three months after the end of the financial year.	1) JSE requires six months for release of audited accounts. Zambia requires 3 months which is a more rigorous standard. 2) Adopt JSE's six-month stipulation.
Zimbabwe (ZSE)	Not Available	

#### CASH COMPANIES (“CASH COMPANIES” OR “CASH SHELLS”)<sup>6</sup>

3.26 The following requirements apply to cash shells:

- (a) Should the cash company, within six months after classification as a cash company, fail to enter into an agreement and make an announcement relating to the acquisition of viable assets that satisfy the conditions for listing set out in Section 4, its listing will be suspended.
- (b) Failing approval by the JSE, within a three month period from the date of suspension, of a circular relating to the acquisition of viable assets by the cash shell that satisfy the conditions for listing set out in Section 4, the cash company's listing will be terminated.
- (c) Where a cash company is to be utilized for the reversal of assets into it:
  - (i) such cash company must comply with the Listings Requirements for bringing a company to listing; and
  - (ii) the reconstituted cash company must meet the conditions for listing as set out in Section 4.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE listing requirements do not provide for cash companies	Adopt JSE paragraph 3.26 on cash companies.
Malawi (MSE)	A.22 similar to JSE requirement.	
Mauritius (SEM)	6.31 provides for cash companies. A cash company is given six months to cease to be a cash company	JSE 3.26 provides for a six-month period before suspension. A further three months is offered after suspension before final termination of listing. Adopt JSE requirement.
Mozambique (BVM)	Not Available	

<sup>6</sup> A “cash company” or “cash shell” is a limited company that has never started, or has ceased its trading activities (e.g. a subsidiary transferring its business to its parent or a fellow subsidiary), but has not been dissolved. It is a company with no or nominal operations, and with no or nominal assets or assets consisting solely of cash and cash equivalents. Annual returns are still filed, but the accounts state that the company did not trade during the year.

Namibia (NSX)	NSX 3.26 is identical to JSE requirement.	
Swaziland (SSX)	SSX has no requirements governing cash companies	Adopt JSE 3.26
Tanzania (DSE)	DSE has no requirements governing cash companies	Adopt JSE 3.26
Zambia (LuSE)	LuSE 1.22 – 1.24 are substantially the same as JSE requirements.	Adopt JSE 3.26
Zimbabwe (ZSE)	Not Available	

## RIGHTS BETWEEN HOLDERS OF SECURITIES

### Equality of treatment

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

### Voting rights

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

### Pre-emptive rights

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

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

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

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

### Waiver of pre-emptive rights

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

3.33 However, in exceptional circumstances (such as rescue operations), the JSE, in its sole discretion, may grant an issuer dispensation from the normal requirements relating to issues of shares for cash. In these circumstances, the JSE, in its sole discretion, may

require the publication of such information relating to the dispensation, as it deems appropriate.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	3.28 – 3.33 have identical requirements as JSE.	
Malawi (MSE)	MSE 7.28 – 7-33 have some provisions that are similar to JSE. However the requirements are not comprehensive. The requirements for pre-emptive rights are not comprehensive	Adopt JSE 3.28 – 3.33
Mauritius (SEM)	11.11-11.15 cover rights between holders of securities. However, apart from the requirement for equality of treatment of all security holders of the same class, there are substantial differences.	JSE requirements on voting rights, pre-emptive rights are not covered in Mauritius requirements. Enact JSE 3.27-3.33.
Mozambique (BVM)	Not Available	
Namibia (NSX)	Identical to JSE	
Swaziland	SSX 3.30 – 3.35 are substantially the same as JSE	
Tanzania (DSE)	DSE has no continuing obligation on Rights Between security holders	Adopt JSE 3.27 -3.33
Zambia (LuSE)	Rights between securityholders provided for in LuSE 3.28 – 3.33. The requirements are similar to JSE requirements.	
Zimbabwe (ZSE)	Not Available	

#### **PROFIT WARRANTIES<sup>7</sup>**

- 3.34 Where securities are the subject of a profit warranty, such securities may only be conditionally allotted and issued and shall be held in “escrow”. The conditions required for such profit warranty will only be regarded as having been met once the profit required has been achieved in terms of the profit warranty agreements and the issuer’s auditors have confirmed in writing to the JSE that the conditions required have been met for the securities to be allotted and issued. Where such conditions are not met:
- (a) the conditional allotment and issue of the securities that were subject to such unfulfilled conditions shall be of no further force or effect; and
  - (b) no cash compensation may be made in order for the profit warranty to be achieved.

---

<sup>7</sup> A profit warranty occurs in connection with acquisitions when a vendor gives an unconditional and irrevocable guarantee that the consolidated net profit of subsidiaries will not be less than a stated amount over a stated warranty period following the acquisition date. For the purpose of securing the performance and observance of profit warranty, an escrow agreement is entered into between an escrow agent, the acquirer and the vendor wherein the shares ("Escrow Shares") which are to be allotted and issued to vendor pursuant to the acquisition are held in escrow by the escrow agent to satisfy any shortfall in the Profit Warranty. When the Profit Warranty has been satisfied the Escrow Shares are released by the escrow agent to the vendor.



**ISSUES BY A MAJOR SUBSIDIARY OTHER THAN ON LISTING**

3.35 An issuer must obtain the specific approval (determined in accordance with paragraph 5.51(g)) of its holders of equity shares before any major unlisted subsidiary of that issuer undertakes an issue of shares for cash that would materially dilute the issuer's percentage interest in the equity securities of that subsidiary. For the purposes of this paragraph and paragraph 3.36, a subsidiary that represents 25% or more of the aggregate share capital and reserves (excluding minority interests and revaluations of assets and intangible assets that are not supported by a valuation by an independent

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	Profit warranties are not provided for in the BSE listing requirements	Adopt JSE 3.34
Malawi (MSE)	Profit warranties not covered	Adopt JSE 3.34
Mauritius (SEM)	Profit warranties not covered	Adopt JSE 3.34
Mozambique (BVM)	Not Available	
Namibia (NSX)	Identical to JSE requirements	
Swaziland (SSX)	Not provided for	Adopt JSE 3.34
Tanzania (DSE)	Profit warranties not covered	Adopt JSE 3.34
Zambia (LuSE)	Profit warranties not covered	Adopt JSE 3.34
Zimbabwe (ZSE)	Not Available	

professional expert acceptable to the JSE prepared within the last six months) or profits (after deducting all charges except taxation and excluding extraordinary items) of the issuer's group will be regarded as a major subsidiary.

3.36 When a listed or unlisted major subsidiary of a listed holding company has a rights offer, and the listed holding company does not intend to follow its rights, which would materially dilute its percentage interest in the equity securities of that subsidiary, the listed holding company must first obtain the specific approval of its holders of equity securities (determined in accordance with paragraph 5.51(g)).

<b>Stock Exchange</b>	<b>Analysis Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	3.34 – 3.36 provide for issues by a majority subsidiary and are similar to JSE requirements except that JSE defines a major subsidiary with a threshold of 25% while BSE uses a threshold of 30%	Adopt JSE threshold of 25%
Malawi (MSE)	MSE 7.34 is similar to JSE 3.35 except that JSE has a lower threshold (25% or more of the aggregate share capital and reserves) for the definition of a major subsidiary.	Adopt JSE threshold of 25%

Mauritius (SEM)	MSE 11.12 (b) requires shareholder approval of any allotments, issue or grant of securities by a major subsidiary. However, the requirement is not comprehensive. There is no definition of a “major subsidiary”.	Adopt JSE 3.35 – 3.36
Mozambique (BVM)	Not Available	
Namibia (NSX)	Identical to JSE	
Swaziland (SSX)	SSX 3.37 defines a major subsidiary as a subsidiary which represents 25% or more of the aggregate share capital and reserves. JSE uses a threshold of 25%	Adopt JSE threshold of 25%
Tanzania (DSE)	DSE has no requirements regarding Issues By A Major Subsidiary Other Than On Listing	Adopt JSE 3.35 – 3.36
Zambia (LuSE)	LuSE 3.34 -3.36 are similar to JSE requirements except 1) subsidiary threshold is 30% compared to JSE’s 25% 2) A holding company is required to offer any renounced rights issues of a subsidiary to its shareholders.	Adopt JSE 3.35 – 3.36
Zimbabwe (ZSE)	Not Available	

#### DIRECTORS

- 3.59 An issuer, through its sponsor, must notify the JSE of any change to the board of directors or company secretary including:
- (a) the appointment of a new director or company secretary;
  - (b) the resignation, removal, retirement or death of a director or of the company secretary; and/or
  - (c) changes to any important functions or executive responsibilities of a director; without delay and no later than by the end of the business day following the decision or receipt of notice detailing the change. Such changes must be announced as soon as practically possible and also included in the issuer’s next publication of listing particulars, interim report or annual financial statements. Where a director retires and is re-appointed at an annual or other general meeting, no notification is required as this does not result in a change to the board of directors.
- 3.60 An issuer must submit to the JSE and its sponsor, the relevant director’s declaration in respect of each of its appointed directors within 14 days of their appointment in the form specified in Schedule 21. The issuer must insure that each of the appointed directors is free of any conflict of interest between the duties he owes to the company and his private interest.
- 3.61 The notifications required by paragraph 3.59 must state the effective date of the change if it is not with immediate effect. If the effective date is not yet known or has not yet been determined the notification should state this fact and the issuer must notify the JSE once the effective date has been determined.
- 3.62 All directors of issuers are bound by and must comply with the JSE’s Listings Requirements, as amended from time to time, in their capacities as directors, and in their personal capacities.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE does not have detailed provisions on	Adopt JSE 3.59 – 3.62

	information to be provided to the exchange on directors.	
Malawi (MSE)	MSE does not have detailed provisions on information to be provided to the exchange on directors	Adopt JSE 3.59 – 3.62
Mauritius (SEM)	SEM requires issuers to notify the Stock Exchange of appointments and resignations of directors “without delay”. The JSE requirement is much stricter and requires notification no later than by the end of the business day following the decision or receipt of notice detailing the change	Adopt JSE 3.59 – 3.62
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 3.59 – 3.62 identical to JSE requirements.	
Swaziland (SSX)	JSE 3.59 requires changes in the board of directors to be published in the next interim or annual report. SSX does not have a similar requirement.	Adopt JSE 3.59
Tanzania (DSE)	DSE has no continuing obligation requirements regarding Directors	Adopt JSE 3.59 – 3.74
Zambia (LuSE)	LuSE 3.69 -3.70 deal with appointment of directors but the requirements are less comprehensive than JSE’s	Adopt JSE 3.59 – 3.74
Zimbabwe (ZSE)	Not Available	

### Dealing in Securities

For the purposes of paragraphs 3.63 to 3.74, reference to a director includes the company secretary.

- 3.63 An issuer, via its sponsor, must announce the following information:
- (a) details of all transactions (including off market transactions) in securities relating to the issuer by or on behalf of:
    - (i) a director and company secretary (held directly, indirectly, beneficially or non-beneficially) of the issuer;
    - (ii) a director and company secretary (held directly, indirectly, beneficially or non-beneficially) of a major subsidiary company (as defined in 3.35) of the issuer; or
    - (iii) any associate of 3.63 (a) (i) or (ii) above (collectively referred to for purposes of this section as “directors”); or
    - (iv) any independent entity, in terms of which, any party in paragraph 3.63 (a) (i) to (iii) may derive any beneficial or non-beneficial interest now or in the future; and
  - (b) such announcement shall contain the following information:
    - (i) the name of the director;
    - (ii) the name of the company of which he is a director;
    - (iii) the date on which the transaction was effected;
    - (iv) the price, number, total value and class of securities concerned;
    - (v) in the case of options or any other similar right or obligation, the option strike price, strike dates and periods of exercise and/ or vesting;
    - (vi) the nature of the transaction;
    - (vii) the nature and the extent of the director’s interest in the transaction; and
    - (viii) confirmation that clearance has been given in terms of paragraph 3.66.
- 3.64 “Transaction” includes any sale or purchase of, or agreement to sell or purchase, any securities relating to the issuer (including but not limited to warrants and other derivatives issued in respect of the issuer’s securities) and the grant, acceptance,

- acquisition, disposal, exercise or discharge of any option (including but not limited to options in terms of a share incentive/option scheme) or other right or obligation, present or future, conditional or unconditional, to acquire or dispose of securities, or any interest in securities relating to the issuer and “deal” shall be construed accordingly.
- 3.65 The directors are required to disclose to the issuer all information that the issuer needs to comply with paragraph 3.63. The issuer shall also advise each of its directors of their obligations to disclose to it all information that the issuer needs in order to comply with paragraph 3.63. Any director who deals in securities relating to the issuer is required to disclose the information required by paragraph 3.63 to the issuer without delay, and in any event by no later than 24 hours after dealing. The issuer must in turn announce such information without delay and in any event by no later than 24 hours after receipt of such information from the director concerned.

#### **Clearance to deal**

- 3.66 A director may not deal in any securities relating to the issuer without first advising the chairman (or one or more other appropriate directors designated for this purpose) in advance and after receiving clearance from same. In his own case, the chairman, or other designated director, must advise the board in advance, or advise another designated director, and receive clearance from the board or designated director, as appropriate.

#### **Circumstances for refusal**

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

#### **Dealing in prohibited periods**

- 3.69 A director may not deal in any securities relating to the issuer during a closed period as defined.
- 3.70 Notwithstanding 3.69, a director may not deal in any securities relating to the issuer at any time when he/she is in possession of unpublished price sensitive information in relation to those securities, or otherwise where clearance to deal is not given in terms of paragraph 3.66.

#### **Dealings by associates of directors and investment managers**

- 3.71 A director must prohibit (by taking the steps set out in paragraphs 3.72 and 3.73) any dealing in securities relating to the issuer during a closed period:
- (a) by or on behalf of any associate of his/hers; and/or
  - (b) by any investment manager dealing on his behalf or on behalf of any person associated with him/her where either he/she or any person associated with him/her has funds under management with that investment manager, whether or not on a discretionary basis.
- 3.72 For the purposes of paragraph 3.71, a director must advise all of his associates in writing:
- (a) of the name(s) of the issuer(s) of which he is a director;
  - (b) of the closed periods during which they cannot deal in the specific issuer’s securities; and

that they must advise him immediately after they have dealt in securities relating to the issuer(s) in order for him to comply with paragraph 3.65.

- 3.73 For the purpose of 3.71, a director must advise his investment managers in writing:
- (a) of the name(s) of the issuer(s) of which he is a director; and
  - (b) that they may not deal in any securities relating to issuer(s) of which he is a director

unless they obtain his express consent in writing.

- 3.74 Paragraphs 3.63 to 3.73 do not override the provisions of any insider trading legislation and should not be construed as additional defences or exclusions from having to comply with specific or subsequently introduced insider trading legislation. Issuers may impose more rigorous restrictions upon dealings by directors if they so wish, or if it is appropriate in certain circumstances.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE does not have provisions for reporting dealings in securities of issuers by directors	Adopt JSE 3.63-3.74
Malawi (MSE)	MSE 7.69 covers dealing in securities by directors. However the requirement is not comprehensive. There is no requirement covering associates of directors and investment managers.	Adopt JSE 3.63-3.74
Mauritius (SEM)	MSE has a Model Code for Securities Transactions by Directors of Listed Companies (Appendix 6). The Code is comprehensive and contains substantially the same requirements as the JSE. The main difference is that the MSE Model Code does not cover dealings involving associates of directors and investment managers.	Adopt JSE 3.71 – 3.74 covering associates of directors and investment managers.
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 3.63 – 3.74 are identical to JSE requirements with the exception of the specific reference to Insider Trading Act of South Africa in JSE 3.74. The NSX reference to “any insider trading legislation” is adequate.	
Swaziland (SSX)	SSX requirements are not comprehensive and do not cover the following: 1) Clearance to deal 2) Circumstances for refusal 3) Dealing in prohibited periods 4) Dealings by associates of directors and investment managers	Adopt JSE 3.63 -3.74
Tanzania (DSE)	DSE has no continuing obligation requirements regarding Directors (Check Schedule 8)	Adopt JSE 3.59 – 3.74

Zambia (LuSE)	LuSE 3.70 covers share dealings by directors. However the requirements are not comprehensive. LuSE requirements do not cover the following: 1) Clearance to deal 2) Circumstances for refusal 3) Dealing in prohibited periods 4) Dealings by associates of directors and investment managers	Adopt JSE 3.59 – 3.74
Zimbabwe (ZSE)	Not Available	

#### AUDITORS

- 3.75 An issuer must notify the JSE of:
- (a) the termination of the appointment of the auditors, or
  - (b) the resignation of the auditors,
- without delay and no later than by the end of the business day following the decision by the issuer to terminate the appointment of the auditors or after receipt of the auditors' resignation.
- 3.76 The notification required by paragraph 3.75 must state the effective date of the termination or resignation, if it is not with immediate effect.
- 3.77 The notification required by paragraph 3.75 must be accompanied by a letter from the auditors stating the date of termination, what the auditors believe to be the reason for such termination or, in the case of resignation, the reason(s) for such resignation.
- 3.78 The JSE may, at its sole discretion, request the company to publish an announcement informing shareholders of the termination of the auditors' appointment or resignation of the auditors and the reason(s) therefore.
- 3.79 The annual financial statements for the year ended in which the termination or resignation took place must state that the auditors' appointment was terminated or that the auditors resigned and the reason(s) therefore.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	No detailed provisions on notifications concerning appointment and termination of auditors.	Adopt JSE 3.75 – 3.79
Malawi (MSE)	No detailed provisions on notifications concerning appointment and termination of auditors.	Adopt JSE 3.59 – 3.62
Mauritius (SEM)	SEM does not have requirements concerning the appointment and termination of auditors	Adopt JSE 3.59 – 3.62
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 3.75-3.79 are identical to JSE requirements	
Swaziland	SSX does not have a requirement concerning the appointment and termination of auditors.	Adopt JSE 3.59 – 3.62
Tanzania (DSE)	DSE has no continuing obligation requirements regarding Auditors (Check Schedule 8)	Adopt JSE 3.75 – 3.79

Zambia (LuSE)	LuSE has no continuing obligation requirements regarding Auditors	Adopt JSE 3.75 – 3.79
Zimbabwe (ZSE)	Not Available	

## MISCELLANEOUS OBLIGATIONS

### Companies listed on another exchange

3.81 An issuer whose securities are listed on any other exchange must ensure that equivalent information is made available at the same time to the market of each exchange on which the issuer's securities are listed, unless prohibited by or in terms of the rules or requirements of any other stock exchange. Refer to paragraph 10 of Schedule 19, and Section 18.

### Information to be processed by the JSE

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

### Disclosure of beneficial interests in securities

3.83 Issuers are to publish the beneficial interests of directors and major shareholders in its annual financial statements as required by paragraphs 8.63(d) and (f).

### Corporate Governance

3.84 In addition to complying with paragraph 8.63(a), issuers must comply with the following specific requirements concerning corporate governance and must disclose their compliance therewith in their annual report:

- (a) there must be a policy detailing the procedures for appointments to the board. Such appointments must be formal and transparent, and a matter for the board as a whole, assisted where appropriate by a nomination committee. The nomination committee must constitute only non-executive directors, of whom the majority must be independent (as defined in paragraph 3.84 (f) (iii), and should be chaired by the board chairperson;
- (b) there must be a policy evidencing a clear division of responsibilities at board level to ensure a balance of power and authority, such that that no one individual has unfettered powers of decision-making;
- (c) the chief executive officer must not also hold the position of chairperson;
- (d) all issuers must, in compliance with the King Code, appoint an audit committee and remuneration committee and if required, given the nature of their business and composition of their board, a risk committee and nomination committee. The composition of such committees, a brief description of their mandates, the number of meetings held and other relevant information must be disclosed in the annual report;
- (e) a brief CV of each director standing for election or re-election at the annual general meeting should accompany the notice of annual general meeting contained in the annual report; and
- (f) the capacity of each director must be categorised as executive, non-executive or independent, using the following as guidelines to determine which category is most applicable to each director:
  - (i) **executive directors:**  
are directors that are involved in the day to day management and running of the business and are in full time salaried employment of the company and/or any of its subsidiaries;
  - (ii) **non-executive directors:**  
are directors that are not involved in the day to day management of the business and are not full-time salaried employee of the company and/or

- any of its subsidiaries;
- (iii) independent directors are non executive directors who:
- (1) are not representatives of any shareholder who has the ability to control or significantly influence management and/or the board;
  - (2) have not been employed by the company or the group of which it currently forms part in any executive capacity for the preceding three financial years;
  - (3) are not members of the immediate family of an individual who is, or has been in any of the past three financial years, employed by the company or the group in an executive capacity;
  - (4) are not professional advisors to the company or the group, other than in the capacity as a director;
  - (5) are not significant suppliers to, or customers of the company or group;
  - (6) have no significant contractual relationship with the company or group; and
  - (7) are free from any business or other relationship which could be seen to materially interfere with the individual's capacity to act in an independent manner;
- (g) the audit committee must set the principles for recommending the use of the external auditors for non-audit services.

#### **Liquidation and judicial management**

3.85 In the event of an applicant issuer being placed or making application to be placed in judicial management or liquidation, whether voluntary or compulsory, provisional or final, the applicant issuer will immediately notify the JSE of this fact.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 3.63 (companies also quoted on another exchange) is identical to JSE 3.81. However JSE requirements 3.83 – 3.85 are not covered by the BSE	Adopt JSE 3.83-3.85
Malawi (MSE)	MSE 7.70 – 7.71 are similar to JSE requirements. However the following JSE requirements are not covered: 1) Disclosure of beneficial interests in securities 2) Corporate governance 3) Liquidation and judicial management	Adopt JSE 3.83-3.85
Mauritius (SEM)	1) SEM does not explicitly require that an issuer whose securities are listed on any other exchange must ensure that equivalent information is made available at the same time to the market of each exchange on which the issuer's securities are listed, 2) Beneficial interests of directors is required by SEM 12.18 (o) 3) JSE requirements on corporate governance are not covered by SEM 4) Liquidation and judicial management is required under SEM 11.38 – 11.39	For consistency, adopt the following JSE requirements 1) JSE 3.81 (Companies listed on another exchange) 2) JSE 3.84 (Corporate Governance)
Mozambique (BVM)	Not available	



Namibia	NSX 3.80 – 3.85 are identical to JSE requirements.	
Swaziland (SSX)	SSX requirements are the same as JSE requirements. There is no requirement to notify the exchange in the event of an issuer being placed in judicial management of liquidation.	Adopt JSE 3.85
Tanzania (DSE)	JSE's Miscellaneous Obligations are not provided for by DSE	Adopt JSE 3.80 – 3.85
Zambia (LuSE)	Miscellaneous Obligations are not as comprehensive. The following are not covered: 1) Corporate governance requirements 2) disclosure of beneficial interests of directors 3) Liquidation and judicial management	Adopt JSE 3.80 – 3.85
Zimbabwe (ZSE)	Not Available	

---

## SECTION 4 CONDITIONS FOR LISTING

---

- 4.2 All applications for listing are to be submitted to the JSE through a sponsor.

### CONDITIONS APPLICABLE TO ALL MARKETS

#### **Applicant to be duly incorporated**

- 4.6 The applicant 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 and articles of association and all laws of its country of incorporation or establishment.
- 4.7 An applicant seeking a listing on the JSE must contractually undertake to the JSE, by completing Schedule 7, that from the date of admission to listing of any of its securities it will comply fully with all the Listings Requirements of the JSE, irrespective of the jurisdiction in which the applicant is incorporated.

#### **Directors**

- 4.8 The directors and senior management of an applicant must collectively have appropriate expertise and experience for the management of the applicant and the group's business. Details of such expertise and experience must be disclosed in any listing particulars prepared by the applicant (refer to paragraphs 7.B.1, 7.B.2 and 7.B.3).
- 4.9 An applicant must submit to the JSE and its sponsor at the date of application for listing, the directors declaration form contained in Schedule 21 in respect of each of the directors of the applicant. The applicant must ensure that each of the directors is free of any conflict of interest between the director's duties to the company and his/her private interests.
- 4.10 The chief executive officer must not also hold the position of chairperson.

#### **Listing of subsidiary companies or assets**

- 4.11 When, in connection with the listing of a subsidiary company, a listed holding company intends making an offer of securities in such subsidiary company to persons other than wholly owned entities within the holding company's group, and such issue or offer will result in either:
- (a) the reduction in the fair value, supported by a fair and reasonable opinion, of the holding company's investment in such subsidiary company before and after the issue exceeding 5%; or
  - (b) a decrease in the percentage holding of securities resulting in less than a 50% holding of securities in such subsidiary company, or a loss of board control by the holding company; then
- those securities to be issued, that are not retained by the holding company, must be renounced in favour of its securities holders by way of a renounceable offer; or the securities holders of the company must specifically approve the issue in accordance with paragraph 5.51.
- 4.12 The JSE must be consulted in order to provide a ruling in principle, before any listed company intends to list a subsidiary company, or any of its group assets, or when it is aware that another party intends to list certain of the listed company's assets subsequent to a disposal of such assets by the listed company.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE does not 1) explicitly require statement of directors' experience 2) establish thresholds for the reduction in the value of the holding company's investment and a decrease in the percentage holding of the subsidiary by the holding company that will require that the offer be made a renounceable in favour of security holders.	Adopt JSE 4.8 – 4.12
Malawi (MSE)	MSE does not 1) explicitly require statement of directors' experience 2) establish thresholds for the reduction in the value of the holding company's investment and a decrease in the percentage holding of the subsidiary by the holding company that will require that the offer be made a renounceable in favour of security holders.	Adopt JSE 4.8 – 4.12
Mauritius (SEM)	1) SEM does not require that the chief executive officer must not also hold the position of chairperson 2) SEM does not have explicit requirements for the listing of subsidiary companies or assets.	1) Adopt JSE 4.10 (separation of chief executive from chairperson) 2) Adopt JSE 4.11 (listing of subsidiary companies or assets)
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 4.6 – 4.12 are identical to JSE requirements	
Swaziland (SSX)	The JSE requirements for listing of subsidiary companies or assets are more comprehensive. For example, JSE specifies the following conditions that would trigger a renounceable offer: (a) the reduction in the fair value, supported by a fair and reasonable opinion, of the holding company's investment in such subsidiary company before and after the issue exceeding 5%; or (b) a decrease in the percentage holding of securities resulting in less than a 50% holding of securities in such subsidiary company, or a loss of board control by the holding company.	Adopt JSE 4.11 – 4.12
Tanzania (DSE)	DSE Conditions for Listing are covered by 4.5. The requirements do not cover the JSE 4.6 – 4.12 requirements	Adopt JSE 4.6 – 4.12

Zambia (LuSE)	LuSE Section 4 covers “Conditions for Listing”. LuSE does not 1) explicitly require statement of directors’ experience 2) Establish thresholds for the reduction in the value of the holding company’s investment and a decrease in the percentage holding of the subsidiary by the holding company that will require that the offer be made a renounceable in favour of security holders.	Adopt JSE 4.6 – 4.12
Zimbabwe (ZSE)	Not Available	

### Financial information

4.13 The following requirements relate to the preparation and disclosure of financial information:

- (a) applicants must comply with Section 8 where applicable and their financial statements must have been reported on by the auditors without qualification, disclaimer, adverse audit opinion or reference to an emphasis of matter; and
- (b) an issuer must publish audited annual financial statements for its financial year, as specified in the prospectus/pre-listing statement, irrespective of the fact that the company may have subsequently changed its year-end.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 4.8 provides requirements for financial information which but are not cross referenced to Section 8 (Financial Information). JSE 4.13 requires compliance with Section 8 which provides comprehensive requirements for Financial information that have to be satisfied under the conditions for listing	BSE 4.8 should require compliance with BSE Section 8.
Malawi (MSE)	1) MSE 2.17 provides requirements for financial information. JSE 4.13 requires compliance with Section 8 which provides comprehensive requirements for Financial information that have to be satisfied under the conditions for listing. 2) The specified accounting standard is GAAP or IAS. JSE has a mandatory IFRS requirement.	Adopt JSE Section 8 requirements for financial information.

Mauritius (SEM)	1) JSE 4.13 requires compliance with Section 8 which provides comprehensive requirements for Financial information that have to be satisfied under the conditions for listing. 2) The specified accounting standard Mauritian Accounting Standards or IAS. JSE has a mandatory IFRS requirement. 3) Under JSE rules, financial statements must have been reported on by the auditors without qualification, disclaimer, adverse audit opinion or reference to an emphasis of matter	1) Adopt JSE Section 8 requirements for financial information. 2) Adopt JSE 4.13 (a)
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 4.13 Identical to JSE	
Swaziland (SSX)	SSX 4.11 is substantially the same as JSE requirements.	
Tanzania (DSE)	DSE 4.5 (g) requires financial information to satisfy Tanzania Financial Reporting Standards. JSE has a mandatory IFRS requirement.	Adopt IFRS
Zambia (LuSE)	LuSE 4.8 provides for the preparation of financial statements with a GAAP standard. JSE requires IFRS	Adopt IFRS
Zimbabwe (ZSE)	Not Available	

#### Status of securities

- 4.14 Securities for which a listing is sought must be issued in conformity with the law of the applicant's country of incorporation or establishment and in conformity with the applicant's memorandum and articles of association and all authorizations needed for their creation and issue under such law must have been duly given. No application will be considered until the memorandum and articles of association of the applicant and/or, if applicable, Debenture Trust Deed has been approved by the JSE.
- 4.15 Where a new applicant already has securities listed on another stock exchange, and is applying for admission of such securities to listing on the JSE, it must be in compliance with the requirements of that other exchange and the relevant laws of that country (see also Section 18).
- 4.16 Securities in each class for which listing is applied must rank *pari passu* in respect of all rights. It should be noted that a statement that 'securities in each class rank *pari passu*' is understood to mean that:
- (a) they are in all respects identical;
  - (b) they are of the same nominal value, and that the same amount per share has been paid up;
  - (c) they carry the same rights as to unrestricted transfer, attendance and voting at general/annual general meetings, and in all other respects; and
  - (d) they are entitled to dividends at the same rate and for the same period, so that at the next ensuing distribution the dividend payable on each share will be the same amount.

#### Transferability of Securities

- 4.17 The securities for which listing is sought must be fully paid up and freely transferable,

unless otherwise required by statute. Where the issuer's articles of association state differently, the JSE will require the issuer to amend its articles of association.

Stock Exchange	Relevant Provisions	Recommendations
Botswana	BSE 4.9 -4.11 are identical to JSE 4.14-4.15, 4.17. However no provision is made for the <i>pari passu</i> rank of securities in each class in respect of all rights (JSE 4.16)	Adopt JSE 4.16
Malawi	MSE 2.21-2.23 provides requirements broadly similar to JSE. However no provision is made for the <i>pari passu</i> rank of securities in each class in respect of all rights (JSE 4.16)	Adopt JSE 4.16
Mauritius (SEM)	MSE 6.16 – 6.17 as similar to JSE requirements. However, MSE does not explicitly state that securities in each class for which listing is applied must rank <i>pari passu</i> in respect of all rights.	Adopt JSE 4.16
Mozambique (BVM)	Not available	
Namibia	NSX 4.14 – 4.17 identical to JSE	
Swaziland (SSX)	JSE 4.16 requires securities in each class for which listing is applied to rank <i>pari passu</i> in respect of all rights. SSX does not have a similar requirement	Adopt JSE 4.16
Tanzania (DSE)	DSE does not have detailed requirements on Status of Securities to be Listed	Adopt JSE 4.14 – 4.17
Zambia (LuSE)	LuSE 4.11 is substantially the same as JSE requirements.	
Zimbabwe (ZSE)	Not Available	

#### Convertible securities

4.21 In addition to any other Listings Requirements affecting convertible securities, the JSE will not grant a listing to convertible securities unless there are sufficient unissued securities in the applicant's authorized capital, into which the convertible securities could/will convert, at the time that such convertible securities are issued and listed. The applicant must also undertake to the JSE that it will, at all times, maintain a sufficient number of unissued securities in its authorized share capital to be able to effect the eventual conversion, or until such convertible securities are no longer in issue.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 4.13 identical to JSE 4.21	
Malawi (MSE)	MSE 2.27 similar to JSE 4.21	
Mauritius (SEM)	SEM requirement 6.30 does not provide for the need to have sufficient unissued securities in the applicant's authorized capital, into which the convertible securities could/will convert, at the time that such convertible securities are issued and listed.	Adopt JSE 4.21
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 4.21 identical to JSE	
Swaziland (SSX)	SSX 4.19 identical to JSE requirement	

Tanzania (DSE)	DSE 4.5(t) covers convertible securities. However, the key JSE requirement 4.21 is not included.	Include JSE 4.21
Zambia (LuSE)	LuSE 4.21 is identical to JSE requirement.	Adopt JSE 4.21
Zimbabwe (ZSE)	Not Available	

#### MAIN BOARD LISTING CRITERIA

4.25 An applicant seeking a listing on the Main Board must satisfy the following criteria:

- (c) it must have a satisfactory audited profit history for the preceding three financial years, the last of which reported an audited profit of at least R800,000 before taxation and after taking account of the headline earnings adjustment on a pre-tax basis;
- (d) (i) it must be carrying on as its main activity, either by itself or through one or more of its subsidiaries, an independent business which is supported by its historic revenue earning history and which gives it control (which for the purposes of this section is defined as at least 50% + 1 of the voting shares) over the majority of its assets, and must have done so for the period covered by paragraph 4.28(c);

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 4.21 requires a three-year profit history. However, there is no requirement for a 50%+1% control over the majority of its assets during the required profit period (as required by the JSE)	Adopt JSE 4.25 (d)
Malawi (MSE)	MSE 2.36 (c) requires a three-year profit history. However, there is no requirement for a 50%+1% control over the majority of its assets during the required profit period (as required by the JSE)	Adopt JSE 4.25 (d)
Mauritius (SEM)	1) SEM requires three years of accounts but not a three-year profit history as required by the JSE 2) There is no requirement for a 50%+1% control over the majority of its assets during the required profit period (as required by the JSE)	Adopt JSE 4.25
Mozambique (BVM)	Not Available	
Namibia (NSX)	JSE rule 4.28(d)(i) defines “control” as a 50%+1% control over the majority of its assets during the required profit period. Although almost identical, NSX 4.28 (d)(i) does not define control.	Replace NSX requirement with JSE 4.28(d)(i)

Swaziland (SSX)	<p>1) SSX 4.27 (c) is identical to JSE 4.28 (c).</p> <p>2) There is no requirement for a 50%+1% control over the majority of its assets during the required profit period (as required by the JSE)</p>	Adopt JSE 4.28 (d)
Tanzania (DSE)	<p>1) DSE 4.5 (f) requires that a new applicant must have a trading record of not less than three years; however, the Exchange may accept a shorter period in exceptional cases. There are no profitability requirements</p> <p>2) There is no requirement for a 50%+1% control over the majority of its assets during the required profit period (as required by the JSE)</p>	<p>1) Require a three-year trading profit as in JSE 4.25 (c)</p> <p>2) Adopt JSE 4.28 (d)</p>
Zambia (LuSE)	<p>1) LuSE 4.25 requires that a new applicant must have a satisfactory profit history for the preceding three financial years. However JSE has minimum profit requirements.</p> <p>2) there is no requirement for a 50%+1% control over the majority of its assets during the required profit period (as in JSE 4.28 (d))</p>	1) Adopt JSE 4.28 (d)
Zimbabwe (ZSE)	Not Available	



---

**SECTION 5 METHODS AND PROCEDURES FOR BRINGING SECURITIES TO THE 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 capitalization issue;
  - (d) an issue for cash;
  - (e) an acquisition or merger issue (or vendor consideration 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.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 5.1-5.3 identical to JSE 5.1-5.3	
Malawi (MSE)	MSE 2.1 – 2.3 similar to JSE 5.1-5.3	

Mauritius (SEM)	Similar to JSE requirements (Chapter 5)	Include: 1) claw back offer 2) renounceable offers
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.1 – 5.3 identical to JSE	
Swaziland (SSX)	SSX 5.1 – 5.3 identical to JSE	
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.1 – 5.3 are similar to JSE requirements.	
Zimbabwe (ZSE)	Not Available	

### INTRODUCTIONS

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 9.24 and 9.25);

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.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	5.5 – 5.7 identical to JSE requirements	
Malawi (MSE)	MSE 4.120 – 4.122 are similar to JSE requirements.	Adopt JSE 5.5 – 5.7

Mauritius (SEM)	1) JSE 5.5 prohibits introductions in cases where there is any pre-existing intention to by any holders to dispose of a material number of securities at or immediately after listing. SEM has no such requirement. 2) SEM does not permit introductions if a change in the nature of the business is in contemplation or if within six months prior to listing, there has been a marketing of those securities, save where it s an overseas company seeking a secondary listing	For consistency, replace SEM 5.16 with JSE 5.4 -5.6
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.4 - 5.6 identical to JSE requirements	
Swaziland (SSX)	SSX 5.4 – 5.7 identical to JSE requirements	
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.4 – 5.7 are similar to JSE requirements except that 5.6(b) disallows introductions if there has been a public offer within 6 months prior to listing (save where it is a foreign company seeking a secondary listing on the LuSE)	Consider deleting 5.6(b)
Zimbabwe (ZSE)	Not Available	

## 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.
- 5.14 An offer for sale by a listed company of securities in the listed company’s subsidiary, as described in paragraphs 4.11 and 4.12 (Listing of subsidiary companies or assets), must be made by way of a renounceable offer of such securities to the securities holders of the listed company, which offer is to be open for a period of 21 days. The listed company must provide the JSE with an undertaking that it will not dispose of any securities it holds in such subsidiary whilst the renounceable offer is open.

### 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 fulfill 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 If the offer is underwritten, the underwriter must satisfy the JSE that it can meet its commitments in the manner required by the JSE.
- 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 reasonability 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 that applied 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.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE specific requirements 5.19-5.20, 5.25 are identical to JSE 5.13-5.14, 5.18. However, there are differences with the JSE on the remaining provisions: 1) BSE 5.21 makes underwriting a requirement for an offer for sale. JSE does not require underwriting but requires that the offer must be conditional upon the minimum subscription being received that will fulfill the purpose of the offer. 2) BSE 5.24 sets minimum rates of commission and allocates a portion to the BSE	Adopt JSE requirements 5.15 – 5.17
Malawi (MSE)	MSE requirements 4.132 – 4.140 are broadly similar to JSE with a few minor differences: 1) JSE 5.14 requires that an offer for sale of the shares of a subsidiary company must be made by way of a renounceable offer which shall be open for a period of 21 days. MSE requirement has no stipulation for the period of the renounceable offer. 2) MSE 4.136 requires that an offer for sale or subscription must be underwritten. JSE has no such requirement.	Adopt JSE 5.13 – 5.18
Mauritius (SEM)	1) SEM does not have a requirement for an offer for sale by a listed company of securities in the listed company's subsidiary to be made by way of a renounceable offer 2) SEM has no provisions covering underwriting	Adopt JSE 5.14 -5.17
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.13 – 5.18 identical to JSE requirements.	
Swaziland (SSX)	SSX 5.21 prescribes a minimum commission of 0.5% exclusive of any indirect tax payable by applicants on issues by means of an offer for sale or subscription. JSE does not prescribe a commission	Delete SSX 5.21 for consistency with JSE.

Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	1) LuSE 5.13 requires that for placings that at least 30% of the securities to be placed must be offered to the sponsoring broker who must in turn offer a reasonable proportion of his allocation to other broking members. This is not a JSE requirement. 2) LuSE 5.21 requires underwriting of offers for sale or subscription unless a waiver is granted by the exchange. This is not required by the JSE.	Amend 5.13 and 5.21 to be consistent with JSE.
Zimbabwe (ZSE)	Not Available	

### RENOUNCEABLE OFFERS<sup>8</sup>

#### 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 renounceable LA<sup>9</sup> or other negotiable document, traded as “nil paid” rights for a period in accordance with the relevant timetable in Schedule 24.

#### Shareholder spread

5.24 The listed company making the renounceable offer and the applicant will be required to prove to the JSE that the applicant will comply with the minimum spread requirements (see paragraphs 4.28 (c) and (f), 4.29 (f) (iv) and (v) and 4.30 (c) (iv) and (v)) following completion of the renounceable offer.

#### 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.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 5.31-5.36 substantially the same as JSE requirements 5.22 – 5.25.	
Malawi (MSE)	MSE 4.16 – 4.150 are similar to JSE requirements.	
Mauritius (SEM)	SEM has no provisions covering renounceable offers	Adopt JSE 5.22 – 5.25
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.22 -5.25 identical to JSE requirements	

<sup>8</sup> A renounceable offer is an invitation, by a listed company to its shareholders, to subscribe, by way of rights, for securities in the applicant where the listed company has received the right to subscribe for those securities in the applicant but renounces all or part of that right to its shareholders.

<sup>9</sup> Letters of Allocation

Swaziland (SSX)	SSX5.28 – 5.32 are identical to JSE requirements.	
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.31 – 5.35 are similar to JSE requirements.	
Zimbabwe (ZSE)	Not Available	

## RIGHTS OFFERS

### Specific requirements

5.28 LAs are to be issued, when applicable, in dematerialized form for the rights offer and must be renounceable.

### Underwriting

5.29 A rights offer need not be underwritten; however, if it is underwritten, the underwriter must satisfy the JSE that it can meet its commitments in the manner required by the JSE.

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 affecting 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 reasonability 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, and applications have been received for such excess securities, and there are excess securities available for allocation, the pool of such excess securities should be allocated equitably, taking cognizance of the number of securities held by the securities holder just prior to such allocation, including those 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.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	Requirements for rights offer 5.43 – 5.48 are substantially the same as JSE except:	Adopt JSE 5.29 -5.31 on underwriting.
Malawi (MSE)	MSE 4.159 – 4.166 have requirements similar to JSE except that MSE 4.159 require a rights offer to be underwritten. JSE has no such requirement.	Remove requirement for underwriting of rights offers.

Mauritius (SEM)	1) JSE requires LAs to be listed. SEM does not require this. 2) SEM has no provisions covering the underwriting of rights issues 3) SEM requires prior stock exchange approval for any excess allocations. JSE does not but prescribes rules for the allocation of excess securities.	Adopt JSE rules 5.28 – 5.34
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.28 – 5.34 identical to JSE requirements.	
Swaziland (SSX)	There is a major inconsistency between SSX and JSE requirements. SSX 5.40 states that if a rights offer is not underwritten, the offer shall be conditional upon the minimum subscription being received that shall fulfil the purpose of the offer. By contrast, JSE 5.30 states that if the rights offer is not underwritten, it must not be conditional on a minimum subscription being received.	Replace SSX requirement with JSE 5.30
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.42 – 5.52 are similar to JSE except LuSE requirement in 5.44 for rights offers to be underwritten unless a waiver is granted by the exchange	Adopt JSE 5.29 – 5.31
Zimbabwe (ZSE)	Not Available	

## CAPITALIZATION ISSUES

### Specific requirements

- 5.39 The JSE will not approve any announcement, advertisement or circular in which a capitalization issue is proposed to be effected in lieu of the declaration of a dividend and holders of securities are not entitled to elect to receive a cash payment.
- 5.40 Securities holders' approval must be obtained by the applicant to give effect to the capitalization of share premium or reserves if the articles of association do not permit the directors to do so without the necessary approval of such holders of securities.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 5.62 – 5.63 identical to JSE requirements.	
Malawi (MSE)	MSE 4.176 – 4.178 are similar to JSE requirements.	
Mauritius (SEM)	JSE rules 5.39 – 5.40 are not covered by SEM. However SEM requires auditor confirmation that there are enough reserves to cover the capitalization issue.	Adopt JSE 5.39 – 5.40
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.39 – 5.40 identical to JSE requirements.	

Swaziland (SSX)	SSX 5.57 – 5.59 has substantially the same requirements as JSE	
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.61 – 5.63 are similar to JSE requirements	
Zimbabwe (ZSE)	Not Available	

#### SCRIP DIVIDEND AND CASH DIVIDEND ELECTIONS

- 5.44 The grant of the right of election must not be prohibited by the articles of association.
- 5.45 The JSE will not approve an announcement or circular in which a capitalization 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.

#### Specific requirements

- 5.46 A form of election must be dispatched with the circular containing the following:
- a statement that the election may be made in respect of all or part of the securities held or deemed to be held at the close of business on the record date, failing which capitalization shares or cash will be distributed at the discretion of the issuer;
  - the ratio of entitlement; and
  - a statement that no late postal elections will be accepted.
- 5.47 Securities holders' approval must be obtained by the applicant to give effect to the capitalization of share premium or reserves if the articles of association do not permit the directors to do so without such approval of the holders of securities.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 5.71-5.74 are identical to JSE requirements.	
Malawi (MSE)	MSE requirements (4.188 – 4.190) are similar to JSE requirements.	
Mauritius (SEM)	SEM has no specific requirements on scrip dividend and cash dividend elections	Adopt JSE 5.44 – 5.47
Mozambique (BVM)	Not Available	
Namibia (NSX)	While almost identical, NSX 5.36(c) requires a statement that no late postal elections will be accepted. This difference is inconsequential and could be retained without sacrificing harmonization.	
Swaziland (SSX)	SSX 5.69 – 5.72 has substantially the same requirements as the JSE.	
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.70 – 5.73 are similar to JSE requirements.	
Zimbabwe (ZSE)	Not Available	



## 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 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 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 to a related party/ies as described in Section 10, such issue shall be subject to the issuer providing its equity securities holders with a fair and reasonable statement complying with Schedule 5 from an independent professional expert acceptable to the JSE, indicating whether or not the issue is fair and reasonable to equity securities holders, excluding the related party/ies if it/they are equity securities holders, of the issuer; and
  - (g) approval of the specific issue for cash resolution by achieving a 75% majority of the votes cast in favour of such resolution by all equity securities holders present or represented by proxy at the general meeting convened to approve such resolution, excluding any parties and their associates participating in the specific issue for cash.

### 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 relevant number of 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), 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 (which has had final terms announced) 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 determined or agreed by the directors of the issuer. 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 resolution by achieving a 75% majority of the votes cast in favour of such resolution by all equity securities holders present or represented by proxy at the general meeting convened to approve such resolution. 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 expenses), 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 a specific issue of such options/convertible securities provided specific approval is obtained for such grant/issue in terms of paragraph 5.51, and, similarly, in respect of 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) If the discount to the market price at the time 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, then the grant/issue will be subject to the issuer providing its holders of securities with a fair and reasonable statement complying with Schedule 5 from an independent professional expert acceptable to the JSE indicating whether or not the issue is fair and reasonable to the issuer's holders of securities.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	<p>1) BSE 5.80 – 5.81 are identical to JSE except that BSE does not have a specific rule for related party transactions (JSE 5.51 (f))</p> <p>2) 5.82 (Requirements for general issues of shares for cash) differ significantly from JSE</p> <p>3) BSE has no rules covering options and convertible securities granted/issued for cash</p>	<ul style="list-style-type: none"> <li>• Adopt JSE 5.51(f)</li> <li>• Adopt JSE 5.52</li> <li>• Adopt JSE 5.53</li> </ul>
Malawi (MSE)	<p>1) JSE requirements on specific issues for cash (5.51) are not provided for by MSE.</p> <p>2) MSE 4.198 – 4.203 (Specific requirements) are similar to JSE 5.52 with some differences:</p> <p>a) MSE limits issues for cash to 10% of issued share capital provided that such issues over a 36 month period will not exceed 15% of the applicant’s issued share capital of such class. JSE limits issues for cash to 15% of equity securities in issue</p> <p>b) JSE (5.52(c)(ii)) has aggregation rules which require securities of a particular class to be aggregated with any securities which are compulsorily convertible into securities of that class</p> <p>2) MSE has no rules covering options and convertible securities granted/issued for cash</p>	<p>Although there are many similarities between MSE and JSE requirements, it may be advisable for MSE to adopt all the JSE requirements (5.50 – 5.53) because of the limited but significant differences.</p>
Mauritius (SEM)	SEM has no specific provisions governing issues for cash	Adopt JSE 5.50 – 5.57
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.52 – 5.53 identical to JSE requirements.	
Swaziland (SSX)	<p>1) SSX limits issues for cash to 10% of issued share capital provided that such issues over a 36 month period will not exceed 15% of the applicant’s issued share capital of such class. JSE limits issues for cash to 15% of equity securities in issue</p> <p>2) SSX does not have a requirement covering options and convertible securities granted/issued for cash.</p>	<p>It may be advisable for SSX to adopt all the JSE requirements (5.50 – 5.53)</p>
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5

Zambia (LuSE)	LuSE 5.82 – 5.90 are broadly similar to JSE requirements with the following differences: a) LuSE limits issues for cash to 10% of issued share capital provided that such issues over a 36 month period will not exceed 15% of the applicant's issued share capital of such class. JSE limits issues for cash to 15% of equity securities in issue b) JSE (5.52(c)(ii)) has aggregation rules which require securities of a particular class to be aggregated with any securities which are compulsorily convertible into securities of that class 2) LuSE has no rules covering options and convertible securities granted/issued for cash	Although there are many similarities between LuSE and JSE requirements, it may be advisable for LuSE to adopt all the JSE requirements (5.50 – 5.53) to achieve harmonization.
Zimbabwe (ZSE)	Not Available	

#### ACQUISITION OR MERGER ISSUES

##### Specific requirements

- 5.58 Admission to listing will only be granted to securities issued as consideration for a bona fide acquisition or 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 merger.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	5.90-91 identical to JSE requirement.	
Malawi (MSE)	MSE 4.207 – 4.208 are similar to JSE requirements.	
Mauritius (SEM)	SEM does not have explicit requirements covering the admission to listing of securities issued for acquisition or merger. Such securities are treated as consideration issues (SEM 5.23).	Adopt JSE 5.58 – 5.59
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.58 – 5.59 are identical to JSE requirements.	
Swaziland (SSX)	SSX 5.89 is similar to JSE requirements.	
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.91 is similar to JSE requirement	
Zimbabwe(ZSE)	Not Available	

#### VENDOR CONSIDERATION PLACINGS

##### Specific requirements

- 5.62 In a vendor consideration placing:
- all vendors must have an equal opportunity of participating in the placing;
  - the minimum placing price is the lower of:

- (i) a 10% discount to the 30 business day weighted average traded price prior to the date that the placing is authorized 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 resolution by achieving a 75% majority of the votes cast in favour of such resolution by all 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;

- (c) the JSE should be consulted for a ruling if the issuer's securities have not traded in the 30 business day period referred to under paragraph 5.62(b); and
- (d) if the securities being placed are a class of equity securities not already listed, the requirement regarding the spread of shareholders will apply.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 5.95 identical to JSE requirements	
Malawi (MSE)	MSE rules for minimum placing price (4.212) differ from JSE requirements.	Adopt JSE 5.62
Mauritius (SEM)	JSE has elaborate requirements for vendor consideration placing that are not covered by SEM	Adopt JSE 5.62
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 5.62 identical to JSE requirements.	
Swaziland (SSX)	SSX 5.94 differs from JSE 5.62 in respect of the discount that is allowed on vendor consideration placing.	Adopt JSE 5.62
Tanzania (DSE)	DSE does not have detailed requirements on Methods and Procedures for Bringing Securities to Listing	Adopt requirements in JSE Chapter 5
Zambia (LuSE)	LuSE 5.96 – 5.97 are similar to JSE requirements	
Zimbabwe (ZSE)	Not Available	

---

## SECTION 6 PRE-LISTING STATEMENTS

---

This section sets out the requirements relating to pre-listing statements and prospectuses that are issued in lieu of pre-listing statements. When a new applicant or issuer issues a prospectus the presumption is that such prospectus will also comply with and contain all necessary disclosures as if it were a pre-listing statement subject to compliance with the Listings Requirements. For the purposes of this section any reference to a pre-listing statement includes reference to a prospectus.

### REQUIREMENT FOR PRE-LISTING STATEMENTS

- 6.1 When a new applicant or an issuer applies for a listing of securities that requires the publication of a pre-listing statement, such pre-listing statement must contain the particulars referred to in this section.

### RESPONSIBILITY

- 6.2 The pre-listing statement must include a statement, in the form set out in paragraph 7.B.22 (responsibility statement), modified as required pursuant to paragraph 6.3 or 6.4 or in such other form as may be required by the JSE.
- 6.3 If the pre-listing statement relates to securities issued in connection with a recommended take-over of an issuer (offeree) and the directors of the issuer (offeree) accept responsibility for the information given on that company (offeree) in the pre-listing statement, then the directors of the applicant (offeror) may accept responsibility only for the rest of the information in the pre-listing statement (refer to paragraph 7.B.22) and the responsibility statement must be adapted accordingly.
- 6.4 The JSE may require responsibility to be extended to additional persons that have made specific statements in, or have made contributions to, the pre-listing statement; in which case the responsibility statement must be amended accordingly.
- 6.5 The pre-listing statement must be signed by every director of the applicant or issuer, or by his agent or attorney, with a copy of the authority of any such agent or attorney; provided that where responsibility for any information contained in different parts of the pre-listing statement has been extended to or accepted by any other person in accordance with paragraph 6.3 or 6.4, such other person, or his agent or attorney, shall also sign the pre-listing statement and it shall be clearly stated for which part or parts of the pre-listing statement each signatory bears responsibility.

### Shareholder approval

- 6.10 If the issue of securities in respect of which the pre-listing statement is to be issued is made conditional upon shareholder approval, the following statement must appear on the first page of the pre-listing statement:

“This pre-listing statement has been prepared on the assumption that the ordinary and special resolutions proposed in the Notice of General Meeting forming part of the circular to which this pre-listing statement is attached will be passed at the General Meeting of shareholders to be held on . . . . . and registered (if applicable).”

### FORMAL APPROVAL

- 6.11 Pre-listing statements must be formally approved by the JSE before publication. Such approval will only be given if the JSE considers that the information in the pre-listing statement is complete.

- 6.12 Pre-listing statements submitted to the JSE for formal approval must be in the form of a typed document, but the JSE may permit neat manuscript information relating to the number of securities, the offer/issue price and any figures derived there from if such information is unable to be finalized and included in the pre-listing statement in typed print due to time pressures.

#### **SUPPLEMENTARY PRE-LISTING STATEMENTS**

- 6.13 The JSE must be advised immediately and supplementary pre-listing statements published if, at any time after pre-listing statements have been published and before dealings in the relevant securities commences, the applicant becomes aware that:
- (a) there has been a material change affecting any matter contained in the pre-listing statement; or
  - (b) a material new matter(s) has/have arisen, the inclusion of information on which new matter would have been required to be disclosed in the original pre-listing statement had such information been known at that time.
- 6.14 Supplementary pre-listing statements must:
- (a) provide full details of the change or new matter;
  - (b) contain the responsibility statement required by paragraph 6.2;
  - (c) contain a statement that, save as disclosed, there has been no material change and no material new matter that has arisen since publication of the previous pre-listing statement.

#### **OMISSION OF INFORMATION**

- 6.15 If any information required by paragraph 6.6(a) is not applicable and no equivalent information is available, it need not be included in the pre-listing statement provided that the JSE is informed in writing of same and approves such omission.
- 6.16 The JSE may authorize the omission of information that is applicable if it considers that:
- (a) the information is of minor importance and will not influence any assessment of the financial position, changes in equity, results of operations or cash flows; or
  - (b) disclosure would be contrary to the public interest and omission thereof is not likely to mislead investors with regard to any important/material facts and/or circumstances; or
  - (c) disclosure would be seriously detrimental to the applicant or would constitute an invasion of the applicant's rights to privacy, and omission is not likely to mislead investors with regard to any important/material facts and/or circumstances.
- 6.17 Requests to the JSE to authorize any omission of information must:
- (a) be in writing from the applicant or sponsor;
  - (b) identify the information concerned and the reasons for the omission; and
  - (c) state why, in the opinion of the applicant, one or more of the grounds in paragraph 6.16 apply.

#### **OMISSION OF MATERIAL CONTRACTS FROM DISCLOSURE**

- 6.18 The JSE, in its sole discretion, may allow all or part of a material contract to be withheld from public inspection (refer to paragraph 7.F.1) in the event it receives such request from an applicant, which request must:
- (a) be in writing from the applicant or sponsor;
  - (b) state why in the opinion of the applicant one or more of the grounds in paragraph 6.16 apply;
  - (c) enclose a copy of the contract in question or, if the contract is not reduced to writing, a memorandum giving full particulars of its terms; and

- (d) include confirmation by the applicant that the contract is a material contract not in the ordinary course of business.

#### **ISSUES NOT REQUIRING PRE-LISTING STATEMENTS**

- 6.19 Pre-listing statements are not required for issues of securities by applicants whose securities are already listed, and which fall into the following categories:
  - (a) securities issued as a result of the conversion of convertible securities;
  - (b) securities issued as a result of the exercise of rights under options;
  - (c) securities issued in place of securities already listed;
  - (d) securities issued/allotted to employees, if securities of the same class are already listed;
  - (e) securities issued relating to the extension of a business contemplated by and previously described in a pre-listing statement;
  - (f) securities issued as a result of a capitalization/bonus issue; or
  - (g) an issue of securities, including a rights issue, that, together with any securities of the same class issued in the previous three months, would increase the securities issued by less than 30% (for this purpose a series of issues in connection with a single transaction, or series of transactions that is regarded by the JSE as a single transaction, will be aggregated and deemed to be a single issue for purposes of measurement against the 30% level).
- 6.20 When a pre-listing statement is not required in terms of paragraph 6.19, further information, which the JSE considers investors may reasonably require for the purposes of making an informed assessment of the prospects and status of the applicant, may be required to be announced, and in certain instances a circular may also be required to be sent to shareholders (refer to Sections 9, 10 and 11). In regard hereto, applicants must consult with the JSE at an early stage to determine the JSE's requirements, if any.

#### **ACQUISITION AND MERGER ISSUES**

- 6.21 In terms of an acquisition or merger issue (where the consideration for a purchase of assets, regulated by Section 9, or for an offer to shareholders, subject to the Competitions Act, consists of securities for which a listing will be sought) a pre-listing statement may be required as described in paragraph 6.1 and 9.23. When a pre-listing statement has already been published and the consideration for the acquisition or offer is revised, resulting in the issue of a greater number of shares for which application for listing will be made, a supplementary pre-listing statement may be required (refer to paragraphs 6.13 to 6.14).

#### **Contents of pre-listing statements**

- 6.22 A pre-listing statement required in terms of paragraph 6.21 must comply with the relevant requirements of this section, subject to the following:
  - (a) references in Section 7 to the applicant's group must also include the offeree company and its subsidiaries;
  - (b) the information regarding major shareholders (refer to paragraph 7.A.27) and directors' interests in securities (refer to paragraph 7.B.20) must be given in relation to the applicant's share capital both as existing and the share capital as enlarged by the securities for which listing is sought; and
  - (c) if the transaction is an offer to shareholders:
    - (i) and is recommended by the board of the offeree company at the time of the publication of the offer document, the applicant must publish a statement in respect of the proposed enlarged group as to the adequacy of working capital (refer to paragraph 7.E.7) and details of material loans



- (refer to paragraph 7.A.15) on the basis that the offer has been completed 100% successfully (“the combined basis”);
- (ii) which has not been recommended by the board of the offeree company at the time of publication of the offer document, the applicant must publish a statement as to the adequacy of working capital and details of material loans in respect of its own group only. The JSE will allow the statement on the combined basis to be provided in a later announcement, circular or supplementary pre-listing statement, within 28 days after the offer is declared unconditional.

#### REVISED TAKE-OVER OFFERS

- 6.24 When a pre-listing statement has been published and circulated in connection with an offer that involves the exchange of securities for securities of another company, and the offer consideration is revised to include a new class of security for which an application for listing is to be made, it will be unnecessary to repeat the information contained in the original pre-listing statement, but any additional information applicable to the issue of the new class of securities must be contained in a supplementary pre-listing statement.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE requirements for pre-listing statements (Section 6) are the same as JSE requirements.	
Malawi (MSE)	MSE requirements for pre-listing statements are almost identical to JSE requirement. There are a few missing items: 1) Revised takeover offers 2) Acquisition and merger issues	Adopt JSE 6.21 – 6.24
Mauritius (SEM)	General requirements for pre-listing statements (SEM 8.1 – 8.16) are broadly similar to JSE requirements and need not be changed.	
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX Section 6 requirements are identical to the JSE requirements	
Swaziland (SSX)	SSX requirements (Section 6) are identical to JSE requirements	
Tanzania (DSE)	The key document in DSE’s Prelisting Statements is the Prospectus, which is required by law. There are minimum requirements over and above the prospectus	Expand requirements for Prelisting Statements in accordance with JSE Section 6
Zambia (LuSE)	LuSE Section 6 requirements are identical to JSE requirements.	
Zimbabwe (ZSE)	Not Available	

---

## SECTION 7 LISTING PARTICULARS

---

The listing particulars set out items of information that may be required to be included in pre-listing statements and circulars relating to rights offers, capitalization issues and Category 1 or 2 transactions.

### 7. A THE APPLICANT AND ITS CAPITAL

The following paragraphs detail the disclosure requirements relating to the applicant and its capital.

#### **Name, address and incorporation**

- 7.A.1 The name, address of the registered office and of the transfer office, the date of incorporation of the applicant and the place of incorporation or, if the applicant is an external company, the country in which it is incorporated and the date of registration as an external company in the Republic of South Africa.
- 7.A.2 If the applicant is a subsidiary, the name and address of the registered office of its holding company, or of any body corporate that, had it been registered under the Act, would have been its holding company.
- 7.A.3 If the applicant has changed its name within the last three years, the old name must be printed in bold type under the existing name on the cover and first page.

#### **Share capital of the company**

- 7.A.4 If the applicant's share capital consists of shares of par value the following information must be disclosed:
- (a) the authorized and issued or agreed to be issued share capital, detailing:
    - (i) the different classes of shares;
    - (ii) the number of shares in each class;
    - (iii) the nominal value of each share in each class;
    - (iv) the total value of each class; and
  - (b) the share premium account.
- 7.A.5 If the applicant's share capital consists of shares of no par value the following information must be disclosed regarding the authorized and issued (stated capital) or agreed to be issued stated capital, detailing:
- (a) the different classes of shares;
  - (b) the number of shares in each class; and
  - (c) the total value of the stated capital account for each class;
- 7.A.6 A description of the respective:
- (a) preferential conversion and/or exchange rights of any securities;
  - (b) voting rights of securities; and
  - (c) rights to dividends, profits or capital or any other rights of each class, including redemption rights and rights on liquidation or distribution of capital assets.
- 7.A.7 Information regarding the consents necessary for the variation of rights attaching to securities.
- 7.A.8 A summary of any issues or offers of securities of the applicant and/or its subsidiaries during the preceding three years, including:
- (a) the prices and terms at which such securities were issued or offered;
  - (b) by whom any offers were made;
  - (c) the number of securities allotted in pursuance of any issues or offers;
  - (d) whether the securities were issued to all securities holders in proportion to their holdings or, if not, to whom they were issued, the reasons why the securities were so issued and the basis of allotment of the securities;
  - (e) the dates of the issues or offers;
  - (f) the reasons for any premium or discount on the issue or offer, how any premium or discount was dealt with and where some securities were issued or offered at

- (g) par and others at varying premiums or discounts the reasons for the differential; the value of the asset, if any, acquired or to be acquired out of the proceeds of the issue or offer; and
  - (h) the details of any share repurchases.
- 7.A.9 A summary of any consolidations or sub-divisions of securities during the preceding three years.
- 7.A.10 A statement advising who controls the issue or disposal of the authorized but unissued securities, i.e. the directors or shareholders in general meeting.
- 7.A.11 A statement as to what other classes of securities are listed and on which stock exchanges.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	Paragraph 7.A.5 - 7.A.11 are similar to JSE. However, JSE has an additional requirement (7.A.8 (h)) requiring details of any share repurchases during the last three years.	Adopt JSE 7.A.8(h) on share repurchases.
Malawi (MSE)	MSE's Listing Particulars are derived from the Companies Act (Cap 46.03)	
Mauritius (SEM)	SEM requires general information about the issuer and its advisors (Chapter 9, Part A). The SEM requirements on the issuer's capital (9.26 – 9.30) are generally similar to the JSE requirements	
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.A.1 – 7.A.11 identical to JSE requirements.	
Swaziland	SSX requirements (7.A.4 – 7.A.11) are the same as the JSE requirements	
Tanzania (DSE)	DSE does not have detailed Listing Particulars beyond the Prospectus.	Incorporate prospectus and additional listing particulars of the JSE into DSE Listings Requirements (JSE Section 7)
Zambia (LuSE)	LuSE 7.A.1 – 7.A.11 are the same as the JSE requirements.	
Zimbabwe (ZSE)	Not Available	

### **Borrowings**

- 7.A.12 The borrowing powers of the applicant and its subsidiaries exercisable by the directors and the manner in which such borrowing powers may be varied.
- 7.A.13 A description of the circumstances, if applicable, if the borrowing powers have been exceeded during the past three years. Any exchange control or other restrictions on the borrowing powers of the applicant or any of its subsidiaries.
- 7.A.14 The number and value of debentures created in terms of a trust deed and the number and value to be issued or agreed to be issued.
- 7.A.15 Details of material loans, including issued debentures, made to the applicant and/or to any of its subsidiaries, stating:
- (a) whether such loans are secured or unsecured;
  - (b) the names of the lenders and/or debenture holders;
  - (c) the amount, terms and conditions of repayment or renewal;
  - (d) the rates of interest on each loan;
  - (e) details of the security provided, if any;
  - (f) details of any conversion or redemption rights; and
  - (g) where the applicant or any of its subsidiaries has debts that are repayable within 12 months, state how the payments are to be financed.

- 7.A.16 Particulars relating to debentures or debenture stock (“debentures”) issued by way of conversion or replacement of debentures previously issued stating all material differences between the security for the old debentures and the security for the new debentures or that the security for the new debentures is identical to the security for the old debentures.
- 7.A.17 Details of all material commitments, lease payments and contingent liabilities.
- 7.A.18 Disclose how the borrowings required to be disclosed by paragraphs 7.A.12 to 7.A.17 arose, stating whether they arose from the purchase of assets by the applicant or any of its subsidiaries.
- 7.A.19 If no loan capital is outstanding this fact must be stated.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 7.A.12 – 7.A.20 identical to JSE requirements.	
Malawi (MSE)	MSE 4.37 – 4.42 are identical to JSE requirements.	
Mauritius (SEM)	SEM does not require detailed disclosures about borrowings as the JSE does.	Adopt JSE 7.A.12 – 7.A.19
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.A.12 – 7.A.19 identical to JSE requirements.	
Swaziland	SSX requirements are identical to JSE	
Tanzania (DSE)	DSE does not have detailed Listing Particulars beyond the Prospectus.	Incorporate prospectus and additional listing particulars of the JSE into DSE Listings Requirements (JSE Section 7)
Zambia (LuSE)	LuSE 7.A.12 -7.A.20 are identical to JSE requirements.	
Zimbabwe (ZSE)	Not Available	

#### Loans receivable

- 7.A.20 Details of material loans made by the applicant or by any of its subsidiaries, stating:
- the dates on which the loans were made;
  - to whom each loan was made;
  - the interest and repayment terms of each loan;
  - if the interest and/or capital redemption payments are in arrears, the last date on which payment was made and the extent of the arrears;
  - the periods of the loans;
  - the nature of any/all security held for any/all loans;
  - the current fair value of such security and the method of valuation;
  - if a loan is unsecured, the reasons therefore; and
  - if any loan was made to another company, the names and addresses of the directors of such company.
- 7.A.21 Details (as described in paragraph 7.A.20) of loans made or security furnished by the applicant or by any of its subsidiaries to or for the benefit of any director or manager or any associate of any director or manager of the applicant.
- 7.A.22 Disclose how and why each loan receivable was made.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 7.A.21 – 7.A.23 are identical to JSE requirements	
Malawi (MSE)	MSE 4.45 – 4.47 are identical to JSE requirements	

Mauritius (SEM)	SEM does not require detailed disclosures about loans receivable as the JSE does.	Adopt JSE 7.A.20 – 7.A.22
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.A.20 – 7.A.22 are identical to JSE requirements.	
Swaziland (SSX)	SSX requirements are identical to JSE requirements	
Tanzania (DSE)	DSE does not have detailed Listing Particulars beyond the Prospectus.	Incorporate prospectus and additional listing particulars of the JSE into DSE Listings Requirements (JSE Section 7)
Zambia (LuSE)	LuSE 7.A.21 is identical to JSE requirement.	
Zimbabwe (ZSE)	Not Available	

### Options or preferential rights in respect of securities

7.A.23 Full disclosure of the substance of any contract or arrangement or proposed contract or arrangement, whereby any option or preferential right of any kind was or is proposed to be given to any person(s) to subscribe for any securities of the applicant or any securities of its subsidiaries, including:

- (a) the number and description of securities subject to such option or right;
- (b) the exercise period of such option or right;
- (c) the exercise date of such option or right and a statement as to whether such option or right is American or European in nature;
- (d) the exercise price to be paid for securities subscribed for in terms of such option or right;
- (e) the option premium or consideration given or to be given for receipt of such option or right;
- (f) the names and addresses of the persons to whom such right or option was or is to be given, excluding any options or rights given to participants of a bona fide share incentive or option scheme;
- (g) if such right or option was given to existing shareholders, material particulars thereof; and
- (h) any other significant facts or circumstances concerning the granting of such option or right.

7.A.24 Subscribing for securities shall, for the purpose of paragraph 7.A.23, include acquiring them from a person to whom they were allotted or were agreed to be allotted with a view to his/her/it offering them for sale.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	Although BSE 7.A.24 – 7.A.25 are very similar to JSE requirements, JSE further requires a statement as to whether the options to be exercised are European or American options (JSE 7.A.23 (c))	Adopt JSE 7.A.23 – 7.A.24
Malawi (MSE)	MSE 4.49 – 4.50 similar to JSE requirements. JSE further requires a statement as to whether the options to be exercised are European or American options (JSE 7.A.23 (c))	Adopt JSE 7.A.23 - 7.A.24

Mauritius (SEM)	SEM 9.11 requires information about special terms granted within 2 years immediately preceding the issue of the listing particulars. However, there is no disclosure requirement on options or preferential rights in respect of securities.	Expand 9.11 to include JSE requirements 7.A.23 – 7.A.24
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.A.23 – 7.A.24 identical to JSE requirements.	
Swaziland (SSX)	SSX 7.A.24 – 7.A.25 are almost identical to JSE requirements. However JSE further requires a statement as to whether the options to be exercised are European or American options (JSE 7.A.23 (c))	Include JSE 7.A.24 (c)
Tanzania (DSE)	DSE does not have detailed Listing Particulars beyond the Prospectus.	Incorporate prospectus and additional listing particulars of the JSE into DSE Listings Requirements (JSE Section 7)
Zambia (LuSE)	LuSE 7.A.24 – 7.A.25 are almost identical to JSE requirements. However JSE further requires a statement as to whether the options to be exercised are European or American options (JSE 7.A.23 (c))	Include JSE 7.A.24 (c)
Zimbabwe (ZSE)	Not Available	

#### **Controlling shareholder(s)**

- 7.A.25 The names of the controlling shareholder(s) so far as they are known to the directors of the applicant, or appropriate negative statement.
- 7.A.26 Details of any change in controlling shareholder(s) as a result of the issue.

#### **Major shareholders**

- 7.A.27 Insofar as is known to the applicant, the name of any shareholder other than a director, that, directly or indirectly, is beneficially interested in 5% or more of any class of the applicant's capital, together with the amount of each such shareholder's interest or, if there are no such shareholders, an appropriate negative statement.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 7.A.26-7.A.28 are identical to JSE requirements.	
Malawi (MSE)	MSE 4.51- 4.53 are identical to JSE requirements.	
Mauritius (SEM)	SEM does not have JSE requirements 7.A.25 – 7.A.27 covering controlling shareholders and majority shareholders.	Adopt JSE 7.A.25 – 7.A.27
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.A.25 – 7.A.27 identical to JSE requirements.	
Swaziland (SSX)	Identical to JSE requirements.	
Tanzania (DSE)	DSE does not have detailed Listing Particulars beyond the Prospectus.	Incorporate prospectus and additional listing particulars of the JSE into DSE Listings Requirements (JSE Section 7)

Zambia (LuSE)	LuSE 7.A.26 – 7.A.28 are identical to JSE requirements.	
Zimbabwe (ZSE)	Not Available	

## 7.B DIRECTORS, MANAGERS AND ADVISORS

These requirements cover the disclosure requirements relating to directors, managers and advisors.

### Directors and management

- 7.B.1 The full name, and if relevant, any former name, business address and function in the group of each of the following persons and an indication of the principal activities performed by them, including any activities performed outside the group where these are significant with respect to the group:
- (a) directors of the issuer and its material subsidiaries;
  - (b) partners with unlimited liability, in the case of a limited partnership with share capital;
  - (c) founders, if the issuer has been established for fewer than five years; and
  - (d) in the case of the applicant and its material subsidiaries, any manager who is relevant to establishing that the requirements of paragraph 4.8 (directors) have been met. Typically this will include any members of management forming part of the applicant's or applicant's material subsidiaries' executive and/or management committees responsible for the day to day running of the applicant group's business.
- 7.B.2 In the case of each person described in paragraph 7.B.1 (a) and (d), details of that person's relevant management expertise and experience (see paragraph 4.8) and the following information:
- (a) full names;
  - (b) occupations and/or function, including whether in an executive or non executive capacity, for example; non executive chairman, executive chairman, chief executive officer, managing director, financial director, other relevant executive and non executive director functions/status and the executive functions of all managers specified;
  - (c) business addresses;
  - (d) nationalities;
  - (e) the names of all companies and partnerships of which such person has been a director or partner at any time in the previous five years, indicating whether or not the individual is still a director or partner. It is not necessary to list all the subsidiaries of a company of which the person is also director;
  - (f) details of any bankruptcies, insolvencies or individual voluntary compromise arrangements of such person;
  - (g) details of any receiverships, compulsory liquidations, creditors voluntary liquidations, administrations, company voluntary arrangements or any compromise or arrangement with creditors generally or any class of creditors of any company where such person is or was a director with an executive function of such company at the time of or within the 12 months preceding any such event(s);
  - (h) details of any compulsory liquidations, administrations or partnership voluntary arrangements of any partnerships where such person is or was a partner at the time of or within the 12 months preceding such event(s);
  - (i) details of receiverships of any asset(s) of such person or of a partnership of which the person is or was a partner at the time of or within the 12 months preceding such event;
  - (j) details of any public criticisms of such person by statutory or regulatory authorities, including recognized professional bodies, and whether such person

- has ever been disqualified by a court from acting as a director of a company or from acting in the management or conduct of the affairs of any company; and
- (k) any offence involving dishonesty.
- 7.B.3 Details of the information contained in the director's declaration as set out in Schedule 21 of the Listings Requirements.
- 7.B.4 In the case of a foreign applicant, information, similar to that described in paragraph 7.B.2, relative to the local (South African) executive management committee, if any. Where the JSE considers the parent company is not adequately represented on the directorate of its South African or foreign subsidiaries an explanation is required.
- 7.B.5 The term of office for which any director has been or is to be appointed, the manner in and terms on which any proposed director will be appointed and particulars of any right held by any person (usually a contractual right given to a shareholder, provider of capital or other person/entity in terms of an agreement between such person/entity and the company) relating to the appointment of any particular director or number of directors.
- 7.B.6 The provisions or a sufficient summary of the provisions, of the articles of association or other corresponding document of the applicant and each of its subsidiaries with regard to:
- (a) qualification of directors;
  - (b) remuneration of directors; and
  - (c) any power enabling the directors to vote remuneration to themselves or any members of their board.
- 7.B.7 An analysis in aggregate and by director or proposed director, of emoluments paid or accrued as payable during the last financial period by the company, or group of which the company is a member, directly or indirectly, or proposed to be paid by the company, in their capacity as director(s), or in any other capacity, whether determined by the articles or not, distinguishing separately between executive and non-executive directors, of the following:
- (a) fees for services as a director;
  - (b) management, consulting, technical or other fees paid for such services rendered, directly or indirectly, including payments to management companies, a part of which is then paid to a director of the company;
  - (c) basic salary;
  - (d) bonuses and performance-related payments;
  - (e) sums paid by way of expense allowance;
  - (f) any other material benefits received;
  - (g) contributions paid under any pension scheme;
  - (h) any commission, gain or profit-sharing arrangements; and
  - (i) in respect of share options or any other right given which has had the same or a similar effect in respect of providing a right to subscribe for shares ("share options"):
    - (i) the opening balance of share options, including the number of share options at each different strike price;
    - (ii) the number of share options awarded and their strike prices;
    - (iii) the strike dates of differing lots of options awarded;
    - (iv) the number of share options exercised and at what prices;
    - (v) the closing balance of share options, including the number of share options at each different strike price;
- (i) to (v) above may be presented in tabular form;
- (j) any shares issued and allotted in terms of a share purchase/option scheme for employees (or other scheme/structure effected outside of the issuer which achieves substantially the same objectives as a share purchase/option scheme), usually held as a pledge against an outstanding loan to an employee in a share purchase scheme trust, which have not been fully paid for, including the number



- so issued and allotted, the price of issue and allotment, the release periods applicable to such shares and any other relevant information;
- (k) without derogating from the generality of 7.B.7 (a) to (j) above, the directors emoluments disclosed in accordance with 7.B.7 (a) to (j) above must include disclosure of all emoluments received or receivable from the following entities:
- (i) the issuer' holding company;
  - (ii) the issuer's subsidiaries and fellow subsidiaries;
  - (iii) associates of 7.B.7 (k) (i) and (ii) above;
  - (iv) joint ventures of the issuer or of 7.B.7 (k) (i) to (iii) above; and
  - (v) entities that provide management or advisory services to the company or any of 7.B.7 (k) (i) to (iv) above.
- 7.B.8 Fees paid or accrued as payable to a third party in lieu of directors' fees are to be disclosed in a similar manner as that detailed in paragraph 7.B.7.
- 7.B.9 If the remuneration receivable by any of the directors of the applicant will be varied in consequence of the/any transaction, full particulars of the aggregate variation in the remuneration of the directors shall be stated; if there will be no variation, a statement to that effect.
- 7.B.10 If the business of the applicant or any of its subsidiaries or any part thereof is managed or is proposed to be managed by a third party under a contract or arrangement, the name and address, or the address of its registered office, if a company, of such third party and a description of the business so managed or to be managed and the consideration paid in terms of the contract or arrangement and any other pertinent details relevant to such contract or arrangement.
- 7.B.11 A summary of the provisions of the memorandum and articles of association of the issuer with regard to:
- (a) any power enabling a director to vote on a proposal, arrangement or contract in which he is materially interested;
  - (b) any power enabling the directors, in the absence of an independent quorum, to vote remuneration, including pension or other benefits, to themselves or any members of their body;
  - (c) borrowing powers exercisable by the directors and how such borrowing powers can be varied; and
  - (d) retirement or non-retirement of directors under an age limit.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 7.B.1 -7.B.3 cover requirements. Although similar to JSE in many respects, the BSE requirements are less comprehensive. For example most of the requirements in JSE 7.B.2 , 7.B.7 and 7.B.11 are not required by BSE	Adopt JSE listing particulars for directors and management (JSE 7.B.1 – 7.B.11)
Malawi (MSE)	MSE 4.7 – 4.13 cover declarations with respect to directors. Although some of the requirements are similar to JSE requirements, MSE requirements are less comprehensive. There are important missing requirements (e.g. details of that person's relevant management expertise and experience)	MSE should adopt the comprehensive JSE requirements (JSE 7.B.1 – 7.B.11)

Mauritius (SEM)	SEM 9.53 – 9.63 covers information about the issuer’s management. The SEM requirements for basic information about directors are similar to the JSE requirements. However there are significant omissions in the SEM requirements in comparison with JSE. These include: 1) the requirement for detailed background information on each director (JSE 7.B.2) 2) Information by director on all emoluments 3) Detailed list of the types of payments to directors that have to be disclosed	Adopt JSE 7.B.1 – 7.B.11
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.B.1 – 7.B.11 are identical to JSE requirements	
Swaziland (SSX)	1) SSX does not require the disclosure of any offence involving dishonesty as required by JSE 7.B.2(k) 2) Although SSX disclosure requirements on directors remuneration (SSX 7.B.6 – 7.B.7) are similar to JSE in many respects, the SSX requirements are less comprehensive. For example SSX does not require disclosure of management, consulting or technical fees.	1) Include JSE 7.B.2(k) 2) Adopt JSE 7.B.7
Tanzania (DSE)	DSE does not have detailed Listing Particulars beyond the Prospectus.	Incorporate prospectus and additional listing particulars of the JSE into DSE Listings Requirements (JSE Section 7)
Zambia (LuSE)	LuSE 7.B.1 – 7.B.6 requires basic information about directors but the requirements are not as comprehensive as JSEs. The following items are not provided for by LuSE 1) the requirement for detailed background information on each director (JSE 7.B.2) 2) Information by director on all emoluments 3) Detailed list of the types of payments to directors that have to be disclosed	Adopt JSE 7.B.1 – 7.B.11
Zimbabwe (ZSE)	Not Available	

**Secretary**

7.B.12 The full name, street and postal address and professional qualifications, if any, of the secretary of the applicant.

**Auditor, attorney, banker, sponsor, trustee, underwriter and expert**

7.B.13 The names and street and postal addresses of the auditor, attorney, banker, and sponsor to the applicant and, if applicable, the trustee, underwriter, advisor and any expert referred to in the pre-listing statement and any holding of securities in, options on securities in, or agreed to be acquired in the company, by such persons.

**Amounts paid or payable to promoter**

7.B.14 Any amount paid, or accrued as payable, within the preceding three years, or proposed to be paid to any promoter, disclosing his/her/its name and address, or to any partnership, syndicate or other association of which he/she/it is or was a member, and the consideration for such payment, and any other benefit given to such promoter, partnership, syndicate or other association within the said period or proposed to be given, and the consideration for the giving of such benefit.

**Commissions paid or payable in respect of underwriting**

7.B.15 the following must be disclosed in relation to commissions paid or payable in respect of underwriting:

- (a) the amount, if any, or the nature and extent of any consideration, paid, or accrued as payable, within the preceding three years, as commission to any person, including commission so paid or payable to any sub-underwriter that is the holding company or a promoter or director or officer of the applicant, for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions for any securities of the applicant;
- (b) the name, occupation and address of each such person; and if such person is a company, the names of the directors of such company and the nature and extent of any beneficial interest, direct or indirect, in such company of any promoter, director or officer of the applicant in respect of which the pre-listing statement is issued; and
- (c) particulars of the amounts underwritten or sub-underwritten by each such person and the rate of the commission payable for each such underwriting or sub-underwriting contract with such person.

7.B.16 Particulars of any commissions, discounts, brokerages or other special terms granted during the three years preceding the date of the pre-listing statement in connection with the issue or sale of any securities, stock or debentures in the capital of the applicant, where this has not been disclosed in any audited annual financial statements.

**Preliminary expenses and issue expenses**

7.B.17 The following disclosure is required with respect to preliminary expenses and issue expenses:

- (a) the total amount or estimated total amount of preliminary expenses incurred by the applicant within the three years preceding the date of the pre-listing statement, and separate disclosure of who the individual persons are/were and the individual amounts paid or payable to each such person of such total preliminary expenses; and
- (b) the total amount or estimated total amount of the expenses of the issue, and separate disclosure of who the individual persons paid or payable are, including separate disclosure of each sponsor, financial adviser, corporate adviser, attorney, legal adviser, commercial banker, investment banker, accountant, auditor, underwriter, sub underwriter and any other adviser involved where there are two or more of each such advisers per advisory category, and the individual amounts paid or payable to each such individual person/adviser by the applicant.

**Interest of directors and promoter**

7.B.18 Full particulars of the nature and extent of any material beneficial interest, direct or indirect, of every director or promoter in the promotion of the applicant and in any property referred to in paragraph 7.D.9 acquired or proposed to be acquired by the applicant out of the proceeds of the issue or during the three years preceding the date of the listing statement, and where the interest of such director or promoter consists of being a member in a partnership, company, syndicate or other association of persons, the nature and extent of the interest of such partnership, company, syndicate or other

association, and the nature and extent of such director's or promoter's interest in the partnership, company, syndicate or other association.

- 7.B.19 A statement of all sums paid or agreed to be paid within the three years preceding the date of the pre-listing statement to any director or to any company in which he is beneficially interested, directly or indirectly, or of which he is a director ("the associate company"), or to any partnership, syndicate or other association of which he is a member ("the associate entity"), in cash or securities or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered by him or by the associate company or the associate entity in connection with the promotion or formation of the applicant.

**Directors' interests in securities**

- 7.B.20 A statement showing the direct and indirect interests of the directors' holdings in the share capital of the applicant distinguishing between beneficial and non beneficial interests. The statement should include by way of a note any change in those interests occurring between the end of the preceding financial year and the date of the pre-listing statement or, if there has been no such change, disclosure of that fact.

**Directors' interests in transactions**

- 7.B.21 All relevant particulars regarding the nature and extent of any material beneficial interests, whether direct or indirect, of directors of the applicant in transactions that were effected by the applicant:
- (a) during the current or immediately preceding financial year; or
  - (b) during an earlier financial year and remain in any respect outstanding or unperformed; or
  - (c) an appropriate negative statement.

**Responsibility statement**

- 7.B.22 A directors' responsibility statement must be made by the directors after due, careful and proper consideration of same as follows:

"The directors, whose names are given in paragraph . . . on page . . . of this document collectively and individually accept full responsibility for the accuracy of the information given and certify 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 and that the prospectus/pre-listing statement /circular contains all information required by law and the JSE Listings Requirements

**Responsibility of directors, managers and advisors**

- 7.B.23 The prospectus/pre-listing statement/circular must be signed by every director of the applicant (or by his agent or attorney, with a copy of the authority of any such agent or attorney); provided that where responsibility for any information contained in different parts of the prospectus/pre-listing statement/circular has been extended to or accepted by any other person(s), such other person(s) (or his/their agent or attorney) shall also sign the prospectus/pre-listing statement/circular and it shall be stated clearly for which part or parts of the prospectus/pre-listing statement/circular each signatory bears responsibility.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
-----------------------	--	------------------------

Botswana (BSE)	<p>Relevant BSE paragraphs are 7.B.7 – 7.5.17. Key difference with JSE are:</p> <ol style="list-style-type: none"> <li>1) BSE 7.B.1 limits commissions payable on the issue of shares to 5% of the price at which the shares were issued</li> <li>2) Requirements for disclosure of preliminary expenses and issue expenses (BSE 7.B.12) are not comprehensive. For example, there is no requirement for separate disclosure of payments to each sponsor, financial adviser, corporate adviser, attorney, legal adviser, commercial banker, investment banker, accountant, auditor, underwriter, sub underwriter and any other adviser involved.</li> <li>3) BSE has a threshold of 1% of share capital that triggers disclosure of directors' interest in securities (BSE 7.B.15)</li> <li>4) there is no requirement for all directors to sign pre-listing statement</li> </ol>	Adopt JSE 7.B.15 – 7.B.23
Malawi (MSE)	<p>MSE 4.14 -4.43 are substantially the same as JSE requirements. A few differences remain:</p> <ol style="list-style-type: none"> <li>1) MSE has a threshold of 1% of share capital that triggers disclosure of directors' interest in securities (MSE 4.21)</li> <li>2) there is no requirement for all directors to sign pre-listing statement</li> </ol>	<ol style="list-style-type: none"> <li>1) Remove 1% threshold</li> <li>2) Adopt JSE requirement 7.B.23.</li> </ol>
Mauritius (SEM)	<ol style="list-style-type: none"> <li>1) SEM 9.8 requires disclosure of payments to promoters within 2 years preceding the issue of the Listing Particulars. JSE 7.B.19 requires disclosure of payments over a three-year period</li> <li>2) SEM 9.11 requires disclosure of commissions in connection with the issue of capital paid within the 2 years immediately preceding the issue of the Listings particulars. JSE requires a 3-year period (JSE 7.B.16)</li> <li>3) MSE does not provide for <ol style="list-style-type: none"> <li>a. preliminary issue expenses</li> <li>b. interests of directors and promoter in the proceeds from the proposed issue</li> <li>c) directors interest in securities</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>1) Adopt JSE 7.B.19</li> <li>2) Adopt JSE 7.B.15 – 7.B. 20</li> </ol>
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.B.12 – 7.B.23 are identical to JSE requirements.	
Swaziland (SSX)	SSX requirements are similar to JSE requirements.	

Tanzania (DSE)	DSE does not have detailed Listing Particulars beyond the Prospectus.	Incorporate prospectus and additional listing particulars of the JSE into DSE Listings Requirements (JSE Section 7)
Zambia (LuSE)	LuSE 7.B.7 – 7.B.17 are similar to JSE requirements	
Zimbabwe (ZSE)	Not Available	

## 7.C SECURITIES FOR WHICH APPLICATION IS BEING MADE

The following paragraphs detail the disclosure requirements relating to securities for which application is being made

### Purpose of the issue/offer

7.C.1 A statement of the purpose of the issue/offer giving reasons why it is considered necessary for the applicant to raise the capital in terms of the issue or, if it is an offer, the reasons therefore, and if the proposed capital to be raised is more than the amount of the minimum subscription referred to in paragraph 7.C.8, the reasons for the difference between the proposed capital to be raised and the said minimum subscription.

### Particulars of the issue/offer

7.C.2 Particulars in respect of securities issued/offered must be disclosed, including:

- the class of securities issued/offered;
- the nominal value of the securities issued/offered, if applicable;
- the number of securities issued/offered;
- the issue/offer price of the securities issued/offered;
- how the securities issued/offered rank for dividend;
- whether the securities issued/offered rank *pari passu* with existing securities of the same class;
- any convertibility or redemption provisions relating to the securities issued/offered;
- the nature of the documents of title of the securities issued/offered;
- the treatment of any fractions of the securities issued/offered; and
- other terms and conditions of the issue/offer.

7.C.3 Particulars in respect of debentures issued/offered, including:

- the class of debentures;
- the terms and conditions of the debentures;
- if the debentures are secured, particulars of the security, specifying the asset(s) comprising the security and the nature of the title to such asset(s); and
- any other important terms and conditions of the debenture issue/offer.

### Timing

7.C.4 If applicable, the times and dates of the opening and of the closing of the subscription lists or of the issue/offer.

7.C.5 If known, the dates on which the securities will be admitted to listing and on which dealings will commence.

### Issue price

7.C.6 The reasons for any premium or discount on the issue or offer, how any premium or discount was dealt with and where some securities were issued or offered at par and others at varying premiums or discounts the reasons for the differential;

- 7.C.7 Where no par value shares are to be issued, the price at which they are to be issued and where shares are to be issued at different prices the reasons for any such differentiation.

#### **Minimum subscription**

- 7.C.8 The minimum amount that, in the opinion of the directors, must be raised by the issue/offer of securities in order to provide the amounts required for, or, if any part thereof is to be defrayed in any other manner, the balance of the amounts required for:
- (a) the purchase price of any property, referred to in paragraph 7.D.9, purchased or to be purchased, that is to be defrayed in whole or in part out of the proceeds of the issue;
  - (b) any preliminary expenses payable, commission payable to any person in consideration for his agreeing to subscribe for, or for procuring or agreeing to procure subscriptions for, or underwriting commission(s) payable by the applicant;
  - (c) the repayment of any moneys borrowed, or other loans in respect of any of the foregoing matters;
  - (d) working capital, stating the specific purposes for which it is to be used and the estimated amount required for each such purpose;
  - (e) any other material expenditure, stating the nature and purposes thereof and the estimated amount in each case; and
  - (f) any amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue, and the sources from which those amounts are to be provided.

#### **Registrar of companies**

- 7.C.9 If the document issued and published is a prospectus, it must contain a statement on the front cover that a copy of the prospectus has been registered by the Registrar of Companies in terms of the Act and the date of such registration.

#### **Authorizations**

- 7.C.10 A statement of the resolutions, authorizations and approvals by virtue of which the securities have been or will be created and/or issued.

#### **Dividends**

- 7.C.11 The time limit (if any) after which entitlement to dividends lapses, and an indication of the person in whose favour the lapse operates.
- 7.C.12 The fixed date(s) (if any) on which entitlement to dividends arises.
- 7.C.13 Particulars of any arrangement under which future dividends are waived or agreed to be waived.

#### **Market value of securities**

- 7.C.14 Where the securities for which application is being made are of a class that is already listed, a table of the aggregate volumes and values traded and the highest and lowest prices traded in those securities for each month over the twelve months prior to the date of issue of the prospectus/pre-listing statement/circular (“the twelve month period”); for each quarter over the two years prior to the twelve month period; and for each day over the 30 days preceding the last practicable date prior to the date of issue of the prospectus/pre-listing statement/circular.

#### **Rights offers, capitalization issues and scrip dividends**

- 7.C.15 Where the securities for which application is being made are being issued and allotted by way of capitalization of reserves (including current year distributable income) or the application of share premium, to securities holders of an existing listed security, the following information must be given in respect of such issue:

- (a) the reason for the capitalization issue or scrip dividend;
  - (b) the class and the par value (if any) of the securities involved;
  - (c) if applicable, that the shareholder may elect to receive cash in substitution for the whole or part of his capitalization issue or scrip dividend entitlement and vice versa;
  - (d) if applicable, the last day on which shareholders must make their election;
  - (e) a statement pointing out any tax implications of the issue for all securities holders, both resident and non-resident;
  - (f) in the case of a scrip dividend, a statement should appear, in bold and upper case, on the front page drawing shareholders' attention to the type of election to be made (i.e. whether shareholders will receive either cash or scrip if they fail to make the election);
  - (g) the amount to be capitalized from the share premium or reserves of the applicant in order to be able to issue the capitalization securities as fully paid up;
  - (h) the ratio in which the capitalization securities will be issued and allotted to shareholders of the applicant;
  - (i) the important events and dates contained in the relevant timetable in Schedule 24 applicable to the issue; and
  - (j) whether or not the rights (if any) are renounceable.
- 7.C.16 In the case of a rights offer, the following information must be disclosed in the circular:
- (a) purpose of the rights offer;
  - (b) the amount to be raised by means of the rights offer, and the number of securities that are proposed to be issued;
  - (c) the terms of the offer;
  - (d) if underwritten, details of the underwriter. The underwriting commission must be clearly stated;
  - (e) where the<sup>10</sup> underwriter is a company the following information must be furnished:
    - (i) the place and date of incorporation and registered number of the company;
    - (ii) the names of the directors of the company;
    - (iii) the name of the secretary of the company;
    - (iv) the bankers to the company; and
    - (v) the authorized and issued share capital of the company.
  - (f) details regarding the proposed listing of the LAs, the subsequent listing of the new securities and the amount payable in respect of listing fees;
  - (g) details regarding the LAs such as:
    - (i) acceptance;
    - (ii) renunciation; and
    - (iii) payment

**Simultaneous issues**

7.C.17 If, simultaneously or almost simultaneously with the issue of securities for which application is being made, securities of the same class are issued, or to be issued, details must be given of the nature of such issues and of the number of the securities concerned.

**Over subscriptions**

7.C.18 State the relevant facts where it is the intention in the event of over subscription to extend a preference on allotment to any particular company or group such as employees and pension funds.

---

<sup>10</sup> Forms of instruction in respect of letters of allocation



<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE requirements (7.C) are similar to JSE 7.C	
Malawi (MSE)	MSE 4.54 requirements are identical to JSE requirements	
Mauritius (SEM)	Sections 9.1-9.25 deal with information about securities being listed. Information required is broadly similar to JSE. A notable difference is the lack of a requirement on minimum subscriptions as in JSE 7.C.8	Adopt JSE 7.C.8
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.C.1 – 7.C.18 are identical to JSE requirements.	
Swaziland (SSX)	SSX requirements are similar to JSE requirements.	
Tanzania (DSE)	Broad provision requiring securities to be issued in conformity with the laws of Tanzania and in conformity with the issuer's memorandum and articles of association or equivalent documents (5.5)	Needs further elaboration to be consistent with JSE. Adopt JSE 7C.
Zambia (LuSE)	LuSE 7C requirements are identical to JSE requirements	
Zimbabwe (ZSE)	Not Available	

## 7.D GROUP ACTIVITIES

### General

- 7.D.1 The general history of the applicant and its subsidiaries must be detailed including, *inter alia*:
- (a) the length of time during which the business of the applicant and of any subsidiary has been carried on;
  - (b) the name, date, place of incorporation and registration number and the issued or stated capital of its subsidiaries, together with details of the securities held by the holding company, indicating those not listed on the JSE and the main businesses of its subsidiaries and the date on which they became a subsidiaries;
  - (c) brief particulars of any alteration of the applicant's capital during the past three years; and
  - (d) the date of conversion of the applicant into a public company.
- 7.D.2 A general description of the business carried on or to be carried on by the applicant and its subsidiaries and where the applicant or its subsidiaries carries on, or proposes to carry on, two or more businesses that are material, having regard to the profits or losses, assets employed, or to be employed, or any other factor, information as to the relative importance of each such business.
- 7.D.3 For the business (es) described in paragraph 7.D.2 detail the degree of any government protection and of any investment encouragement law affecting the business(es).

- 7.D.4 Details of any material changes in the business(es) of the applicant, during the past five years.
- 7.D.5 The opinion of the directors, stating the grounds therefore, as to the prospects of the business of the applicant and of its subsidiaries and of any subsidiary/ies or business undertaking to be acquired, together with any material information that may be relevant thereto.
- 7.D.6 The situation, area and tenure, including in the case of leasehold property the rental and unexpired term of the lease, of the principal immovable property held or occupied by the applicant and any of its subsidiaries.
- 7.D.7 Full details and terms of all material inter-company financial and other transactions, with specific disclosure of all inter company balances before elimination on consolidation.
- 7.D.8 The history of any change in controlling shareholder(s) and trading objects of the applicant and its subsidiaries during the previous five years. A statement of the new trading objects and the manner in which the new objects will be implemented. If the applicant, or as the case may be, the group carries on widely differing operations, a segmental statement showing the contributions of such respective differing operations to its sales, trading results and profits/losses before and after taxation. The proposed new name, if any, the reasons for the change and whether or not consent to the change has been obtained from the Registrar of Companies.

#### **Property acquired or to be acquired**

- 7.D.9 The following information regarding any material acquisition(s), within the last three years as at the date of the circular, or proposed acquisition by the applicant or any of its subsidiaries, of any securities in or the business undertaking(s) of any other company/ies or business enterprise(s) or any immovable property/ies or other property/ies in the nature of a fixed asset (collectively “the property”) or any option to acquire such property/ies:
  - (a) the date of any such acquisition or proposed acquisition;
  - (b) the consideration, detailing the portion(s) settled by the issue of securities, the payment of cash or other means, and how any outstanding consideration is to be settled;
  - (c) details of the valuation of the property;
  - (d) any goodwill paid and how such goodwill was or is to be accounted for;
  - (e) any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition;
  - (f) the nature of title or interest acquired or to be acquired; and
  - (g) the details regarding the vendors as described in paragraph 7.H.

#### **Disposal of property**

- 7.D.10 The following details regarding any material property (as described in paragraph 7.D.9) disposed of during the past three years as at the date of the circular, or to be disposed of, by the applicant, or any of its subsidiaries:
  - (a) the dates of any such disposal or proposed disposal;
  - (b) the consideration received, detailing the portion(s) settled by the receipt of securities, cash or other means and how any outstanding consideration is to be settled;
  - (c) details of the valuation of the property; and
  - (d) the names and addresses of the purchasers of material assets sold. If any purchaser was a company, other than a public company, the names and addresses of the beneficial shareholders of the company. If a public company, the names and addresses of the controlling shareholders of the company. If any promoter or director had any interest, directly or indirectly, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons that had such an interest, the names of any such

promoter or director, and the nature and extent of his interest.

### Litigation

7.D.11 Information on any legal or arbitration proceedings, including any proceedings that are pending or threatened of which the issuer is aware, that may have or have had in the recent past, being at least the previous 12 months, a material effect on the group's financial position or an appropriate negative statement.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE requirements (7.D) are similar to JSE 7.D	
Malawi (MSE)	MSE 4.71- 4.81 are similar to JSE requirements. There are few minor differences: 1) No requirement for disclosure of intercompany financial transactions (JSE 7.D.7) 2) No requirement for information on changes in controlling shareholders (JSE 7.D.8)	Adopt JSE 7.D.7 – 7.D.8
Mauritius (SEM)	Sections 9.31-9.52 provide for information about Group activities. SEM requirements are comprehensive and broadly similar to JSE. Notable differences include: 1) Material intercompany transactions) 2) Property acquired or to be acquired 3) Disposal of property	1) Incorporate JSE 7.D.7 (material intercompany transactions) 2) Incorporate JSE 7.D.9 – 7.D.10 into SEM requirements.
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.D.1 – 7.D.11 are identical to JSE requirements.	
Swaziland (SSX)	SSX requirements are identical to JSE	
Tanzania (DSE)	No requirements on Group Activities	Adopt JSE 7D
Zambia (LuSE)	LuSE 7D requirements are identical to JSE requirements.	
Zimbabwe (ZSE)	Not Available	

## 7.E FINANCIAL INFORMATION

The following paragraphs detail the disclosure requirements relating to financial information:

### Accountant's reports

- 7.E.1 The relevant accountant's report, as described in paragraph 8.45, on the applicant.  
7.E.2 If applicable, an accountant's report, as described in paragraph 8.45, on the asset the subject of the transaction.

### Report of historical financial information

- 7.E.3 The requirements set out in paragraphs 8.1 to 8.14 is to be complied with and included in the pre-listing statement.

### Acquisitions made from proceeds

- 7.E.4 If the application for listing coincides, directly or indirectly, with the acquisition by the applicant, or any of its subsidiaries, of securities in or of the business undertaking of any other company in consequence of which that company or business undertaking will

become a subsidiary of or part of the business of the applicant, in respect of each of the preceding three years, the same particulars must be provided relating to such company or business undertaking acquired or being acquired as are required *mutatis mutandis* by paragraph 7.E.1 and a general history of such company or the business undertaking acquired or being acquired as required by paragraphs 7.D.1 to 7.D.3.

- 7.E.5 If the application for listing coincides, directly or indirectly, with the acquisition by the applicant or any of its subsidiaries of securities in or the business undertaking of any other company, then cognizance of such proposed acquisition must be taken in arriving at the particulars described in paragraph 7.E.2 above.
- 7.E.6 If the application for listing coincides, directly or indirectly, with the acquisition by the applicant or its subsidiaries of securities in or the business undertaking of any other company in respect of each of the preceding three years, the following particulars must be provided relating to such company or business undertaking being acquired in accordance with paragraph 7.D.1;
- (a) the profits before and after tax; and
  - (b) its general history.

**Statement as to working capital**

- 7.E.7 A statement by the directors of the applicant issuer that in their opinion the working capital available to the applicant and its subsidiaries, if any, is sufficient for the group's present requirements, that is, for at least the next 12 months from the date of issue of the listing particulars, or, if not and the issuer has securities already listed, how it is proposed to provide the additional working capital thought by the issuer to be necessary. The JSE will not require a working capital statement to be made by an issuer whose business is entirely or substantially that of banking, insurance or the provision of similar financial services, provided that the JSE is satisfied that:
- (a) the inclusion of such a statement would not provide significant information for investors; and
  - (b) the issuer's solvency and capital adequacy are suitably regulated by another regulatory body.
- 7.E.8 The working capital statement should be prepared on the group, as enlarged, by the acquisition of any assets.
- 7.E.9 Applicant issuers and sponsors must comply with the requirements of Schedule 25 with regard to paragraphs 7.E.7 and 7.E.8.

**Material change**

- 7.E.10 A description of any material change in the financial or trading position of the applicant 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, or an appropriate negative statement.

**Profit forecasts**

- 7.E.11 Profit forecasts must comply with paragraphs 8.35 to 8.44.

**Pro-forma statements**

- 7.E.12 Pro-forma statements should comply with paragraphs 8.15 to 8.34.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
----------------	---------------------------------	-----------------

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	1) BSE requirements on “Acquisitions Made from Proceeds” (7.E.18) requires 5-year history while JSE requires 3-year history 2) BSE 7.E.12 requires a statement as to the adequacy of capital. The JSE requirement is limited to working capital with an exemption for financial institutions.	Adopt JSE 7.E.4 – 7.E.9
Malawi (MSE)	MSE working capital disclosure is given by 4.48 but is not as comprehensive as the JSE requirements. 1) JSE is specific about working capital requirements for the next 12 months 2) The JSE does not require a working capital statement to be made by an issuer whose business is entirely or substantially that of banking, insurance or the provision of similar financial services, 3) MSE 4.93 requires a statement as to the adequacy of capital. This is not required by the JSE	1) Adopt JSE 7.E.7 – 7.E.9 2) Delete MSE 4.93
Mauritius (SEM)	SEM requirements are comprehensive and broadly similar to JSE. Notable differences are: 1) Statement of Working Capital (JSE 7.E.7 – 7.E.9) 2) JSE reporting standard is IFRS	1) Adopt JSE 7.E.7 (Statement of Working Capital) 2) Adopt IFRS
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.E.1 – 7.E.12 are identical to JSE requirements.	
Swaziland (SSX)	SSX requirements are identical to JSE.	
Tanzania (DSE)	DSE 4.5 (g) – (h) covers Working Capital and Profit Forecasts. However, the broad JSE requirements are not covered by DSE	Adopt JSE 7E
Zambia (LuSE)	LuSE 7.E.1 – 7.E.18 are broadly similar to JSE. A key difference is that LuSE requires adequacy of all capital while JSE requires statement of adequacy of working capital.	Retain LuSE provision as working capital is subsumed under capital.
Zimbabwe (ZSE)	Not Available	

## 7.F GENERAL INFORMATION

### Material contracts

- 7.F.1 Subject to paragraph 6.17, the dates and the nature of, and the parties to every material contract entered into either verbally or in writing by the applicant or any of its subsidiaries, being a contract entered into otherwise than in the ordinary course of the business carried on or proposed to be carried on by the applicant or any of its subsidiaries:
- entered into within the two years prior to the date of the pre-listing statement or circular; and
  - entered into at any time that contains an obligation or settlement that is material to the issuer or its subsidiaries as at the date of the pre-listing statement or

circular.

- 7.F.2 If any contract referred to in paragraph 7.F.1 relates to the acquisition of securities in an unlisted subsidiary, or associated company, where all securities in the company have not been acquired, state the reason why 100% of the holding was not acquired, and whether anyone associated with the controlling shareholder(s) of the applicant, or associated companies, or its subsidiaries is interested and to what extent.
- 7.F.3 A brief summary of existing contracts or proposed contracts, either written or oral, relating to the directors' and managerial remuneration, secretarial and technical fees payable by the applicant and any of its subsidiaries and restraint payments, provided that details of the directors and managerial remuneration need only be disclosed in accordance with paragraph 7.B.7.
- 7.F.4 Particulars of royalties' payable or items of a similar nature in respect of the applicant and any of its subsidiaries.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 7.F.1 – 7.F.4 are mostly similar to JSE Paragraph 7.F.1 is less detailed and does not cover material contracts entered into at any time that contain an obligation or settlement that is material to the issuer or its subsidiaries as at the date of the pre-listing statement or circular.	Adopt JSE 7.F.1
Malawi (MSE)	MSE 4.97 – 4.101 similar to JSE requirements.	
Mauritius (SEM)	SEM 9.64 covers disclosure of material contracts. However, the requirements are not as comprehensive as the JSEs. For example SEM 9.64 does not cover material contracts entered into at any time that contain an obligation or settlement that is material to the issuer or its subsidiaries as at the date of the pre-listing statement or circular.	Adopt JSE 7.F.1 -7.F.4
Mozambique BVM)	Not Available	
Namibia (NSX)	NSX 7.F.1 – 7.F.4 are identical to JSE requirements.	
Swaziland (SSX)	SSX requirements are identical to JSE	
Tanzania (DSE)	No requirements on material contracts	Adopt JSE 7.F.1 -7.F.4
Zambia (LuSE)	LuSE 7.F.1 – 7.F.4 deal with “significant contracts”. The requirements are identical to the JSE requirements.	
Zimbabwe (ZSE)	Not Available	

## King Code

- 7.F.5 Applicant issuers must include the following in its pre-listing statement:
- (a) a narrative statement of how it has applied the principles set out in the King Code, providing explanation that enables its shareholders and potential investors to evaluate how the principles have been applied; and
  - (b) a statement addressing the extent of the company's compliance with the King Code and the reasons for each and every instance of non-compliance.
- 7.F.6 Applicant issuers must comply with the following specific requirements concerning corporate governance and must disclose their compliance therewith in their pre-listing statement:
- (a) there must be a policy detailing the procedures for appointments to the board. Such appointments must be formal and transparent, and a matter for the board as a whole, assisted where appropriate by a nomination committee. The nomination committee must constitute only non-executive directors, of whom the majority must be independent (as defined in paragraph 7.F.6 (f) (iii), and should be chaired by the board chairperson;
  - (b) there must be a policy evidencing a clear division of responsibilities at board level to ensure a balance of power and authority, such that that no one individual has unfettered powers of decision-making;
  - (c) the chief executive officer must not also hold the position of chairperson;
  - (d) the audit committee must set the principles for recommending the use of the external auditors for non-audit services;
  - (e) a brief CV of each director must be provided; and
  - (f) the capacity of each director must be categorized as executive, non-executive or independent, using the following as guidelines to determine which category is most applicable to each director:
    - (i) **executive directors:**  
are directors that are involved in the day to day management and running of the business and are in full time salaried employment of the company and/or any of its subsidiaries;
    - (ii) **non-executive directors:**  
are directors that are not involved in the day to day management of the business and are not full-time salaried employee of the company and/or any of its subsidiaries;
    - (iii) **independent directors are non executive directors who:**
      - (1) are not representatives of any shareholder who has the ability to control or significantly influence management and/or the board;
      - (2) has not been employed by the company or the group of which it currently forms part in any executive capacity for the preceding three financial years;
      - (3) is not a member of the immediate family of an individual who is, or has been in any of the past three financial years, employed by the company or the group in an executive capacity;
      - (4) is not a professional advisor to the company or the group, other than in the capacity as a director;
      - (5) is not a significant supplier to, or customer of the company or group;
      - (6) has no significant contractual relationship with the company or group; and

- (7) is free from any business or other relationship which could be seen to materially interfere with the individual's capacity to act in an independent manner;
- (g) all applicant issuers must appoint an audit committee and remuneration committee and if required, given the nature of their business and composition of their board, a risk committee and nomination committee. The composition of such committees, a brief description of their mandates, the number of meetings to be held annually and other relevant information must be disclosed.

### Experts' consents

7.F.7 Where a pre-listing statement includes a report purporting to be made by an expert, a statement that the expert has given and has not withdrawn his/her/its written consent to the issue of the prospectus/pre-listing statement/circular, with the report in the form and context in which it is included.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE listings requirements do not require statements as to compliance with King Code and specific corporate governance as the JSE requires.	Adopt JSE 7.F.5 – 7.F.6
Malawi (MSE)	1) MSE requirements do not include King Code and the specific corporate governance requirements of the JSE. 2) MSE 4.101 on Experts Consents identical to JSE 7.F.7.	Adopt JSE 7.F.5 – 7.F.6
Mauritius (SEM)	1) Conditions for listing (6.12-6.14) provides for the corporate governance of applicants. However, the listing particulars do not require the comprehensive information requirements of the JSE on the application of the King Code and specific requirements concerning corporate governance. 2) Experts Consents (JSE 7.F.7) is not covered by SEM.	1) Adopt JSE 7.F.5 - 7.F.6 2) Adopt JSE 7.F.7
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.F.5 – 7.F.7 are identical to JSE requirements.	
Swaziland (SSX)	SSX does not require narrative statements on the application of the King Code and specific requirements on corporate governance as is	Incorporate JSE 7.F.5 -7.F.6
Tanzania (DSE)	1) DSE requirements do not include King Code and the specific corporate governance requirements of the JSE 2) Experts Consents (JSE 7.F.7) is not covered by DSE	1) Adopt JSE 7.F.5 - 7.F.6 2) Adopt JSE 7.F.7
Zambia (LuSE)	1) LuSE 7.F.5 requirements on Expert Consents are similar to JSE requirements. 2) LuSE requirements do not require statements as to compliance with King Code and specific corporate governance	1) Adopt JSE 7.F.5 - 7.F.6



	as the JSE requires.	
Zimbabwe (ZSE)	Not Available	

#### 7.G DOCUMENTS AND CONSENTS TO BE AVAILABLE FOR INSPECTION

- 7.G.1 The following documents (or copies thereof), where applicable, relating to the applicant and its subsidiary companies, if any, must be able to be inspected at a place where the applicant has its registered office, and in Johannesburg for a reasonable period of time (being not less than 14 days):
- (a) the memorandum and articles of association;
  - (b) any trust deed or agreement affecting the governance of the applicant or the interests of shareholders;
  - (c) copies of any special or notarial contract bearing on the trust deed or memorandum and articles of association entered into within the last three years;
  - (d) all material contracts (including patent rights, and franchise or licence agreements);
  - (e) in the case of a material contract not reduced to writing, a memorandum giving full particulars thereof;
  - (f) the latest competent person's report, in the case of a mineral company;
  - (g) the latest sworn appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;
  - (h) copies of service agreements with directors (or a summary of such agreements), managers or secretary/ies; underwriters, vendors' and promoters' entered into during the last three years;
  - (i) all reports, letters, audited annual financial statements, income statements, valuations and statements by an expert any part of which is extracted or referred to in the prospectus/pre-listing statement/circular; and
  - (j) the audited annual financial statements since the incorporation of the applicant or for the preceding three years, whichever is the lesser, together with all notes, certificates, or information required by the Act.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE 7G is similar to JSE except that 7.G.1(j) requires annual financial statements of the lesser of either five years or since the incorporation of the applicant issuer. The JSE requirement is three years.	Adopt JSE 7.G.1(j)
Malawi (MSE)	MSE 4.103 is similar to JSE requirements.	
Mauritius (SEM)	Section 9.65 provides for inspection of documents during a reasonable time period (not less than 14 days). This is identical to the JSE requirement.	
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.G.1 is identical to JSE requirements.	
Swaziland (SSX)	Identical to JSE	
Tanzania (DSE)	Not covered	Adopt JSE 7G
Zambia (LuSE)	LuSE 7G similar to JSE 7G	LuSE 7G similar to JSE 7G
Zimbabwe (ZSE)	Not Available	

## 7.H VENDORS

- 7.H.1 State the names and addresses of the vendors of any material assets purchased or acquired by the applicant or by any subsidiaries of the applicant during the three years preceding the publication of the prospectus/pre-listing statement/circular or proposed to be purchased or acquired, and the amount paid or payable in cash or securities to the vendor, and where there is more than one separate vendor, the amount so paid or payable to each vendor and the amount (if any) payable for goodwill or items of a similar nature. The cost of assets to the vendors and dates of purchase by them, if purchased within the preceding three years. Where the vendor is a company, the names and addresses of the beneficial shareholders, direct and indirect, of that company if required by the JSE. Where any of the above information is unobtainable, the reasons are to be stated. Transactions between the applicant and a vendor, where the vendor is a related party, will be regulated in terms of the requirements of this paragraph and Section 10 of the Listings Requirements.
- 7.H.2 State whether or not the vendors have guaranteed the book debts or other assets and whether or not “normal” warranties have been given.
- 7.H.3 State whether the vendors’ agreements preclude the vendors from carrying on business in competition with the applicant or any of its subsidiaries; or impose any other restriction(s) on the vendor(s), also details of any cash or other payment regarding restraint(s) of trade and the nature of such restraint(s) of trade.
- 7.H.4 State how any liability for accrued taxation, or any apportionment thereof to the date of acquisition, will be settled in terms of the vendors’ agreements.
- 7.H.5 Where securities are purchased in a company that will become a subsidiary of the applicant, a reconciliation must be provided showing the difference between the amounts paid for the securities and the proportionate value of the net assets of that company attributable to such securities acquired. Where securities are purchased in companies that will not be accounted for as subsidiaries a statement must be provided detailing how the value of the securities was determined.
- 7.H.6 Where any promoter or director had any beneficial interest, direct or indirect, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons that had such an interest, the names of any such promoter or director, and the nature and extent of his interest must be disclosed. Where the vendors or any of them are a partnership, the members of the partnership shall not be treated as separate vendors.
- 7.H.7 State the amount of any cash or securities paid or benefit given within the three preceding years or proposed to be paid or given to any promoter, not being a director, and the consideration for such payment or benefit received or receivable.
- 7.H.8 State whether the assets acquired have been transferred into the name of the applicant or any of its subsidiaries and whether or not the assets have been ceded or pledged.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE requirements (7H) are identical to JSE requirements.	
Malawi (MSE)	MSE 4.104 – 4.111 are similar to JSE requirements.	

Mauritius (SEM)	SEM has no requirement for the inclusion of vendor particulars in Listing Particulars.	Adopt JSE 7.H.1 – 7.H.8
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 7.H.1 – 7.H.8 are identical to JSE requirements.	
Swaziland (SSX)	Identical to JSE requirements	
Tanzania (DSE)	Not covered	Adopt JSE 7H
Zambia (LuSE)	LuSE 7H identical to JSE 7H	
Zimbabwe (ZSE)	Not Available	

---

## SECTION 8 FINANCIAL INFORMATION

---

This section sets out financial information that will be required to be included in a prospectus/pre-listing statement/circular. It also sets out continuing obligations relating to matters of a financial nature.

### REPORT OF HISTORICAL FINANCIAL INFORMATION

8.1 The report of historical financial information is the responsibility of the directors of the new applicant / issuer, and this fact is to be stated in the report.

#### **Circumstances when a report of historical financial information is required**

- 8.2 A report of historical financial information is required:
- (a) on a new applicant (including an issuer making application in terms of a reverse take-over) making an application for listing and issuing a prospectus/ pre-listing statement;
  - (b) on the subject of any substantial acquisition or disposal (measured against the anticipated market capitalization of the new applicant at the date of listing) that has been effected by a new applicant in the current or preceding financial year;
  - (c) on the subject of any substantial acquisition or disposal (measured against the anticipated market capitalization of the new applicant at the date of listing) that is planned to be effected by a new applicant and is known at the date of issue of the prospectus/pre-listing statement;
  - (d) on an existing listed issuer that is issuing a prospectus/ pre-listing statement;
  - (e) on the subject of a Category 1 or 2 transaction (“Category 1 or 2 subject”);
  - (f) on the subject of any substantial acquisition or disposal (measured against the value of the Category 1 or 2 subject) that has been effected by a Category 1 or 2 subject in the current or preceding financial year;

#### **Financial information to be presented**

8.3 The report of historical financial information is to include the following historical financial information, prepared in accordance with IFRS and the AC500 standards as issued by the Accounting Practices Board or its successor.

- (a) income statements;
- (b) balance sheets;
- (c) statements of changes in equity;
- (d) cash flow statements;
- (e) accounting policies;
- (f) notes thereto;
- (g) segmental information; and
- (h) the information set out in paragraphs 8.11 and 8.12.

8.4 The historical financial information required under paragraph 8.3, is to be presented in consolidated form in respect of a period of at least three years up to and including the financial year immediately preceding the issue of the prospectus/pre-listing statement/circular. Where the historical financial information is not available for the prior three year period the JSE must be consulted for a ruling regarding disclosure and approval of the transaction. The same historical financial information is also to be presented for the holding company where this provides significant additional information to that presented in consolidated form.

8.5 When a report of historical financial information is required in terms of paragraphs 8.2(b), 8.2(c), 8.2(e) or 8.2(f) it must be prepared in accordance with and by applying the accounting policies of the new applicant/issuer.

- 8.6 In addition, where the new applicant/issuer has made a substantial acquisition/disposal, has entered into any other substantial transaction or has entered into an agreement to make such a substantial acquisition/disposal or other substantial transaction subsequent to the last audited annual financial statements which has not been reported upon in any circular or other document, disclosure is to be made of all the material terms and conditions of the agreement, including any conditions precedent.
- 8.7 In addition to the historical financial information required to be presented in accordance with paragraph 8.2, if at the date of the prospectus/pre-listing statement/circular more than nine months have elapsed since the end of the last financial year, reviewed interim financial information is to be prepared in accordance with IFRS on Interim Financial Reporting, and is to be presented for the first six months ended subsequent to the relevant subject matter's latest financial year ended.
- 8.8 With respect to 8.2 (a) to (c), if more than 12 months have passed, or with respect to 8.2 (e) to (f), if more than 15 months have passed, since the period for which audited annual financial statements were prepared and issued, then audited annual financial statements shall be prepared for the latest financial year ended.
- 8.9 Where other historical financial information has been made available to the issuer's holders of securities subsequent to the issuer's latest financial year-end, such other historical financial information is also to be presented.

**Non-compliance with Statements of Generally Accepted Accounting Practice or IFRS\* and the Companies Act**

- 8.10 In the case of a company domiciled outside the Republic of South Africa, where the historical financial information required by paragraphs 8.2 to 8.9 has not been prepared in compliance with Statements of Generally Accepted Accounting Practice or IFRS and the Act, there is to be disclosure of the following:
- (a) the reasons for such non compliance;
  - (b) the accounting standards and legislation under which the historical financial information has been prepared; and
  - (c) a comprehensive reconciliation to GAAP or IFRS\* of the effect of such non-compliance on the information required to be presented in accordance with paragraph 8.3.

**Additional information**

- 8.11 The following additional information is to be provided when presenting the historical financial information required by paragraph 8.3 for the latest financial year, and, where paragraph 8.7 is applicable, for the interim period:
- (a) any major change in the nature of property, plant and equipment and any change in policy regarding the use thereof;
  - (b) details of any material loan receivable ("loan"), including:
    - (i) the inception date of the loan;
    - (ii) to whom the loan was made;
    - (iii) interest and repayment terms of the loan;
    - (iv) if interest payments are in arrears, the last date on which interest was paid and the extent of the arrears;
    - (v) the period of the loan;
    - (vi) the nature and value of any security held in respect of the loan;
    - (vii) if the loan is unsecured, the reasons therefore;
    - (viii) any changes in 8.11 (b) (ii) to (vii) above during the period; and
    - (ix) how each loan arose, particularly whether it arose from the sale of assets by the issuer or any of its subsidiaries;
  - (c) details, as required in 8.11 (b) above, of loans made or security furnished by the issuer or by any of its subsidiaries for the benefit of any director or manager, or

- (d) any associate of any director or manager;  
 details of any material borrowings (“borrowings”), including debentures and similar securities/instruments, stating:
  - (i) the names of the lenders;
  - (ii) the nature and value of security provided, if any, in respect of the borrowings;
  - (iii) interest and repayment terms of the borrowings;
  - (iv) if borrowings are repayable within 12 months, how the payments are to be financed; and
  - (v) how the borrowings arose, stating whether or not they arose from the purchase of assets;
- (e) the aggregate amounts and particulars of any shares and convertible securities issued, setting out the circumstances and purposes of the issues;
- (f) details of any schemes involving the staff of the issuer or its subsidiaries;
- (g) in respect of each:
  - subsidiary, and any entity that was a subsidiary during the period covered by the report of historical financial information but has ceased to be one;
  - joint venture;
  - partnership;
  - associate; and/or
  - other long-term investment;
 if material to the financial position, changes in equity, results or cash flows of the issuer, disclose the following:
  - (i) the amount of all classes of issued share capital, the percentage held by the issuer, its subsidiaries or nominees, the voting percentage held, if different from the ownership percentage, and any changes therein during the current and /or last financial period;
  - (ii) any rights held by any person enabling such person to vary the voting rights held in any subsidiary; and
  - (iii) the amount of the issuer's interest, distinguishing between shares and indebtedness, and any changes therein during the period;
- (h) the issuer's share of net profits and /or losses for the period of subsidiaries, joint ventures, partnerships and associates, disclosed separately for each such entity;
- (i) particulars of directors' emoluments paid or accrued by the company in compliance with paragraph 7.B.7;
- (j) the net asset value and tangible net asset value per share expressed in cents;
- (k) earnings, diluted earnings, headline earnings and dividends per share in respect of each class of share expressed in cents;
- (l) any material change in the nature of the business of the issuer and its subsidiaries;
- (m) any material fact or circumstance that has occurred between the end of the latest financial year of the issuer and the date of the prospectus/pre-listing statement/circular, in so far as not already dealt with in the interim financial information included in the report of historical financial information, or, where not applicable, an appropriate negative statement.

### **Commentary**

8.12 The report of historical financial information is to include commentary on the historical financial information incorporating a general review of the business and operations of the issuer during the period and the results thereof and is to deal with every fact or circumstance material to an appreciation of the state of affairs, financial position, changes in equity, results of operations and cash flows of the issuer.

### **Periods**

- 8.13 Where the financial year-end of the issuer changed at any time during the reporting periods, the historical financial information for the full periods in question is to be provided. Annualized historical financial information is not to be presented in the report of historical financial information.

#### Adjustments

- 8.14 A statement of adjustments is to be provided, detailing the amounts and reasons therefore, in respect of any adjustments made to previously reported historical financial information used in preparing the report of historical financial information. This is to be provided in the form of a reconciliation between the previously reported historical financial information and the adjusted historical financial information presented in the report of historical financial information. If no adjustments are made, there is to be disclosure of that fact. Adjustments are only to be made to give effect to:
- (a) retrospective application of changes in accounting policies; and
  - (b) retrospective correction of fundamental errors.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	<p>BSE requirements for historical financial information differ materially from JSE requirements. BSE 7.E.3 requires general financial information. Major differences are as follows:</p> <ol style="list-style-type: none"> <li>1) BSE only requires latest financial statements (BSE 7.E.3)</li> <li>2) JSE requires three years of comprehensive financial statements.</li> <li>3) BSE 7.E.6 only requires five-years history for dividends</li> <li>4) JSE requirements for additional information (JSE 8.11) and commentary (JSE (8.12) are not required by BSE</li> <li>5) BSE reporting standard is IAS. JSE requires IFRS</li> </ol>	Adopt JSE 8.2 – 8.14

Malawi (MSE)	1) MSE does not have comprehensive requirements on historical financial information. The requirements for historical reporting are listed under 5.1 (Auditor's Report). 2) JSE requirements for additional information (JSE 8.11) and commentary (JSE (8.12) are not required by MSE 3) JSE requires IFRS	Adopt JSE requirements for historical financial information (8.2 – 8.14).
Mauritius (SEM)	SEM has similar requirements for historical financial information. However, JSE has several additional information requirements (JSE 8.11) not covered by SEM	Adopt JSE 8.11 (Additional Information)
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 8.1 – 8.14 identical to JSE requirements.	
Swaziland (SSX)	Similar to JSE except that SSX does not require IFRS	Adopt IFRS
Tanzania (DSE)	DSE has no comprehensive requirements on Financial Information.	Adopt JSE Section 8 requirements with appropriate modification for local conditions.
Zambia (LuSE)	LuSE 8.1 – 8.25 broadly similar to JSE except that the specified accounting standard is GAAP	Adopt IFRS
Zimbabwe (ZSE)	Not Available	

## PRO FORMA FINANCIAL INFORMATION

### General

- 8.15 If the issuer publishes pro forma financial information, including but not limited to financial effects, in any document requiring submission to the JSE, that information must comply with paragraphs 8.16 to 8.33, and a report in terms of paragraph 8.48 (b) must be included in the relevant document. The report in terms of paragraph 8.48 (b) is not required to be prepared for announcements. In all instances, the pro forma financial information must be compiled, and if applicable reported on, in terms of The Guide on Pro forma Financial Information issued by SAICA.
- 8.16 Pro forma financial information is the responsibility of the directors of the issuer, and this fact is to be stated with the pro forma financial information.

### Nature of information

- 8.17 Pro forma financial information is to provide investors with information about the impact of the corporate action the subject of the prospectus/pre-listing statement/circular by illustrating how that corporate action might have affected the reported financial information, had the corporate action been undertaken at the commencement of the period being reported on or, in the case of a pro forma balance sheet, at the date reported on. The pro forma financial information presented is not to be misleading, is to assist investors in analyzing future prospects of the issuer and is to include all appropriate adjustments permitted by paragraph 8.30, of which the issuer is aware, and which are considered necessary to give effect to the corporate action as if the corporate action had been undertaken at the commencement of the period being reported on or, in the case of a pro forma balance sheet, at the date reported on. In certain limited circumstances, permission will be granted to calculate an income statement effect at a date other than at the beginning of the financial period. These exceptions are detailed in The Guide on Pro forma Financial Information issued by SAICA.



### **Presentation of information**

- 8.18 The pro forma financial information is to state clearly:
- (a) the purpose for which it has been prepared;
  - (b) that it is prepared for illustrative purposes only; and
  - (c) that because of its nature, it may not fairly present the issuer's financial position, changes in equity, results of operations or cash flows.
- 8.19 The pro forma financial information is to be presented in columnar form showing separately the unadjusted financial information, the pro forma adjustments and the pro forma financial information. The pro forma financial information is to identify:
- (a) the basis upon which it is prepared; and
  - (b) the source of each item of information and adjustment.
- 8.20 Pro forma figures must be given no greater prominence in the document than unadjusted financial figures.

### **Accounting policies**

- 8.21 Pro forma financial information is to be presented in a manner consistent with both the format and accounting policies adopted by the issuer in its report of historical financial information.
- 8.22 In quantifying pro forma adjustments, the issuer is to apply accounting policies on the same basis as the issuer would normally adopt in preparing its annual financial statements.
- 8.23 The requirement to apply the issuer's accounting policies in preparing pro forma financial information applies to adjustments made in respect of a material acquisition.
- 8.24 Pro forma financial information is to be prepared in accordance with the policies adopted in presenting the unadjusted financial information of the issuer at the relevant date or for the relevant period, even where new accounting standards will apply subsequently.

### **Selection of periods**

- 8.25 Pro forma financial information may be published only in respect of:
- (a) the most recent completed financial period;
  - (b) the most recent interim period for which unadjusted information has been published or is being published in the report of historical financial information;
  - (c) both 8.25 (a) and 8.25(b); and
  - (d) in the case of a pro forma balance sheet, as at the date on which such periods end or ended.
  - (e) a profit forecast (provided the forecast has been published and reported on in terms of Section 8 or Section 13) for income statement purposes and paragraphs 8.25(a) to (d) for balance sheet purposes

### **Subsequent events**

- 8.26 No adjustments may be made to pro forma financial information in respect of post balance sheet events except:
- (a) as provided for in the Statement of Generally Accepted Accounting Practice or IFRS on Events After the Balance Sheet Date; or
  - (b) in respect of the particular transaction for which the pro forma financial information is being presented; or
  - (c) in respect of any previously published financial effects; or
  - (d) in respect of any post balance sheet corporate action of the issuer or the target, where it would be misleading not to make an adjustment, and in such instance, in addition to providing full details of the adjustment, details must be provided as to why the issuer believes it would be misleading not to make an adjustment.

### **Accounting periods**

- 8.27 Where a pro forma income statement or cash flow statement is presented for two or more entities or business undertakings, such as may be the case in a material acquisition, the unadjusted information about the issuer and the adjustments in respect of the other entity or entities are to cover periods of the same length.

#### **Unadjusted information**

- 8.28 The unadjusted information is to be derived from the most recent:
- (a) published audited annual financial statements, published interim reports or provisional reports;
  - (b) previously published report of historical financial information;
  - (c) previously published pro forma financial information reported on in accordance with paragraph 8.48(b).
- 8.29 Any previously published profit forecast must be updated and a new profit forecast published taking account of the effects of the transaction concerned in accordance with paragraphs 8.35 to 8.44.

#### **Adjustments**

- 8.30 Any adjustments that are made to the information referred to in paragraphs 8.28 and 8.29 above in relation to any pro forma statement are to be:
- (a) clearly shown and explained;
  - (b) directly attributable to the transaction concerned and not relating to future events or decisions;
  - (c) factually supportable; and
  - (d) in respect of a pro forma income statement or cash flow statement, clearly identified as those adjustments that are expected to have a continuing effect on the issuer and those that are not.
- 8.31 In order to comply fully with paragraph 8.30, issuers must include notes to the pro forma financial information providing the explanations required in terms of paragraph 8.30 as well as:
- (a) any assumptions on which the adjustments are based;
  - (b) the range of possible outcomes where there is significant uncertainty;
  - (c) the sources of the amounts concerned; and
  - (d) where relevant, how adjustments have been aggregated or allocated to financial statement captions.

#### **Continuing effects**

- 8.32 In respect of pro forma income or cash flow statements, issuers are to identify clearly those adjustments that are expected to have a continuing effect on the issuer and those that are not. An issuer is not permitted either:
- (a) to omit adjustments that are directly attributable to a transaction and factually supportable on the grounds that they do not have a continuing effect; or
  - (b) to make adjustments to eliminate items solely on the grounds that they are considered not to have a continuing effect.
- 8.33 Issuers are to interpret paragraphs 8.28 and 8.29 in line with the requirements of the Statements of GAAP or IFRS.

#### **Earnings and headline earnings per share**

- 8.34 Where pro forma earnings and headline earnings per share information is given for a transaction it must be provided in compliance with GAAP statement AC104 and Circular 7/2002, Headline Earnings issued by SAICA except that where the transaction includes the issue of securities, the calculation is to be based on the weighted average number of issued securities adjusted as if that issue had taken place at the beginning of the period.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 8.35 – 8.43 provide for pro forma statements. However, the requirements are limited to Net Asset and Profit statements. The JSE requirements are more comprehensive and cover all accounting information, accounting policies and presentation.	Adopt JSE 8.15 – 8.34
Malawi (MSE)	MSE requirements for pro forma statements (5.15 – 5.23) lack many of the key JSE requirements such as: 1) Presentation of information (JSE 8.18 – 8.20) 2) Accounting policies (JSE 8.21 – 8.24) 3) Subsequent events	Adopt JSE 8.15 – 8.34
Mauritius (SEM)	SEM does not have requirements covering pro forma statements.	Adopt JSE 8.15 – 8.34
Mozambique (BVM)	Not Available	
Namibia (NSX)	There are a few differences between JSE and NSX requirements: 1) JSE requires that pro forma financial information must be prepared in accordance with The Guide on Pro forma Financial Information issued by SAICA. This is not required by NSX. There is no need to adopt the JSE requirement since SAICA's jurisdiction is South Africa only. 2) JSE 8.25 (e) provides that pro forma financial information may be published in respect of a profit forecast (provided the forecast has been published and reported on) for income statement purposes and for balance sheet purposes. NSX has no such requirement 3) JSE 8.26 (d) allows adjustments to be made to pro-forma financial information in respect of any post balance sheet corporate action of the issuer or target, where it would be misleading not to make an adjustment. NSX has no such requirement.	Adopt: 1) JSE 8.25(e) 2) JSE 8.26(d)
Swaziland (SSX)	SSX requirements are substantially the same as JSE requirements	

Tanzania (DSE)	DSE has no comprehensive requirements on Financial Information.	Adopt JSE Section 8 requirements with appropriate modification for local conditions.
Zambia (LuSE)	LuSE 8.35 – 8.43 provide for pro forma statements. However, the requirements are limited to Net Asset and Profit statements. The JSE requirements are more comprehensive and cover all accounting information, accounting policies and presentation.	Adopt JSE 8.15 – 8.34
Zimbabwe (ZSE)	Not Available	

#### PROFIT FORECASTS AND ESTIMATES

- 8.35 The following requirements apply equally to forecasts or estimates of profits or losses, cash flows or net asset values (“collectively defined as “profits or losses”). A profit estimate is for a financial period that has expired but for which the results have not yet been published.
- 8.36 Any statement or information relating to the future prospects of an issuer, or an undertaking that is to become a material part of an issuer’s group, must be clear and unambiguous. The issuer must determine in advance with its 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 using accounting policies applied by the issuer.
- 8.37 With respect to new applicants, a form of words that expressly or by implication states a minimum or maximum for the likely level of profits or losses for a period subsequent to that for which historical financial information has been prepared, or any form of data from which a calculation of an approximate figure for future profits or losses may be made, is a profit forecast, even if no particular figure is mentioned and the word “profit” is not used.
- 8.38 With respect to issuers a form of words that expressly states a likely level of profits or losses for a :
- (a) future financial period ending, or any form of data from which a calculation of an approximate figure for future profits or losses may be made, is a profit forecast; and
  - (b) financial period ended but for which no financial information has yet been published, or any form of data from which a calculation of an approximate figure for profits or losses may be made, is a profit estimate;
- 8.39 A dividend forecast must be treated as a profit forecast where the 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.
- 8.40 A profit forecast or estimate of an issuer or an undertaking that is to become a significant part of an issuer’s group which is included in any communication with shareholders, must be reported on by the auditors or accountants and by the sponsor (see paragraph 2.11). Such reports are to be included in the documentation sent to shareholders or in the instance of an announcement, must include a statement to the effect that the report is open for inspection. A report is not required where the profit forecast or estimate forms part of a trading statement and the issuer complies with the provisions of paragraph 3.4(b)(vi)(2) or in the circumstances detailed in paragraph 8.44(b).
- 8.41 The accountant’s report must comply with International Standard on Assurance Engagements (ISAE) 3400 – The Examination of Prospective Financial Information and the SAICA Revised Guide on Forecasts, in respect of profit forecasts, or ISAE 3000 (Revised) – Assurance Engagements other than Audits or Reviews of Historical

- Financial Information, in respect of estimates.
- 8.42 The period of the forecast or estimate should normally be to the end of an issuer's 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 issuer must make a new forecast for such a period. The forecast or estimate must be disclosed on a per share basis and must include profit after tax, disclosing separately any items expected to be of such size, nature or incidence that their disclosure is relevant to explain the expected performance, as well as tax charges, earnings and headline earnings (and cash flows or net asset values if applicable).
- 8.43 A profit forecast included in a prospectus/ pre-listing statement/ circular containing proposals to be put to shareholders in a general meeting concerning a refinancing or reconstruction of the issuer or its group, or in any other communication with shareholders, must include a statement of the principal assumptions for each factor that would have a material effect on the achievement of the forecast. 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.
- 8.44 With regards to a profit estimate:
- (a) the estimate may only be subject to assumptions in exceptional circumstances and such exceptional circumstances should be explained;
  - (b) if a profit estimate is included in any announcement, instead of producing and submitting to the JSE an accountant's report on the estimate, the issuer may include a statement (which is not deemed to be a cautionary statement and which does not give rise to the commencement of a closed period) advising securities holders that the estimate has not been reviewed and reported on in terms of paragraph 8.40

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 8.28 – 8.34 provide for profit forecasts. While a few requirements are similar to JSE, they are not comprehensive.	Adopt JSE 8.36 – 8.44

Malawi (MSE)	MSE profit forecast requirements (5.8 – 5.14) contain a few items similar to JSE requirements. However, the MSE requirements are not as comprehensive.	Adopt JSE 8.36 – 8.44
Mauritius (SEM)	SEM does not have requirements covering profit forecasts and estimates.	Adopt JSE 8.35 – 8.44
Mozambique (BVM)	Not Available	
Namibia (NSX)	<p>The following differences exist between NSX and JSE requirements:</p> <p>1) JSE 8.36 requires that any profit forecast or estimate must be compiled using accounting policies applied by the issuer. NSX has no such requirement.</p> <p>2) JSE 8.40 provides that a report (by auditor, accountant, sponsor) is not required where the profit forecast or estimate forms part of a trading statement. NSX has no such provision.</p> <p>3) JSE requires that the accountant’s report must comply with International Standard on Assurance Engagements (ISAE) 3400 – The Examination of Prospective Financial Information and the SAICA Revised Guide on Forecasts, in respect of profit forecasts, or ISAE 3000 (Revised) – Assurance Engagements other than Audits or Reviews of Historical Financial Information, in respect of estimates. NSX does not specify ISAE standards.</p> <p>4) JSE 8.44 (b) states that if a profit estimate is included in any announcement, instead of producing and submitting to the JSE an accountant’s report on the estimate, the issuer may include a statement advising securities holders that the estimate has not been reviewed and reported on in terms of paragraph 8.40. This is not provided for by NSX.</p>	<p>Adopt:</p> <p>1) JSE 8.36 2) JSE 8.40 3) JSE 8.41 4) JSE 8.44(b)</p>
Swaziland (SSX)	<p>SSX 8.39 states that the accountant’s report shall be comply with guidelines issued by The Swaziland Institute of Accountants.</p> <p>JSE 8.41 states that the accountant’s report must comply with International Standard on Assurance Engagements (ISAE) 3400 – The Examination of Prospective Financial Information and the SAICA Revised Guide on Forecasts, in respect of profit forecasts, or ISAE 3000 (Revised) – Assurance Engagements other than Audits or Reviews of Historical Financial Information, in respect of estimates.</p>	Adopt ISAE standards as required by JSE.

Tanzania (DSE)	DSE has no comprehensive requirements on Financial Information.	Adopt JSE Section 8 requirements with appropriate modification for local conditions.
Zambia (LuSE)	LuSE 8.28 - 8.34 are broadly similar to JSE. The accounting standard is Guidelines issued by the Zambia Institute of Certified Accountants. JSE requires ISAE 3400, ISAE 3000 (Revised) and SAICA Revised Guide on Forecasts	Adopt ISAE
Zimbabwe (ZSE)	Not Available	

## ACCOUNTANT'S REPORT

### Circumstances when an accountant's report is required

8.45 An accountants' report is required when a report of historical financial information is required in terms of paragraph 8.2 (a), (b), (c), (e) and (f), and when pro forma financial statements and profit forecasts and estimates are prepared.

### The accountant

8.46 The accountant must be an accountant and auditor registered in terms of the Public Accountants' and Auditors' Act of 1991 and must have sufficient knowledge and experience in the application of Section 8 of the Listings Requirements.

8.47 The accountant shall conduct the engagement in accordance with the relevant International Auditing and Assurance Standards Board (IAASB) Standard (The IAASB Standards include: International Standards on Auditing (ISAs), International Standards on Review Engagements (ISREs), International Standards on Assurance Engagements (ISAEs), and International Standards on Related Services (ISRSs)) and relevant guidelines issued by SAICA.

8.48 The accountant is to provide opinions on the following reports:

- (a) a report of historical financial information by way of:
  - (i) an audit opinion on financial information relating to the financial year immediately preceding the issue of the prospectus/pre-listing statement/circular; and/or
  - (ii) either an audit opinion or a review opinion on financial information relating to the financial years prior to the financial year immediately preceding the issue of the prospectus or circular; and/or
  - (iii) a review opinion on interim financial information where such information requires a review opinion;
- (b) the pro forma financial information as to:
  - (i) whether the pro forma financial information has been properly compiled on the basis stated;
  - (ii) whether such basis is consistent with the accounting policies of the issuer; and
  - (iii) whether the adjustments are appropriate for the purposes of the pro forma financial information as disclosed pursuant to paragraph 8.30;
- (c) a profit forecast or estimate as to:
  - (i) whether the assumptions (in the case of a profit forecast), barring unforeseen circumstances, provides a reasonable basis for the preparation of the forecast;
  - (ii) whether the forecast or estimate has been properly compiled on the basis stated;
  - (iii) whether the forecast has been properly presented and all material assumptions are adequately disclosed; and

- (iv) whether the profit forecast or estimate is presented on a basis consistent with the accounting policies of the company or group in question.
- 8.49 Where the historical financial information has not been subject to an audit previously or where the reporting accountant is not the auditor of the company, the reporting accountant is to audit, at a minimum, the historical financial information relating to the financial year preceding the issue of the prospectus/pre listing statement/circular, and review the historical financial information of prior periods. The reporting accountant is to follow the International Standard on Auditing on Initial Engagements – Opening Balances with regard to the unaudited opening balances.
- 8.50 Where, in accordance with the requirements of paragraph 8.48, an audit of the historical financial information is to be performed, and the reporting accountant is also the auditor of the company, he is to review the audit working papers relating to the relevant historical financial statements. However, where the reporting accountant is not the auditor of the company, he is to follow the statement of International Standard on Auditing on Using the Work of Another Auditor.

### **Contents of an accountant’s report**

- 8.51 An accountant’s report should be addressed to the directors of the applicant, in the case of an application for listing of new securities, or the listed company, in the case of an acquisition or disposal, and must include the following basic elements, ordinarily in the following layout:
- (a) title;
  - (b) addressee;
  - (c) Opening or introductory paragraph with:
    - (i) the purpose for which the report has been prepared;
    - (ii) a statement of the responsibility of the directors;
    - (iii) a statement of the responsibility of the accountant; and
    - (iv) identification of the components of the financial information audited or reviewed;
  - (d) scope paragraphs, describing the nature of the audit and/or review, with:
    - (i) a reference that the audit and/or review has been conducted in accordance with International Standards on Auditing (ISAs) (in the case of an audit); and/or
    - (ii) the relevant International Standard on Review Engagements (ISREs) (in the case of a review); and/or
    - (iii) the International Standards on Related Services (ISRS) 4400 – Engagements to Perform Agreed upon Procedures Regarding Financial Information (in the case of agreed-upon procedures); and/or
    - (iv) the International Standard on Assurance Engagements (ISAE) 3000 – Assurance Engagements other than Audits or Reviews of Historical Financial Information (in the case of assurance engagement and estimate); and/or
    - (v) the International Standard on Assurance Engagements (ISAE) 3400 – The Examination of Prospective Financial Information and the SAICA Revised Guide on Forecasts (in the case of profit forecasts); and/or
    - (vi) the guidance issued by SAICA (in the case of a review of pro forma financial information and/or the profit forecast); and
    - (vii) a description of the work the accountant has performed;
  - (e) an opinion paragraph containing an expression of opinion (in the case of an audit or assurance engagement) or a conclusion paragraph containing an expression of the accountant’s conclusion (in the case of other assurance engagements conducted in accordance with ISAEs);
  - (f) the accountant’s name, address and signature; and
  - (g) the date on which the accountant’s report is signed.



**Date of reports**

8.52 The accountant's report(s) should be dated on the same day that the directors authorize the issue of the prospectus/ pre-listing statement/ circular/ announcement, for formal submission to the JSE.

**Review of prospectus/pre-listing statement/circular**

8.53 The accountant should review the prospectus/pre-listing statement/circular to ensure that the contents thereof are not contradictory with the information contained in the report of historical financial information. The accountant must inform the JSE, in writing, of his consent for inclusion and of any such contradictions.

**Consent letters**

8.54 The accountant should submit a letter to the directors giving his/her consent to the inclusion of:

- (a) the accountant's report(s) in the prospectus/ pre-listing statement / circular; and
- (b) references to, or extracts from, the accountant's report(s) included in the prospectus/ pre-listing statement/ circular.

8.55 The consent letter should be dated on the same day that the directors authorize the issue of the prospectus or circular for formal submission to the JSE.

8.56 A statement is to be included in the prospectus/pre-listing statement/circular that the accountant has given and has not withdrawn his/her/its written consent to the issue of the prospectus/pre-listing statement/circular, containing the accountant's report in the form and context in which it appears.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 8.1 – 8.28 provide the requirements for the Accountant's Report. While similar to JSE in many respects, they are not as comprehensive. The JSE requirements specify the various international standards that are to be used for different components of the Accountant's Report.	Adopt JSE 8.45 – 8.56
Malawi (MSE)	MSE (5.1 – 5.7) is not comprehensive. There is no specification of the relevant international standards as required by the JSE.	Adopt JSE 8.45 – 8.56
Mauritius (SEM)	The major difference between SEM and JSE requirements cover the standards of the Accountants reports. The JSE rules provide that the accountant shall conduct the engagement in accordance with the relevant International Auditing and Assurance Standards Board (IAASB) Standard. SEM specifies Mauritius Accounting and Auditing Standards or International Accounting Standards (SEM 12.8)	Adopt JSE 8.47
Mozambique (BVM)	Not Available	

Namibia (NSX)	The following differences exist between NSX and JSE requirements: 1) JSE 8.47 standards of the International Auditing and Assurance Standards Board. NSX does not. 2) JSE 8.48 (c) (iii) is missing from NSX requirements. 3) JSE 8.49 requires International Standard on Auditing on Initial Engagements – Opening balances. NSX does not 4) JSE 8.50 requires International Standard on Auditing on Using the Work of another Auditor. NSX does not require this 5) JSE 8.51(d) requires scope paragraphs listing all the international standards used for the accountant’s reports. NSX has no such requirement.	Adopt: 1) JSE 8.47 2) JSE 8.48 (c) (iii) 3) JSE 8.49 4) JSE 8.50 5) JSE 8.51
Swaziland (SSX)	1) SSX does not specify an auditing standard. JSE 8.47 requires International Auditing and Assurance Standards 2) JSE 8.49 requires International Standard on Auditing on Initial Engagements – Opening balances. SSX does not 3) JSE 8.51(d) requires scope paragraphs listing all the international standards used for the accountant’s reports. NSX has no such requirement.	Adopt 1) JSE 8.47 2) JSE 8.48 3) JSE 8.51
Tanzania (DSE)	DSE has no comprehensive requirements on Financial Information.	Adopt JSE Section 8 requirements with appropriate modification for local conditions.
Zambia (LuSE)	LuSE 8.1 -8.25 provides requirements for Accountant’s Report. The major difference is that LuSE specifies a GAAP accounting standard.. JSE 8.47 requires International Auditing and Assurance Standards	Adopt JSE 8.47
Zimbabwe (ZSE)	Not Available	

**MINIMUM CONTENTS OF INTERIM REPORTS, PRELIMINARY REPORTS, PROVISIONAL ANNUAL FINANCIAL STATEMENTS (“PROVISIONAL REPORTS”) AND ABRIDGED ANNUAL FINANCIAL STATEMENTS (“ABRIDGED REPORTS”)**

8.57 Every listed company, in addition to complying with the statutory requirements concerning interim reports, preliminary reports, provisional reports and abridged reports must prepare such reports in accordance with, and containing the information required by the Statement of Generally Accepted Accounting Practice or IFRS and the AC 500 standards as issued by the Accounting Practices Board or its successor on Interim Financial Reporting.

**Supplementary information**

8.58 In addition to the requirements of Statements of Generally Accepted Accounting Practice or IFRS and the AC 500 standards as issued by the Accounting Practices Board or its successor on Interim Financial Reporting and Schedule 4 of the Act, the following supplementary information must, where applicable and material, be included:

- (a) any exceptional increase in borrowings during the period under review, and where possible the effect of such increased borrowings on the earnings per share and headline earnings per share. Should it not be possible to disclose this effect on the earnings per share and headline earnings per share, the reasons must be stated; and
- (b) in respect of the period under review and the immediately preceding comparable period, a headline earnings per share figure as well as an earnings per share figure must be disclosed, as well as an itemized reconciliation between headline earnings and the earnings used in the calculation of earnings per share. The headline earnings should be calculated in terms of Circular 7/2002, Headline Earnings issued by SAICA; and
- (d) disclosure where there is a material change to the initial estimates of a contingent consideration payable or receivable in terms of an acquisition or disposal, as used in the pro forma financial effects calculations.

#### **Change of financial year**

8.59 If a change in the financial year is proposed, the JSE must be notified in writing and consulted as to the period or periods to be covered by the interim report.

#### **Audited/reviewed interim, provisional and abridged annual reports**

8.60 If an interim, preliminary, provisional or abridged report has been audited or reviewed by an auditor, this fact and the name of the auditor shall be stated in such published report. Although the report of the auditor need not be included in the published report, if such report is modified, details of the nature of such modification shall be stated therein. If the report of the auditor is not included in the published report, it shall state that the report of the auditor is available for inspection at the company's registered office. If such report has not been audited or reviewed by an auditor, an appropriate negative statement must appear in such published report.

#### **Basis of presentation**

8.61 Interim, preliminary, provisional and abridged reports must be presented on a consolidated basis and prepared in accordance with paragraphs 8.58 (a) and (b).

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 8.44 – 8.50 provide for the minimum contents of interim reports and provisional annual financial statements. The requirements are less comprehensive than JSE. In particular the requirement for IFRS is not in the Botswana rules. The required supplementary information (e.g. exceptional increase in borrowings) are not required the BSE.	Adopt JSE 8.57 – 8.61
Malawi (MSE)	MSE 5.24 – 5.30 provide for the minimum contents of interim reports and provisional annual financial statements. The requirements are less comprehensive than JSE. The requirement for IFRS is not in the MSE rules. The required supplementary information (e.g. exceptional increase in borrowings) are not required the MSE.	Adopt JSE 8.57 – 8.61

Mauritius (SEM)	1) SEM does not have the supplementary information requirements of the JSE (JSE 8.58) 2) SEM specifies Mauritius Accounting and Auditing Standards or International Accounting Standards. JSE specifies IFRS	Adopt JSE 8.57 – 8.58
Mozambique (BVM)	Not Available	
Namibia (NSX)	JSE 8.58(d) supplementary information item is not covered by NSX	Adopt JSE 8.58(d)
Swaziland (SSX)	SSX does not specify IFRS as in JSE 8.57	Adopt JSE 8.57
Tanzania (DSE)	DSE has no comprehensive requirements on Financial Information.	Adopt JSE Section 8 requirements with appropriate modification for local conditions.
Zambia (LuSE)	1) The major difference compared with JSE is the specification of the accounting Standard. JSE requires that reports must be prepared in accordance with, and containing the information required by the Statement of Generally Accepted Accounting Practice or IFRS and the AC 500 standards as issued by the Accounting Practices Board or its successor on Interim Financial Reporting. 2) JSE 8.58 (b) requires as supplementary information a headline earnings per share as well as earnings per share calculated in accordance with Circular 7/2002 Headline earnings issued by SAICA	Adopt IFRS Adopt JSE 8.58(b)
Zimbabwe (ZSE)	Not Available	

#### MINIMUM CONTENTS OF ANNUAL FINANCIAL STATEMENTS

8.62 The annual financial statements must:

- (a) be drawn up in accordance with the national law applicable to a listed company;
- (b) be prepared in accordance with:
  - (i) South African Statements of Generally Accepted Accounting Practice; or
  - (ii) International Financial Reporting Standards and the AC 500 Standards as issued by the Accounting Practices Board and its successor (but see Section 18 in respect of dual listings and listings by overseas companies)
- (c) be audited in accordance with:
  - (i) Statements of South African Auditing Standards; or International Standards on Auditing; or
  - (ii) in the case of overseas companies, in accordance with national auditing standards acceptable to the JSE or International Standards on Auditing;
- (d) be in consolidated form if the listed company has subsidiaries, unless the JSE otherwise agrees, but the listed company's own financial statements must also be published if they contain significant additional information; and
- (e) fairly present the financial position, changes in equity, results of operations and cash flows of the group.

8.63 In addition to complying with GAAP, Schedule 4 of the Act and paragraph 3.84 of the Listings Requirements, issuers are required to disclose the following information in the annual report (in the case of 8.63(a)) and in the annual financial statements in the case of 8.63 (b) to (l) and (n)):

- (a) the King Code:
  - (i) a narrative statement of how it has applied the principles set out in the King Code, providing explanation(s) that enable(s) its shareholders to evaluate how the principles have been applied; and
  - (ii) a statement addressing the extent of the company's compliance with the King Code and the reasons for non-compliance with any of the principles in the King Code, specifying whether or not the company has complied throughout the accounting period with all the provisions of the King Code, and indicating for what part of the period any non-compliance occurred;
- (b) borrowings:
  - (i) full disclosure must be made of all borrowings. Where, during the period under review, a listed company or any of its subsidiaries incurs a material increase in its borrowings, it must disclose the nature of and purpose for such borrowings; and
  - (ii) as a note, disclosure must be made of the level of borrowings in relation to those borrowings authorized by the articles of association of the listed company and its subsidiaries;
- (c) headline earnings per share:
 

in respect of each current financial year and the immediately preceding financial year, a headline earnings per share figure must be disclosed, as well as an itemized reconciliation between headline earnings and the earnings used in the calculation of earnings per share. Headline earnings must be calculated in terms of Circular 7/2002, Headline Earnings issued by SAICA;
- (d) disclosure of directors' interests:
  - (i) the aggregate of the direct and indirect interests of the directors in, and the direct and indirect interest of each director's holding in the share capital of the listed company distinguishing between beneficial and non-beneficial interests. The statement should include by way of a note any change in those interests occurring between the end of the financial year and a date not more than one month prior to the date of the notice of the annual general meeting or, if there has been no such change, disclosure of that fact; and
  - (ii) comparative figures for the previous year must be presented;
- (e) shareholder spread:
  - (i) the number of public shareholders for every class of listed securities must be disclosed;
  - (ii) the percentages of each class of listed security that is held by public and non-public shareholders must be disclosed; and
  - (iii) the disclosure for non-public shareholders must be analyzed in accordance with the categories set out in paragraph 4.25;
- (f) major shareholders:
 

the interest of any shareholder other than a director who, in so far as it is known, is directly or indirectly beneficially interested in 5% or more of any class of the listed company's capital, together with the amount of each such shareholder's interest, or if there are no such shareholders, an appropriate negative statement;
- (g) share incentive schemes:
 

the listed company must, in respect of its or its subsidiary companies' share incentive schemes, summarize the details and terms of options in issue at the beginning of the financial period, cancelled or issued during the financial period and in issue at the end of the financial period, the number of securities that may be utilized for purposes of the scheme at the beginning of the financial period, changes in such number during the financial period and the number of securities available for utilization for purposes of the scheme at the end of the financial

- period;
- (h) profit forecasts:  
if the results for the period under review differ by 10% or more from any published forecast or estimate by the company for that period, an explanation of the difference must be given;
- (i) unlisted securities:  
if applicable, a statement in accordance with paragraph 4.23 (b) must be made;
- (j) special resolutions:  
full details must be given of all special resolutions passed by the issuer's subsidiaries since the date of the previous directors' report relating to capital structure, borrowing powers, the object clause contained in the memorandum of association or any other material matter that affects the understanding of the company and its subsidiaries;
- (k) issues for cash:  
details must be given of all issues of securities for cash during the period under review, distinguishing between general and specific issues, and including, at least, the number of securities issued, the price at which and, in the event of a specific issue to non-public shareholders as defined in paragraph 4.25, to whom they were issued; and
- (l) disclosure of individual director's emoluments:  
an analysis in aggregate and by director, of emoluments paid in respect of each current financial year and the immediately preceding financial year by the company, or receivable by directors, in their capacity as director, or in any other capacity, whether determined by the articles or not, distinguishing separately between executive and non-executive directors;
  - (i) fees for services as a director;
  - (ii) management, consulting, technical or other fees paid for such services rendered, directly or indirectly, including payments to management companies, a part of which is then paid to a director of the company;
  - (iii) basic salary;
  - (iv) bonuses and performance-related payments;
  - (v) sums paid by way of expense allowance;
  - (vi) any other material benefits received;
  - (vii) contributions paid under any pension scheme;
  - (viii) any commission, gain or profit-sharing arrangements; and
  - (ix) in respect of share options or any other right given which has had the same or a similar effect in respect of providing a right to subscribe for shares ("share options"):
    - (1) the opening balance of share options, including the number of share options at each different strike price;
    - (2) the number of share options awarded and their strike prices;
    - (3) the strike dates of differing lots of options awarded;
    - (4) the number of share options exercised and at what prices;
    - (5) the closing balance of share options, including the number of share options at each different strike price;
 (1) to (5) above may be presented in tabular form;
  - (x) any shares issued and allotted in terms of a share purchase/option scheme for employees (or other scheme/structure effected outside of the issuer which achieves substantially the same objectives as a share purchase/option scheme), usually held as a pledge against an outstanding loan to an employee in a share purchase scheme trust, which have not been fully paid for, including the number so issued and allotted, the price of issue and allotment, the release periods applicable to such shares and any other relevant information;
- (xi) without derogating from the generality of 8.63 (l) (i) to (x) above, the

directors emoluments disclosed in accordance with 8.63 (l) (i) to (x) above must include disclosure of all emoluments received or receivable from the following entities:

- (1) the issuer's holding company;
- (2) the issuer's subsidiaries and fellow subsidiaries;
- (3) associates of 8.63 (l) (xi) (1) and (2) above;
- (4) joint ventures of the issuer or of 8.63 (l) (xi) (1) to (3) above; and
- (5) entities that provide management or advisory services to the company or any of 8.63 (l) (xi) (1) to (4) above.

8.64 The issuer's auditor shall modify the auditors report as considered appropriate in cases of non-compliance with any of the disclosure requirements set out in paragraphs 8.63 (b) to (l).

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	<p>BSE 8.44 – 8.52 provide for the minimum contents of annual statements. There are many similarities with JSE. The key differences are in the supplementary requirements:</p> <ol style="list-style-type: none"> <li>1) JSE requires specifically explanations of the extent of compliance with the King Code; BSE allows a variety of corporate governance codes.</li> <li>2) reconciliation of headline earnings per share and earnings used to calculate earnings per share</li> <li>3) an explanation of differences if results differ by more than 10% from any previous forecast issued</li> <li>4) individual directors' emoluments</li> </ol>	Adopt JSE 8.62 – 8.63

Malawi (MSE)	<p>Some of MSE requirements (5.24 – 5.32) are similar to JSE requirements. However, there are major differences</p> <ol style="list-style-type: none"> <li>1) The auditing standard is Malawi Accounting Standard</li> <li>2) JSE requires specifically explanations of the extent of compliance with the King Code; MSE allows a variety of corporate governance codes.</li> <li>3) reconciliation of headline earnings per share and earnings used to calculate earnings per share</li> <li>4) an explanation of differences if results differ by more than 10% from any previous forecast issued</li> <li>5) individual directors' emoluments</li> </ol>	Adopt JSE 8.62 – 8.63
Mauritius (SEM)	<p>Some of SEM's requirements (12.16 – 12.20) are similar to JSE requirements. However, there are major differences</p> <ol style="list-style-type: none"> <li>1) The auditing standard is Mauritian Accounting and Auditing Standards or International Accounting standards</li> <li>2) JSE's additions disclosures such as explanations of the extent of compliance with the King Code, reconciliation of headline earnings per share and earnings used to calculate earnings per share, shareholder spread, major shareholders, and individual directors' emoluments</li> </ol>	<ol style="list-style-type: none"> <li>1) Adopt IFRS</li> <li>2) Adopt JSE additional reporting requirements (JSE 8.63)</li> </ol>
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 8.62 – 8.64 are identical to JSE requirements.	
Swaziland (SSX)	Almost identical to JSE requirements. The disclosure requirements for directors' emoluments are less comprehensive.	Adopt JSE 8.63(l)
Tanzania (DSE)	DSE has no comprehensive requirements on Financial Information.	Adopt JSE Section 8 requirements with appropriate modification for local conditions.



Zambia (LuSE)	<p>LuSE 8.51 is broadly similar to JSE requirements. However, there are major differences</p> <ol style="list-style-type: none"> <li>1) The accounting standard is GAAP (JSE requires IFRS)</li> <li>2) reconciliation of headline earnings per share and earnings used to calculate earnings per share</li> <li>3) an explanation of differences if results differ by more than 10% from any published forecast</li> <li>4) disclosure of individual directors' emoluments</li> </ol>	<ol style="list-style-type: none"> <li>1) Adopt IFRS</li> <li>2) Adopt JSE additional reporting requirements</li> </ol>
Zimbabwe (ZSE)	Not Available	

---

## SECTION 9 TRANSACTIONS

---

This section deals with transactions, principally acquisitions and disposals, by issuers and their subsidiaries. It describes how they are categorized, what the requirements are for announcements and circulars, and whether or not shareholder approval is required. Requirements for reverse takeovers and for takeovers and mergers in terms of the Code are also detailed.

### GENERAL

- 9.1 References in this section to a transaction by a listed company:
- (a) include a transaction by any subsidiary of the listed company;
  - (b) include the grant or acquisition of an option to acquire or dispose of assets as if the option had been exercised except that, where the right to exercise is solely at the issuer's discretion, the transaction will only be categorized on exercise of the option and only the premium/consideration (if any) for the grant will be used for categorization purposes at the date of such grant. However, in such instance, the categorization upon exercise will be required to be no less onerous than the classification determined at the date of grant;
  - (c) exclude an issue of securities or a transaction to raise finance that, in either case, does not involve the acquisition or disposal of any asset of the listed company or of its subsidiaries; and
  - (d) must be referred to the JSE, at an early stage, if the transaction involves treasury shares.
- 9.2 An issuer that is in any doubt as to the application of the Listings Requirements contained in this section must consult the JSE at an early stage in order to discuss the details of the transaction and, where necessary, to obtain a ruling from the JSE.

### CATEGORIZATION AND EXPLANATION OF TERMS

- 9.3 Any issuer considering a transaction must, at an early stage, consider the categorization of the transaction.
- 9.4 A transaction is categorized by assessing its size relative to that of the issuer proposing to make it and the listed holding company of such issuer, if applicable.
- 9.5 The comparison of size is made by the use of the percentage ratios set out in paragraph 9.6. The different categories of transactions are:
- (a) Category 3 – a transaction where any percentage ratio is 5% or more but each is less than 20%;
  - (b) Category 2 – a transaction where any percentage ratio is 20% or more but each is less than 30%;
  - (c) Category 1 – a transaction where any percentage ratio is 30% or more or if the total consideration is not subject to any maximum; and
  - (d) Reverse take-over – an acquisition by a listed company of a business, an unlisted company or assets where any percentage ratio is 100% or more, or which would result in a fundamental change in the business, or in a change in board or voting control (refer to definitions of “control” and “controlling shareholder”) of the listed company, in which case this will be considered a new listing.

### Percentage ratios

- 9.6 The percentage ratios are the figures, expressed as a percentage, resulting from each of the following calculations:
- (a) **consideration to market capitalization, being:**  
the consideration divided by the aggregate market value of all the listed equity securities, excluding treasury securities\* held in terms of the Act and shares held in terms of schedule 14.13\*, of the listed company; or

- (b) **dilution, being:**  
the number of listed equity securities issued by a listed company as consideration for an acquisition compared to those in issue, excluding treasury securities held in terms of the Act and shares held in terms of schedule 14.13\*, prior to the transaction; or
- (c) **transactions to be settled partly in cash and partly in shares:**  
the category size for such transaction is to be calculated by first assessing the cash to market capitalization percentage and then adding this percentage to the dilution percentage.

9.7 In circumstances where:

- (a) either of the above calculations produces an anomalous result; and/or
- (b) the JSE believes that any of the transaction components are not included at fair value (taking account of the particular circumstances of the transaction); and/or
- (c) the categorization calculations are inappropriate to the sphere of activity of the issuer;

the JSE reserves the right to request a fair and reasonable opinion on transaction values, take into account other ratios or use any other relevant indicators of size to determine the categorization.

### **Consideration**

9.8 When calculating the consideration:

- (a) where all or part of the consideration is in the form of securities to be listed, the consideration attributable to those securities means the aggregate market value of those securities at the time the terms of the transaction are announced;
- (b) the consideration is the amount paid to the vendors but the JSE may require the inclusion of further amounts (for instance where the purchaser agrees to discharge any liabilities, whether actual or contingent, of the vendors as part of the terms of the transaction);
- (c) if deferred consideration is or may be payable in the future, the consideration is the maximum possible total consideration payable under the agreement. If the total consideration is not subject to any maximum the transaction will normally be treated as Category 1, notwithstanding the category into which it is otherwise classified; and
- (d) in respect of a new class of securities for which an application for listing will be made, the consideration will be the issue price of such securities or, if no price is attributable thereto, the expected aggregate market value of all those securities, determined by the JSE in the absence of evidence of same provided by the listed company.

### **Figures used for categorization**

9.9 Figures used for categorization purposes must be the aggregate market value of all those listed equity securities before the announcement of the terms, or such announcement determined by the JSE to contain sufficient information to be used for the purposes of categorization.

### **Indemnities and similar arrangements**

9.10 Any agreement or arrangement with a party, not being a member of the listed company's group:

- (a) under which a listed company agrees to discharge any liabilities, costs, expenses, commissions or losses incurred by that party, whether or not on a contingent basis;
- (b) which would be exceptional; and
- (c) under which the maximum liability is unlimited:

will be treated as a Category 1 transaction. For the purpose of this paragraph, indemnities such as those customarily given in connection with sale and purchase

agreements, and indemnities given to advisers against liabilities to third parties arising out of providing advisory services are not “exceptional”. In cases of doubt, the JSE must be consulted at an early stage in order to discuss the details of the transaction and, where necessary, to obtain a ruling from the JSE.

**Aggregation of transactions**

- 9.11 The JSE will require transactions completed during either the 12 months prior to the date of the latest transaction or the period since the date on which the most recent published audited balance sheet was prepared, or the period since the publication of the latest pre-listing statement or circular, whichever is shorter, to be aggregated with the latest transaction for the purpose of determining the categorization to apply to the latest transaction. In cases of doubt, the JSE must be consulted at an early stage in order to discuss the details of the transaction and, where necessary, to obtain a ruling from the JSE.
- 9.12 Where acquisitions are entered into during a period of 12 months that cumulatively exceed 100% of either of the percentage ratios, the provisions relating to a reverse take-over will apply.
- 9.13 Without prejudice to the generality of paragraphs 9.11 and 9.12, transactions will normally only be aggregated in accordance with those paragraphs if they:
  - (a) are entered into by the company with the same party or associates thereof;
  - (b) involve the acquisition or disposal of securities or an interest in one particular company or asset; or
  - (c) together lead to substantial involvement in a business activity that did not previously form a part of the company’s/group’s principal activities.
- 9.14 Where the aggregation performed under paragraph 9.11 results in a Category 1 transaction, then the requirement for shareholder approval is in respect of the last transaction only. The JSE is to be consulted regarding the necessary approval from shareholders.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE 9.1 – 9.17 are broadly similar to JSE except the following: 1) BSE does not cover options to acquire or dispose of assets as transactions 2) BSE has four categories of transactions; JSE has three. BSE categories 3 and 4 represent a finer breakdown of JSE Category 3 3) BSE percentage ratios do not provide for transactions to be settled partly in cash and partly in shares.	BSE need not adopt JSE’s categorizations as the reporting requirements are similar to JSE requirements.
Malawi (MSE)	1) MSE does not cover the grant or acquisition of an option to acquire or dispose of assets 2) MSE has four categories of transactions; JSE has three. MSE categories 3 and 4 represent a finer breakdown of JSE Category 3 3) MSE percentage ratios do not provide for transactions to be settled partly in cash and partly in shares.	MSE need not adopt JSE’s categorizations as the reporting requirements are similar to JSE requirements.

Mauritius (SEM)	<p>1) There are inconsistencies in the description of what a transaction includes. JSE 9.1 includes the grant or acquisition of an option to acquire or dispose of assets while SEM 13.4 does not. SEM excludes transactions by an issuer which has neither equity nor convertible debt securities listed</p> <p>2) the categorization of transactions differs significantly between SEM and JSE. JSE has three categories of transaction (Categories 1-3) depending on the size of the transaction as measured by consideration to market capitalization with consideration defined to include cash and dilution effects. SEM has two categories: “substantial transactions” and “disclosable transactions”. The SEM definitions are significantly different from JSE, with the definitions based on value of assets relative to consolidated assets, net profit attributable to assets being acquired relative to consolidated net profits (SEM 13.9)</p>	The differences between the SEM and JSE requirements are sufficiently different that harmonization would require adoption of all the JSE requirements (Section 9)
Mozambique (BVM)	Not Available	
Namibia (NSX)	<p>There are slight differences the categorization of transactions as follows:</p> <p>1) JSE Category 3 – a transaction where any percentage ratio is 5% or more but each is less than 20% (NSX 10 – 20%)</p> <p>JSE Category 2 – a transaction where any percentage ratio is 20% or more but each is less than 30% (NSX 20 – 40%)</p> <p>Category 1 – a transaction where any percentage ratio is 30% or more or if the total consideration is not subject to any maximum (NSX 40%)</p>	Adopt JSE categorization of transactions.
Swaziland (SSX)	<p>SSX 9.1 – 9.17 broadly similar to JSE except the following:</p> <p>1) SSX does not cover options to acquire or dispose of assets as transactions</p> <p>2)SSX has four categories of transactions; JSE has three.</p> <p>3) SSX percentage ratios do not provide for transactions to be settled partly in cash and partly in shares.</p>	<p>1) Include JSE 9.1.B</p> <p>2) Adopt JSE categorization of transactions</p> <p>3) Adopt JSE 9.6 (c)</p>
Tanzania (DSE)	No requirements on transactions	Adopt JSE Section 9 requirements

Zambia (LuSE)	1) LuSE does not cover the grant or acquisition of an option to acquire or dispose of assets 2) LuSE has four categories of transactions; JSE has three. LuSE categories 3 and 4 represent a finer breakdown of JSE Category 3 3) LuSE percentage ratios do not provide for transactions to be settled partly in cash and partly in shares.	Adopt JSE Section 9 requirements
Zimbabwe (ZSE)	Not Available	

### CATEGORY 3 REQUIREMENTS

- 9.15 In the case of a Category 3 transaction, the issuer must publish an announcement of the details of such transaction as soon as possible after its terms have been agreed. The details of the transaction must include:
- (a) particulars of the transaction, including the names or details of:
    - (i) any company or business, the subject of the transaction;
    - (ii) if an acquisition, the vendors;
    - (iii) if a disposal, the purchasers;
    - (iv) the effective date;
    - (v) the conditions precedent; and
    - (vi) any other significant terms of the agreement;
  - (b) a description of the business carried on by the subject of the transaction;
  - (c) the consideration, and how it was/is to be satisfied, including the terms of any arrangements for deferred consideration;
  - (d) the value of the net assets that are the subject of the transaction, and the pro forma effect on the net assets and net tangible assets per share of the company, if significant. For the purpose of this paragraph the JSE will regard 3% as being significant;
  - (e) the profits attributable to the net assets, the subject of the transaction, and the pro forma effect on the historical earnings and headline earnings per share of the company, if significant. For the purpose of this paragraph, the JSE will regard 3% as being significant;
  - (f) with regard to paragraphs 9.15 (d) and (e) above, such pro forma financial information must comply with the requirements of paragraph 8.15.
  - (g) the rationale;
  - (h) in the case of a disposal, the application of the sale proceeds; and
  - (i) in the case of a disposal, if securities formed part of the consideration received, a statement whether such securities are to be sold or retained.
- 9.16 In addition, if securities have been acquired in a company that, as a result becomes a subsidiary company as defined in the Act, the listed company must confirm, in writing, to the JSE that the articles of association of such subsidiary company, will be amended to conform to Schedule 10. Such confirmation must also be included in the announcement in terms of paragraph 9.15.

### Supplementary notification

- 9.17 The JSE must be consulted and a supplementary announcement made without delay if, at any time after the announcement referred to in paragraph 9.15 has been made, the issuer becomes aware that:
- (a) there has been a significant change affecting any matter contained in that earlier announcement; or
  - (b) a significant new matter has arisen that would have been required to be mentioned in that earlier announcement if it had arisen at the time of the preparation of that announcement.
- 9.18 In paragraph 9.17, “significant” means a change of 3% or more for the purpose of making an informed assessment of the assets and liabilities, financial position, profits and losses, cash flow and prospects of the listed company and the rights attaching to any securities forming part of the consideration. It will also include a change in the terms of the transaction such that the percentage ratios are affected and the transaction requires re-categorization into a higher category.
- 9.19 The supplementary announcement must provide details of the change or new matter and also contain a statement that, save as disclosed, there has been no significant change affecting any matter contained in the earlier announcement and no other significant new matter has arisen that would have been required to be mentioned in that earlier announcement if it had arisen at the time of the preparation of that announcement.

#### **CATEGORY 2 REQUIREMENTS**

- 9.20 Upon the terms of a Category 2 transaction being agreed, the issuer must:
- (a) immediately comply with the requirements for a Category 3 transaction and state within the announcement that a circular to shareholders will be issued in compliance with 9.20 (b); and
  - (b) within 28 days, dispatch a circular to shareholders.
- 9.21 The Category 2 circular must comply with the general requirements relating to circulars as set out in Section 11 and must include:
- (a) the information required under a Category 3 transaction (refer to paragraph 9.15);
  - (b) details of any service contracts of proposed directors of the listed company;
  - (c) where goodwill is involved, a statement regarding the issuer’s accounting policy towards goodwill, as well as the reasons for such goodwill payment;
  - (d) a statement giving the directors’ opinion on the transaction; and
  - (e) the information required by the Appendix to this section in relation to Category 2 circulars (refer to paragraph 9.27).

#### **CATEGORY 1 REQUIREMENTS**

- 9.22 In the case of a Category 1 transaction, the issuer must comply with paragraphs 9.20 and 9.21 (the Category 2 requirements). In addition, the company must obtain the approval of its shareholders in general meeting, and any agreement effecting the transaction must be conditional upon such approval being obtained and the circular should include a statement giving the directors’ recommendation as to how shareholders should vote at the general meeting to approve the transaction and an indication as to how the directors intend to vote their shares, if applicable, at the general meeting.
- 9.23 In addition, if the Category 1 transaction results in an issue of securities that, together with any other securities of the same class issued during the previous 3 months, would

increase the securities issued by more than 30%, then the issuer must include in the Category 1 circular the information required to be disclosed for a pre-listing statement.

#### REVERSE TAKE-OVER REQUIREMENTS

- 9.24 The issuer, as enlarged by the acquisition, must be suitable for listing as if it was a new applicant and satisfies the conditions for listing as set out in Section 4.
- 9.25 The announcement of a reverse take-over must contain adequate warning as to the uncertainty of whether or not the JSE will allow the listing to continue following the acquisition. The issuer must prepare Category 1 circular and listing particulars as though the issuer were a new applicant. If such Category 1 circular and listing particulars are not provided to shareholders within 28 days of the announcement, the JSE may suspend the listing of the issuer's securities. The Category 1 circular must clearly advise shareholders whether or not the JSE will continue to grant a listing to the issuer if shareholders approve the acquisition.

Stock Exchange	Analysis of Relevant Provisions	Recommendations
Botswana (BSE)	BSE Reporting requirements (9.18-9.28) are similar to JSE.	
Malawi(MSE)	MSE reporting requirements (9.18 – 9.28) are similar to JSE requirements	
Mauritius (SEM)	SEM does not have the same transaction categories as JSE	The differences between the SEM and JSE requirements are sufficiently different that harmonization would require adoption of all the JSE requirements (Section 9)
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 9.15 – 9.25 are identical to JSE requirements.	
Swaziland (SSX)	JSE requires announcement of Category 3 transactions as possible after the terms have been agreed (JSE 9.15). SSX does not insist on immediate announcement.	Adopt JSE 9.15
Tanzania (DSE)	No requirements on transactions	Adopt JSE Section 9 requirements
Zambia (LuSE)	LuSE reporting requirements 9.18 – 9.27 are similar to JSE requirements.	
Zimbabwe (ZSE)	Not Available	



---

## SECTION 10 TRANSACTIONS WITH RELATED PARTIES

---

This section provides certain safeguards against those shareholders, directors and/or other persons related to an issuer taking advantage of their position. Transactions with parties related to an issuer are known as related party transactions.

Where any transaction is proposed between an issuer, or any of its subsidiaries, and a related party, a circular to shareholders and the approval of shareholders of the issuer in general meeting will normally be required.

Any circular sent to shareholders in connection with a related party transaction must provide sufficient information to enable any recipient of the circular to evaluate the effects of the transaction on the listed company.

### DEFINITIONS

- 10.1 For the purposes of this section, the following definitions apply:
- (a) a “related party transaction” means a transaction, as contemplated in Section 9, or any variation or novation of an existing agreement, between an issuer, or any of its subsidiaries, and a related party;
  - (b) “related party” means:
    - (i) a material shareholder;
    - (ii) any person that is, or within the 12 months preceding the date of the transaction, was a director of the issuer or of any subsidiary or its holding company or any subsidiary of its holding company. For the purpose of this definition, a director includes a person that is, or within the 12 months preceding the date of the transaction, was not a director, but in accordance with whose directions or instructions the directors are or were accustomed to act;
    - (iii) any advisor to the issuer that has, or within the 12 months preceding the date of the transaction had, a beneficial interest, whether direct or indirect, in the listed company or any of its associates;
    - (iv) any person that is, or within the 12 months preceding the date of the transaction was, a principal executive officer of the issuer, by whatever position he may be, or may have been, designated and whether or not he is, or was, a director;
    - (v) an associate of the persons in paragraph 10.1 (b) (i) to (iv) above;

Notwithstanding the above definitions, the JSE may, in its sole discretion, determine that a transaction is a related party transaction if extra-ordinary conditions exist.

### CONSULTATION WITH THE JSE

- 10.2 When an issuer is contemplating a transaction that does not fall within the definition of a related party transaction in paragraph 10.1, but which will result in any unusual, vested or other interest(s) or rights being created for any of the parties in paragraph 10.1 (b) (i) to (v) above, the issuer must discuss the transaction with the JSE at an early stage in order for the JSE to determine whether they will exercise their discretion and classify the transaction as a related party transaction and any parties as related parties in terms of the transaction concerned.
- 10.3 The JSE may, in its sole discretion, require the listed company to provide it with a declaration that, to the best of the knowledge and belief of the directors, any

nominee shareholders do not include any person who may be acting in concert with any other person in relation to the related party transaction.

#### **USUAL REQUIREMENTS FOR A RELATED PARTY TRANSACTION**

- 10.4 If an issuer, or any of its subsidiaries, proposes to enter into a related party transaction, or if the JSE determines that a transaction is a related party transaction, the issuer must:
- (a) make an announcement containing:
    - (i) the information specified in paragraph 9.15;
    - (ii) the name of the related party concerned; and
    - (iii) details of the nature and extent of the interest of the related party in the transaction;
  - (b) the agreement must be furnished to the JSE;
  - (c) send a circular to its shareholders containing the information required by paragraph 10.9;
  - (d) obtain the approval, by resolution, of its shareholders either prior to the transaction being entered into or, if it is expressed to be conditional on such approval, prior to completion of the transaction;
  - (e) include in the special or ordinary resolution to approve or give effect to the transaction, a condition that the validity, for the purposes of the Listings Requirements, of the resolution will be subject to a simple majority of the votes of shareholders, other than the related party and its associates, being cast in favour of the resolution; and
  - (f) provide a fair and reasonable opinion from an independent professional expert acceptable to the JSE that the terms of the proposed transaction with the related party are fair and reasonable as far as the shareholders of the issuer are concerned.
- 10.5 Where a general/annual general meeting of the issuer has been called to approve a transaction and, after the date of the notice of meeting but prior to the meeting itself, the transaction becomes a related party transaction, the JSE may require that the issuer either:
- (a) take immediate steps to amend the relevant resolution by including the condition referred to in paragraph 10.4(c) and give notice of the amendment to shareholders by way of a circular. Such circular must also contain any information required by paragraph 10.9 that was not contained in the original circular accompanying the notice of general/annual general meeting; or
  - (b) withdraw the notice of the general/annual general meeting and convene a fresh general/annual general meeting complying with paragraph 10.4.

#### **TRANSACTIONS NOT REGARDED AS RELATED PARTY TRANSACTIONS**

- 10.6 A transaction will not be regarded as a related party transaction if any of the following situations apply:
- (a) the issuer does not have any equity securities listed;
  - (b) the issuer is an external company with a secondary listing on the JSE;
  - (c) the transaction is an issue of new securities either:
    - (i) for cash by the issuer, or any of its subsidiaries, pursuant to an opportunity that, as far as is practicable, is made available to all holders of the listed company's securities, or to all holders of the relevant class of its securities, on the same terms other than those excluded in terms of Section 142(2) of the Act; or

- (ii) made pursuant to the exercise of conversion or subscription rights attaching to a listed class of securities; or
- (iii) has previously been approved by the issuer's shareholders in general meeting;
- (d) the transaction:
  - (i) involves the receipt of securities by a director(s) of the issuer, its holding company or any of its subsidiaries; or
  - (ii) is a grant of an option to a director of the issuer, its holding company, or any of its subsidiaries to acquire, whether or not for consideration, new or existing securities of the issuer:
 

in accordance with the terms of an employees' share incentive scheme, which does not have the effect of conferring benefits only on directors of the issuer, its holding company or any subsidiaries;
- (e) the transaction is a grant of credit, including the lending of money or the guaranteeing of a loan, to the related party:
  - (i) upon normal commercial terms in the ordinary course of business; or
  - (ii) in amount and on terms no more favourable than those offered to employees of the group generally;
- (f) the transaction is the grant of an indemnity to a director of the issuer, or any of its subsidiaries, to the extent permitted by Section 247 of the Act, or the maintenance of a contract of insurance to the extent contemplated by that section (whether for a director of the issuer or for a director of any of its subsidiaries);
- (g) the transaction is an underwriting by the related party of all or part of an issue of securities by the issuer, or any of its subsidiaries, and the consideration to be paid by the issuer, or any of its subsidiaries, in respect of such underwriting is no more than the usual commercial underwriting consideration, and is the same as that to be paid to the other underwriters (if any);
- (h) the transaction is one where both of the percentage ratios referred to in paragraph 9.6 are equal to or less than 0.25%; or
- (i) the transaction is one of a revenue nature in the ordinary course of business.

#### **SMALL RELATED PARTY TRANSACTIONS**

- 10.7 In the case of a transaction with a related party where one or both of the percentage ratios referred to in paragraph 9.6 are less than or equal to 5%, but exceed 0.25%, the usual requirements for a transaction with a related party set out in paragraph 10.4 do not apply and, instead, the issuer must, prior to completing the transaction:
- (a) inform the JSE in writing of the details of the proposed transaction;
  - (b) provide the JSE with written confirmation from an independent professional expert acceptable to the JSE that the terms of the proposed transaction with the related party are fair and reasonable as far as the shareholders of the issuer are concerned;
  - (c) publish details of the proposed transaction in accordance with paragraph 9.15 including a statement that paragraph 10.7 (b) has been complied with, that the transaction has been declared to be fair and reasonable, and that the fair and reasonable opinion statement will lie for inspection at the issuer's registered office for a period of 28 days from the date of announcement; and
  - (d) comply with the usual requirements regarding transactions with related parties as per paragraph 10.4, if the independent professional expert states that the transaction is not fair and reasonable.

#### **AGGREGATION**

10.8 The JSE will require all transactions to be aggregated that are entered into by the issuer, or any of its subsidiaries, with the same related party, and/or any of its associates, in any twelve month period which have not been approved by shareholders or announced in terms of paragraph 10.7.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	<p>BSE provisions (10.1 – 10.8) are similar to JSE. The major differences are:</p> <p>1) JSE requires a fair and reasonable opinion from an independent professional expert acceptable to the JSE that the terms of the proposed transaction with the related party are fair and reasonable as far as the shareholders of the issuer are concerned.(JSE 10 (4)(f)</p> <p>2) JSE’s provides limited requirements for transactions equal to or less than 0.25% of market capitalization (JSE 10(6)(h). BSE exempts transactions less than or equal to 5% of market capitalization.</p>	<p>Adopt JSE</p> <p>1) 10(4)(f) on independent professional opinion</p> <p>2) 10.7 on Small Related Party Transactions.</p>
Malawi (MSE)	<p>MSE provisions (10.1 – 10.8) are similar to JSE. The major differences are:</p> <p>1) JSE requires a fair and reasonable opinion from an independent professional expert acceptable to the JSE that the terms of the proposed transaction with the related party are fair and reasonable as far as the shareholders of the issuer are concerned.(JSE 10 (4)(f)</p> <p>2) JSE’s provides limited requirements for transactions equal to or less than 0.25% of market capitalization (JSE 10(6)(h). MSE exempts transactions less than or equal to 5% of market capitalization.</p>	<p>Adopt JSE</p> <p>1) 10(4)(f) on independent professional opinion</p> <p>2) 10.7 on Small Related Party Transactions</p>
Mauritius (SEM)	<p>1) SEM does not have a definition of “related party” as in JSE 10.1</p> <p>2) JSE requires a fair and reasonable opinion from an independent professional expert acceptable to the JSE that the terms of the proposed transaction with the related party are fair and reasonable as far as the shareholders of the issuer are concerned.(JSE 10 (4)(f)</p> <p>3) The SEM list of transactions not regarded as related party transactions is limited compared to JSE 10.6.</p>	<p>Expand the 13.21 – 13.30 to include JSE requirements 10.1, 10 (4)(f) and 10.6</p>

Mozambique (BVM)	Not Available	
Namibia	NSX 10.1 -10.8 identical with JSE requirements.	
Swaziland (SSX)	<p>1) JSE requires a fair and reasonable opinion from an independent professional expert acceptable to the JSE that the terms of the proposed transaction with the related party are fair and reasonable as far as the shareholders of the issuer are concerned.(JSE 10 (4)(f)). SSX does not have this requirement.</p> <p>2) JSE's provides limited requirements for transactions equal to or less than 0.25% of market capitalization (JSE 10(6)(h)). SSX exempts transactions less than or equal to 10% of market capitalization.</p> <p>3) SSX has no requirements for Small Related Party Transactions</p>	<p>1) Incorporate JSE 10 (4)(f)</p> <p>2) Adopt JSE 10.6(8)</p> <p>3) Adopt JSE 10.7</p>
Tanzania (DSE)	No requirements on Transactions with Related Parties	Adopt JSE Section 10 requirements
Zambia (LuSE)	<p>1) LuSE requirements are similar to JSE requirements.</p> <p>2) JSE requires a fair and reasonable opinion from an independent professional expert acceptable to the JSE that the terms of the proposed transaction with the related party are fair and reasonable as far as the shareholders of the issuer are concerned.(JSE 10 (4)(f)</p>	Adopt JSE 10(4)(f)
Zimbabwe (ZSE)	Not Available	

---

## SECTION 18 DUAL LISTINGS AND LISTINGS BY EXTERNAL COMPANIES

---

### GENERAL

- 18.1 A company with or seeking a dual listing on the JSE may decide where it intends to have its primary or secondary listing(s). Generally, the exchange on which the primary listing resides takes precedence in the enforcement of any listings requirements ahead of the exchange on which the secondary listing resides. However, where such primary listing is not on the JSE, the JSE reserves the right to instruct the issuer to comply with certain specific sections of, or in full with, the Listings Requirements, where it determines such requirements to be in the interest of shareholders. If a company with or seeking a dual listing is in any doubt as to whether or to what extent a specific section of the Listings Requirements applies to it, the JSE must be consulted at an early stage.
- 18.2 The annual financial statements are to state where the primary and secondary listings of the issuer's securities are located.
- 18.3 An external company will not be allowed to apply for or list securities, which are not listed in the country of incorporation or in the country of primary listing, unless the JSE is satisfied that the absence of such a listing is not due to any negative or problematic circumstances, events or regulatory issue.
- 18.4 When a dual listed company wishes to release any information on another exchange it must ensure that such information is also released on the JSE and that such release takes place no later than the equivalent release on any other exchange.
- 18.5 Where the particular accounting practices of any company with or seeking a secondary listing on the JSE have not been prepared in accordance with the requirements of Section 8, such company must consult the JSE in order to obtain a ruling concerning what will constitute acceptable accounting practice and disclosure. All issuers with secondary listings on the JSE must comply with Circular 7/2002, Headline Earnings issued by SAICA.
- 18.6 An applicant issuer seeking a secondary listing on the JSE must:
- (a) confirm that it is in full compliance with all the requirements of the exchange on which it has its primary listing;
  - (b) confirm that it is in compliance with the requirements of any competent authority or equivalent regulatory body that regulates it; and
  - (c) state the number and classes of securities currently listed on the primary exchange.
- 18.7 An external company with a listing on the JSE must appoint and maintain, whilst it remains listed on the JSE, a person authorized to accept service of due process and notices on its behalf in South Africa, and must notify the JSE of such appointment (or termination, providing that in the event of termination another person must be immediately appointed and their details provided in accordance with this paragraph), including:
- (a) the name of the person appointed ("person") and the person's address for services of due process and notices;
  - (b) if different, the person's business and residential address;
  - (c) the person's business and residential telephone number;
  - (d) the person's facsimile number and e-mail address; and
  - (e) any change in the above particulars.
- 18.8 A company with a dual listing must notify the JSE immediately of any suspension or termination of listing on any other exchange on which it has securities listed.
- 18.9 A 50% majority of the votes of all shareholders present or represented by proxy in general meeting, excluding any controlling shareholder, its associates and any party acting in concert, must be cast in favour of any resolution to primary list the securities of an applicant issuer on another stock exchange. A secondary dual listing onto another stock exchange only requires the issuer's director's approval.

18.10 If an issuer has applied for and been granted permission for its securities to be listed on another stock exchange, it is required to ensure that the securities will be accepted for transfer, without delay, if presented in any of the centres in which its securities are listed.

<b>Stock Exchange</b>	<b>Analysis of Relevant Provisions</b>	<b>Recommendations</b>
Botswana (BSE)	BSE does not have separate rules for dual listings and listings by external companies. Some rules applicable to dual listings and listings by external companies appear in various sections of the BSE listings requirements	BSE may want to create comprehensive rules for dual listings and external companies with similar provisions as JSE 18.1-18.10.
Malawi (MSE)	MSE does not have separate rules for dual listings and listings by external companies. Some rules applicable to dual listings and listings by external companies appear in various sections of the MSE listings requirements	MSE may want to create comprehensive rules for dual listings and external companies with similar provisions as JSE 18.1-18.10.
Mauritius (SEM)	While SEM's requirements are comprehensive, there are differences compared to JSE: 1) SEM uses the "mutual recognition" rule (15.21) which allows them to accept the Listing Particulars approved by the issuer's primary exchange. The only SADC exchange recognized under the mutual recognition rule is JSE. 2) JSE 18.4 requires a dual listed company releasing any information on another exchange to ensure that such information is also released on the JSE and that such release takes place no later than the equivalent release on any other exchange. 3) SEM does not make provision for Mauritian companies seeking primary listing overseas as in JSE 18.9	1) To achieve harmonization within SADC, SEM's mutual recognition should cover all SADC stock exchanges, subject to any changes recommended in this Report as needed by each exchange to achieve harmonization 2) Adopt JSE 18.4 3) Adopt JSE 18.9
Mozambique (BVM)	Not Available	
Namibia (NSX)	NSX 18.1 – 18.10 are identical to JSE requirements,	
Swaziland (SSX)	SSX does not make provision for Swaziland companies seeking primary listing overseas as in JSE 18.9	Adopt JSE 18.9
Tanzania (DSE)	DSE does not have separate rules for dual listings and listings by external companies.	Adopt JSE 18.1-18.10
Zambia (LuSE)	LuSE does not have separate rules for dual listings and listings by external companies. Some rules applicable to dual listings and listings by external companies appear in various sections of the BSE listings requirements	LuSE may want to create comprehensive rules for dual listings and external companies with similar provisions as JSE 18.1-18.10.

Zimbabwe (ZSE)	Not Available	
----------------	---------------	--