JSE Listings Review

May 2022

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Johannesburg Stock Exchange

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IMPORTANT INFORMATION

Important information

The JSE Limited (the **"JSE"**) has prepared this consultation paper with the aim of obtaining public input on various proposals regarding its listings framework, considering recent international developments and internal JSE initiatives. The consultation paper also serves as an innovation platform to promote capital market activity and competitiveness.

Any information, proposal, opinion or action considered or mentioned in this consultation paper in whole or in part should not be read as a commitment to implementation on the part of the JSE. The JSE may consider any additional proposals presented to the JSE that do not form part of the consultation paper, as part of its inclusive market consultation process.

How to Respond to this Consultation Paper

The JSE invites comments on this consultation paper on or before Monday, 20 June 2022. Comments can be sent via e-mail for the attention of:

Andre Visser: Director: Issuer Regulation Division
consultation@jse.co.za

It should be noted that this consultation paper may affect specific areas of the JSE Listings Requirements (the **"Listings Requirements"**). In the event that amendments may be required to the Listings Requirements, these will be undertaken using the standard process, which includes separate public consultation processes, pursuant to the provisions of the Listings Requirements and the Financial Markets Act No. 19 of 2012 (the **"FMA"**).

Please use the separate Comments Schedule, which summarises all the requests for guidance and proposals, to submit your comments.

JSE Response Paper

To inform market participants and stakeholders of the outcomes of this consultation paper, the JSE will publish a response paper on or before 22 July 2022. No extensions for the submission of comments will be permitted in order to allow the JSE to process all comments efficiently and effectively. The response paper may name respondents while anonymous comments may be disregarded. The response paper may include personal information as contemplated in applicable data protection legislation, including, but not limited to the Protection of Personal Information Act, No. 4 of 2013 and you understand, acknowledge and confirm that your personal information may be used by the JSE for purposes of the provision of the response paper. The JSE may also elect to contact commentors to obtain more clarity where required. All personal information provided in relation to the response paper will be collected, used, shared, retained and otherwise processed by the JSE in accordance with the JSE's Privacy Policy (https://www.jse.co.za/privacy-policy). By the completion and submission of your comments to the response paper (including your personal information), you consent to the processing of the above personal information for the above purpose as well as the purposes set out in the JSE Privacy Policy.

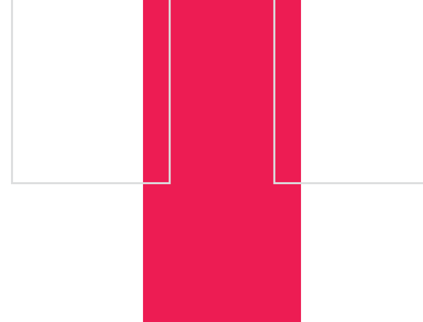
Finally, the JSE, its subsidiaries, employees and officers have endeavoured to ensure the accuracy and reliability of the information provided in the consultation paper and/or response paper, and accept no liability whatsoever for any loss or damage arising from any inaccuracy or omission or from any decision, action or non-action based on or in reliance upon information contained in the consultation paper and/or response paper.

Andre Visser
Director: Issuer Regulation

Valdene Reddy
Director: Capital Markets

Date: 12 May 2022

EXECUTIVE SUMMARY



Executive Summary

South Africa requires strong financial markets that are fair, efficient, transparent and competitive.

The JSE, through this consultation paper, aims to propose various initiatives to enable it to remain competitive. These initiatives must however maintain the high standards of investor protection for which the JSE is known. The JSE is of the view that the focused application of global standards to its regulatory framework allows it to be agile and flexible in maintaining its competitiveness.

This consultation paper further aims to be thought-provoking and conceptual in nature to lay the foundation for meaningful engagement with market participants, stakeholders and fellow regulators. The JSE will focus on presenting proposals for public consultation only once support for them has been established, while engaging fully with the capital markets regulator, the Financial Sector Conduct Authority (the **"FSCA"**).

Although a listing on the JSE has for decades been a well-recognised accolade for companies, the exchange has a responsibility to review its listing attractiveness so that South African financial markets remain competitive locally and abroad. The JSE listings process should be dynamic rather than static in order for the exchange to remain the premier listings destination in Africa. It is therefore vital for the JSE to take all necessary measures to encourage inbound investment and to promote both local and international investor confidence. To achieve this, the exchange needs to combine the best features of leading markets with its traditional strengths and values such as world-class governance and transparency supported through the General Principles of the Listings Requirements.

The JSE recognises that there are several legislative or regulatory issues outside of its control as a Listings Authority, that reduce the incentives for companies to come to market to raise capital on an exchange, or to remain listed on an exchange. These issues range from outdated legislation, the current economic climate (locally and abroad) and unequal application of legislative or regulatory requirements to administratively burdensome disclosure and reporting requirements. The JSE is actively involved in several initiatives for change around these issues. In the meantime, it will continue to play its part in stimulating the attractiveness, trustworthiness and competitiveness of South African financial markets.

This consultation paper commences with a brief narrative on the regulatory developments initiated by the JSE over the past decade, along with an overview explaining the purpose of the consultation paper. The paper also highlights the JSE's current work in progress.

The consultation paper then focuses on the JSE's proposals aimed at encouraging inbound investment and increasing local and international investor confidence.

PART 1

Policy and Regulatory Advocacy

Research indicates that countries with "active" stock markets experience higher-than-predicted growth rates[1] and that well-developed stock markets can foster economic growth.[2]

Exchanges provide a public benefit and play an essential role in the raising of capital and facilitating secondary market trading, by providing liquidity for the trading of financial instruments and efficient price discovery. Companies listed on an exchange provide extensive transparency into their tax compliance, labour practices, sustainable business practices and other conduct standards. However, increased regulatory burdens disincentivise companies from raising capital on an exchange or remaining listed on an exchange, which consequently has negative outcomes for the growth, vibrancy, transparency and global attractiveness of South African markets.

The JSE recognises that there are several legislative or regulatory issues outside of its control as a Listings Authority, that reduce the incentives for companies to raise capital on an exchange or to remain listed on an exchange. These issues range from outdated legislation, the current economic climate (locally and abroad) and the unequal application of legislative or regulatory requirements to administratively burdensome disclosure and reporting requirements.

In addition to the work in progress in respect of the listed environment set out in this consultation paper, the JSE is embarking on a research and advocacy programme to engage with policy makers and regulators to consider and address identified issues and potential issues around legislative amendments.

The JSE's research and advocacy programme includes (i) continued advocacy on the modernisation for the capital flows framework (exchange control); (ii) proposed amendments to legislation and regulation to enable a fit for future primary market; (iii) advocacy for the removal of uneven playing fields, barriers or unnecessary friction costs to enable companies to raise capital in both the primary and secondary markets; (iv) incentives for small and medium companies to list on an exchange; (v) incentives for investors to invest in small and medium companies listed on an exchange; (vi) and support for the Start-Up Act.[3]

The JSE will continue to play its part in stimulating the attractiveness, trustworthiness and competitiveness of South African financial markets.

[1] *Demigüç-Kunt, Asli and Vojislav Maksimovic, 'Financial Constraints, Use of Funds and Firm Growth: An International Comparison,' Policy Research Working Paper, The World Bank, 1996.*

[2] *Caporale, Guglielmo Maria et al., 'Stock market development and economic growth: The causal linkage,' Journal of Economic Development, 2004.*

[3] *https://www.startupact.co.za/.*

PART 2

Regulatory Developments

Regulatory Developments over the past decade

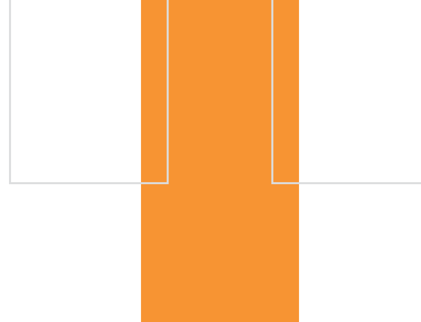
The JSE Consultation Paper, Cutting Red Tape aimed at Effective and Appropriate Regulation of March 2021, was very well received. Commentators consisted of a diverse group of private individuals, institutional investors, public interest groups, listing sponsors, issuers and fellow regulatory bodies. Taking into account their comments, the JSE formulated amendments to the Listings Requirements, which have been subject to public consultation processes pursuant to the provisions of the Listings Requirements and the FMA. These amendments have been approved by the FSCA with effect from 1 June 2022.

The initiatives undertaken by the JSE over the last decade include:

- Introduction of Special Purpose Acquisition Companies in 2013;
- Introduction of Real Estate Investment Trusts in 2013;
- Wholesale regulatory review of the Listings Requirements undertaken in 2014;
  - removed pro forma financial information in Category 1 transaction announcements;
  - removed the working capital sign-off requirement by sponsors, save for new listings;
  - removed the forecast sign-off requirement by sponsors;
  - removed the requirement for a PLS on a rights offer;
  - increased the Category 1 transaction threshold for Main Board issuers from 25% to 30%;
  - allowed written resolutions, limited for Main Board issuers but unlimited for AltX issuers;
  - removed publications in the press requirement for AltX issuers;
  - introduced short form press announcement for Main Board issuers;
  - simplified mandatory corporate governance provisions for AltX issuers;
  - simplified summary circular for AltX issuers;
  - allowed sponsor approval only for circulars dealing with capitalisation issues, scrip dividend and cash dividend elections, change of name, subdivision/consolidation, general issue for cash and increase in authorised share capital;
  - advocated incorporation by reference in circulars for all issuers;
  - introduced an accelerated issue of shares for cash mechanism (48-hour approval process);
  - removed pro forma financial information for basic “in and out” issue of shares for cash and repurchase corporate actions;
- Introduction of a fast-track secondary listings framework for certain foreign exchanges in 2014;
- Trading on the BEE Segment simplified through the introduction of verification agents in 2015;
- Introduction of Oil & Gas companies in 2015;
- Migration from T+5 to T+3 in 2016;
- Recognition of secondary listing for debt issuers in 2017;
- General issue of shares for cash threshold increased from 15% to 30% in 2017;
- Reduction of the rights offer timetable and introduction of non-renounceable rights offers in 2017;
- Transactions for Investment Entities simplified in 2017;
- Introduction of the Green Segment in the Debt Listings Requirements in 2018;
- Introduction of Project Bonds in the Debt Listings Requirements in 2018;
- Introduction of measure to strengthen the listing entry criteria for primary and secondary listings on the JSE in 2019, following its Consultation Paper dated 2018 in response to various corporate scandals; and
- The Singapore Stock Exchange (the “SGX”) was welcomed as an approved and accredited exchange for secondary listing purposes in 2021.

While there have been many improvements made to the Listings Requirements in order to achieve a level of effective and appropriate regulation, the JSE recognises that it must maintain its focus on this objective.

PART 3



Overview

In order to promote the international and domestic competitiveness of South African financial markets and securities services, efficiency, fairness and transparency are required.

As a Listings Authority, the JSE advocates for the enhancement of corporate governance and the quality of financial reporting disclosures by companies listed on the exchange, for the benefit of shareholders, investors, and other market stakeholders.

One of the main functions of a stock exchange is to afford companies the ability to raise capital, which is vital to the national economy. The channelling of public funds to companies affords them with the ability to grow, invest, support development, facilitate job creation and contribute to the establishment of a healthy economy. Public equity gives investors access to investment opportunities within a regulated environment, typically with greater accessibility and opportunity for diversification relative to private equity. It serves a public good function by facilitating transparency and allowing price discovery for the economy as a whole. It also creates liquidity through a secondary market which, if sufficient, gives investors confidence in their ability to sell.[4]

To attract companies and securities to list on its exchange, the JSE must ensure that it remains relevant and has deemed it necessary to review its listings framework to establish what role it can play to retain and attract more listings and capital markets activity.

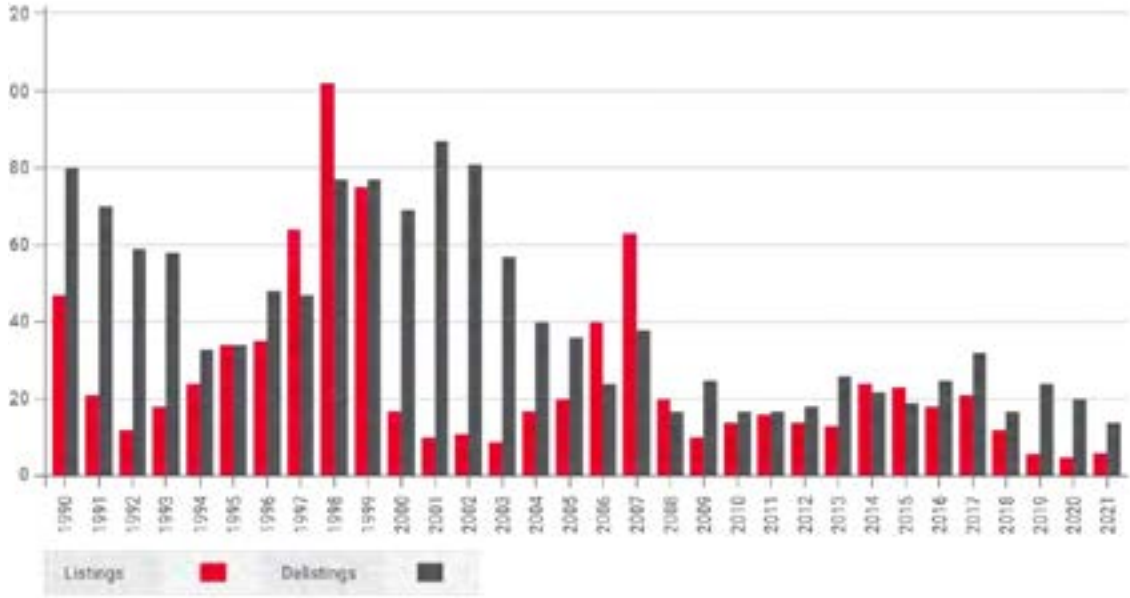
There are arguments to be made that the recent spate of delistings and the gradual decline of the total number of listed companies on the bourse over the past few years are cyclical and a global phenomenon in the current environment, driven further locally by negative business sentiment, policy uncertainty, lack of structural reforms and weak economic growth. South Africa's challenges are well known and there is concern that the current delistings trend is a structural one reflecting the state of the struggling local economy. Indeed, markets with high new listings activity typically have supportive economic growth and accommodating policy.[5]

In the South African market, the cyclicality of new listings over time evidently follows market levels, as shown by the red bars in Graph 1. Previous peaks occurred at the height of the tech bubble and prior to the global financial crisis. During market weakness, the opposite is generally true – there are fewer new listings. Considering the total number of listings on the JSE, much of the decline over the last 20 years occurred during the early 2000s, driven by a high number of delistings combined with few new companies coming to market. Following the tech crash, sentiment was severely depressed, and many companies struggled. Some of them failed, several were taken over. The number of listings subsequently stabilised and remained broadly constant from 2004 to 2016. Since then, fewer new companies have come to market, while delistings remain at broadly similar levels.

[4] *Allan Gray / Our take on the "shrinking" JSE. Nadia van der Merwe and Stephan Bernard 26 July 2021 at 1/6.*

[5] *Allan Gray / Our take on the "shrinking" JSE. Nadia van der Merwe and Stephan Bernard 26 July 2021 at 1/6.*

Figure 1: JSE: Number of new listings and delistings (1990 – 2021)[6]



Sources: JSE and Allan Gray Research

The downward trend in the number of company listings over the past decade is mostly a result of delistings among small businesses that fall outside the acceptable size and liquidity range of the average asset manager. During 2020, there were 19 company delistings, 16 of which were smaller than mid-cap companies. In 2021 to date, there have been 11 company delistings, with 10 smaller than mid-cap companies. Although the number of delistings has exceeded that of new listings since 2016, the market capitalisation of new listings has exceeded that of delistings every year as far back as 2008.[7]

There has also been a decline in benefits to being listed, particularly for small and medium-sized companies. Due to various structural changes in the savings industry, there has been a reduction in institutional interest in small and medium-sized companies. In particular, the transition of most pension funds from defined benefit to defined contribution has substantially lessened their ability to invest in illiquid stocks given that funds must now manage accounts per member requiring daily valuations. Collective investment schemes have also found it difficult to invest in less liquid stocks because daily dealing requirements mean they must be able to meet client withdrawals immediately. This liquidity requirement for funds does not reflect the liquidity needs of many clients who have long term horizons and can absorb liquidity risk in order to earn a liquidity premium. This is a perverse outcome from a public policy perspective as both investors and the economy are left worse off. The loss of investor interest triggers a vicious cycle that exacerbates the problem. Shares struggle to obtain a market rating that reflects their underlying earnings potential. The result is a higher cost of equity for small and medium-sized companies and a weaker case for them to be listed in the first place. It implies a higher cost of capital which weakens their chances of success.[8]

The substantial increase in companies voluntarily delisting from the JSE is similar to recent developments on many of the world's stock markets, both in developed and emerging markets:

- The number of publicly listed companies in the USA decreased from 7 576 in 1997 to 4,645 companies in 2007 and 3,613 companies in 2018. During this period there was a decline in their number every year except for 2014 and 2018. Graph 2 clearly shows the consistent decline in listings on the US stock market since the late 1990s.

[6] *Allan Gray/Our take on the "shrinking" JSE. Nadia van der Merwe and Stephan Bernard 26 July 2021 at 2/6.*

[7] *Allan Gray/Our take on the "shrinking" JSE. Nadia van der Merwe and Stephan Bernard 26 July 2021 at 4/6.*

[8] *Intellidex: Listing and Developments – Policies to support the stock market listings od small- and medium-sized companies in South Africa, Research Report November 2021 at 9.*

Figure 2: JSE: US Stock Market Shrinks[9]

Source: World Bank © FT

- In the UK there have also been waves of public-to-private activity. Although not to the extent of activity in the US, in the late 1980s there was a substantial increase in delistings primarily because of leveraged buyouts, followed by a decline in activity during the 1990s. A surge in delistings occurred in the early 2000s and reached a peak in 2007 driven by the private equity market. The World Federation of Exchanges ("**WFE**") data shows that for the period 1997 to 2008 an average of 339 companies (over 12% of total listed companies) were delisted every year on the London Stock Exchange, compared to an average of 299 new listings every year. Subsequently, there has been a downward trend in delisting activity in the UK, which has also been accompanied by a reduced number of new listings. Between 2015 and 2020, London accounted for only 5% of IPOs globally. The number of listed companies in the UK has fallen by about 40% from the recent peak in 2008.[10]
- Delisting has also become more common in Continental Europe. Using WFE data, from 2000 to 2010 in Germany, approximately fifty companies each year left the Deutsche Börse, compared to an average each year of about 68 new listings during the period. Similarly, in Italy from 1997 to 2008, an average of 17 companies were delisted each year, compared to an average of 23 IPOs.
- The trend is similar in some emerging markets besides South Africa. Using WFE data, the market capitalisation of delisted companies exceeded the market capitalisation of new listings on Brazil's BM & FBOVESPA by a substantial amount.

Green shoots are emerging, however South Africa's economic recovery remains fragile and it will take a collective effort from all role players to push for real and sustainable reform and growth. It is with this approach in mind, that the JSE wishes to play its part through the issue of this consultation paper.

[9] *https://www.ft.com/content/0c9c0b64-9760-11e9-9573-ee5cbb98ed36.*

[10] *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966133/UK_Listing_Review_3_March.pdf*

Why must the JSE act?

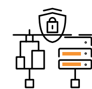
The JSE, through this consultation paper, aims to propose various initiatives to remain relevant and competitive in the ever-changing landscape of the financial markets. The JSE wishes to actively engage with market participants on proposals, read with its current work in progress, on how it can better address market needs and expectations. The bourse wishes to attract views, opinions and comments from those who are active and understand financial markets. Through this inclusive and transparent approach, the JSE wants to advance the relevance and attractiveness of South African financial markets.

When considering our requests for guidance and proposals, there may be cases in which the JSE may be able to take immediate steps while others may need to be placed on a more longer-term trajectory. As such, there will be a mix of both immediate and long-term objectives, none of which are less important, however some may require further co-creation with market participants through research and broader market engagement. To this end, the task of enhancing South Africa's competitiveness and strengthening its financial markets is seen by the JSE as a continuing journey.

This approach followed by the JSE to actively engage with market participants and stakeholders on its listings framework is not unique. The United Kingdom (the "UK") and the European Union (the "EU") both issued extensive market consultation documents during 2021 to attract listings to their respective jurisdictions in order to enhance their competitiveness.

The notable consultation documents prepared by the UK and the EU, and the basis for their preparation are briefly summarised below:

- Lord Hill, the UK's former European Commissioner for Financial Services, made a series of recommendations for reforms to the UK listing rules in the UK Listing Review dated 3 March 2021. The recommendations aim to improve the global competitiveness of the UK and encourage investment in UK businesses.



The UK Listings Review chaired by Lord Hill (the "UK Listings Review Report")

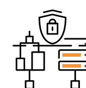
Although listing on the premium listing segment of the FCA's Official List has historically been globally recognised as a mark of quality for companies, the figures paint a stark picture: between 2015 and 2020, London accounted for only 5% of IPOs globally. The number of listed companies in the UK has fallen by about 40% from a recent peak in 2008. Commentary about increased flows of business to Amsterdam make the point that we face stiff competition as a financial centre not just from the US and Asia, but from elsewhere in Europe.

A vital part of the whole financial ecosystem is the process by which companies raise capital on the markets, including by going public. We need to encourage more of the growth companies of the future to list here in the UK. You asked us to review the listing rules which govern admission to the premium and standard listing segments of the Official List, together with the prospectus regime. Although there are many issues that we could have considered as part of strengthening the UK's capital markets, the focus of this report is therefore very much on the listing regime and how it could be reformed.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966133/UK_Listing_Review_3_March.pdf

[11] *Why do stock exchanges go private? The Case of the Johannesburg Stock Exchange (Working Paper) Andile M. Nikani & Mike Holland at 19.*

- The European Commission launched a public consultation paper on 19 November 2021 aiming to make listing of both equity and non-equity securities on EU public markets more attractive for companies, particularly small and medium-sized enterprises. This would make it easier for EU issuers to finance their activity and to grow, innovate and create jobs, while preserving a high level of investor protection and market integrity.



Targeted consultation on the listing act, making capital markets more attractive for EU companies and facilitating access to capital for SMEs (the "EU Report")

EU capital markets remain underdeveloped in size, notably in comparison to capital markets in other major jurisdictions. In particular, EU companies make less use of capital markets for debt and equity financing than their peers in other major jurisdictions around the world, with a negative impact on economic growth and macroeconomic resilience.

In line with the better regulation principles, the Commission is launching this targeted consultation to gather evidence in the form of stakeholders' views on the need to make listing on EU public markets more attractive for companies and on ways of doing so. The Commission is also seeking views regarding specific ways of listing, including via Special Purpose Acquisition Companies (SPACs). A special focus is dedicated to SMEs and issuers listed on SME growth markets.

https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/2021-listing-act-targeted-consultation-document_en.pdf

PART 4

Work in Progress

The JSE continues to monitor developments in financial markets across the world to ensure that it remains competitive and aligned with global market developments. Below we present our current work in progress items:

1. Auditor Accreditation

Section 22 of the Listings Requirements introduced by the JSE in 2009, deals with the accreditation mechanism for audit firms, individual auditors, reporting accountants, reporting accountant specialists and IFRS Advisers (the **"Auditor Accreditation Model"**). The Auditor Accreditation Model was initially introduced by the JSE to ensure appropriate checks and balances with respect to the financial reporting obligations of issuers, hence assisting the JSE in effectively fulfilling its regulatory duties and responsibilities in respect of its regulation of issuers listed on the JSE. During 2017 significant amendments were made to the Auditor Accreditation Model with an introduction of additional responsibilities for audit committees of listed issuers.

It is important for the JSE to reflect upon its requirements as a licensed exchange with a view of ensuring that the requirements are fit for purpose to achieve a level of effective and appropriate regulation.

The majority of the accredited audit firms responsible for the audit of listed issuers are firms within South Africa. In South Africa, the regulatory body for auditors is the Independent Regulatory Board for Auditors.[12] Registered auditors in South Africa are subject to the provisions of the Auditing Profession Act No. 26 of 2005 and the IRBA Code of Professional Conduct for Registered Auditors. The IRBA's role is to protect the financial interests of the investment public through effective regulation of assurance activities conducted by registered assurance providers in accordance with International Auditing Standards and applicable legislation. The regulatory body's mandate includes competence requirements to qualify as an auditor, the auditing framework to be used by auditors, inspection of auditors' work to ensure compliance with the relevant auditing frameworks and discipline of auditors who are not compliant with laws and regulations.

During the period since the introduction of the Auditor Accreditation Model, significant changes and improvements have occurred within areas of governance, auditing standards, the Companies Act, regulatory oversight by audit regulators, improvements in audit quality and the Listings Requirements which play a significant role in enhancing the credibility of financial reporting. A non-exhaustive list of certain key contributors to credible financial reporting include the following:

- Introduction of quality management standard, International Standard on Quality Control 1 in 2009 by the International Auditing and Assurance Standards Board and adoption of the same in South Africa by the IRBA;
- Revision of the quality management standard through the introduction of International Standard on Quality Management 1,2 and International Standard on Auditing (ISA 220 Revised) effective 2022;
- Significant improvements made to areas affecting financial reporting and assurance in the Companies Act and Companies Regulations in 2011 through the adoption of the Companies Act;
- Various improvements and initiatives undertaken by audit regulators to improve audit quality, transparency, revise ethical and training requirements and codes applicable to registered auditors. The JSE participates in the IRBA processes through a membership position on the Committee for Auditing Standards and Inspections Committee of the IRBA;

[12] *IRBA is the Independent Regulatory Board for Auditors, the statutory body controlling part of the accountancy profession involved with public accountancy in South Africa. Their strategic focus is to protect the financial interests of the public by ensuring that only suitably qualified individuals are admitted to the auditing profession and that registered auditors deliver services of the highest quality and adhere to the highest ethics standards.*

- Introduction of the proactive monitoring of financial statements by the JSE in 2010 with various improvements to this process since introduction;
- Introduction of additional specific responsibilities, over and above those contained within the Companies Act for audit committees through the amendment of the Listings Requirements in 2017; and
- Introduction and monitoring of a specific management responsibility for the internal financial control environment and related accountability for the preparation of financial statements through a CEO and FD sign off effective in 2020.

(the **"Financial Reporting Improvements"**)

The Auditor Accreditation Model is a gatekeeping function which does not address key objectives relevant to audit quality or the promotion and enhancement of the credibility of financial reporting. Considering the Financial Reporting Improvements, a multifaceted approach by various role players within the capital markets environment is required to ensure that investor and stakeholder needs for credible financial (and to an extent non-financial) reporting are appropriately advanced. There is no doubt that user needs are constantly evolving so continuous effort and improvement to financial reporting is required.

Accordingly, the JSE proposes to remove the Auditor Accreditation Model, which includes the accreditation of audit firms, IFRS advisers and reporting accountant specialists, based on the Financial Reporting Improvements. However, in doing so the JSE will need to consider refining the responsibilities on the audit committees of issuers in order for the committee to take a more holistic view of the auditor and to ensure the flow of information between the JSE and auditors is maintained. The intention is not to pass the weight of the current Auditor Accreditation Model onto audit committees.

The JSE has engaged with IRBA on auditor accreditation and will continue to do so as part of the public consultation process.

Request for Guidance 1: Auditor Accreditation Model

Considering the Financial Reporting Improvements and the JSE's involvement in various initiatives that enhance financial reporting, is there support for removal for the removal of the Auditor Accreditation Model?

If supported, are there any suggestions on measures that can be placed on issuers and the audit committee to promote a higher confidence in the financial reporting process?"

2. REIT expansion

A Real Estate Investment Trust is a company that derives income from the ownership, trading, and development of income-producing real estate assets. In South Africa, a REIT receives special tax considerations and offers investors exposure to real estate through shares listed on the JSE. Internationally, the breadth of specialised REITs is much wider than the JSE, including casinos, farmland, billboards, prisons, and gaming/entertainment. These examples are a potential catalyst for diversification in the local markets.

REITs typically invest in a variety of real estate property types, including offices, residential buildings, retail centres, industrial facilities, storage facilities and hotels. Some REITs focus on a particular property type, others hold multiple types of properties in their portfolios. Owning shares in a REIT allows investors to earn part of the income produced through the underlying "bricks and mortar" without directly owning and managing the property.

The REIT requirements on the JSE have remained largely unchanged since inception in May 2013. REITs have been attractive investments due to (i) the required distribution of at least 75% of the REIT's taxable earnings to investors as dividends, subject to the solvency and liquidity test and section 46 of the Companies Act No 71 of 2008 (the **"Companies Act"**) and (ii) the special tax consideration as tax is payable in the hands of the investor.

Currently, only property entities are eligible to list as REITs pursuant to the provisions of the Listings Requirements, meaning entities that hold immovable property which generates income from leasing the property to tenants.

The JSE is aware that other markets like the New York Stock Exchange (“**NYSE**”), Nasdaq Stock Market (“**Nasdaq**”) and the London Stock Exchange (“**LSE**”) have developed their REIT property sectors to expand beyond property to include infrastructure as a REIT asset class.

Typically, infrastructure REITs do not include buildings or land which would meet the definition of immovable property, however, they still comprise physical assets that generate income from leasing the asset to tenants.

The most common infrastructure owned by REITs includes telecommunications assets such as cell towers, fibre optic cables, and small cells (low-powered cellular radio access nodes). REITs can also own various types of midstream energy assets, including oil and gas pipelines and processing facilities. Infrastructure REITs generate income by leasing capacity from their infrastructure to tenants, typically under long-term contracts. The long-term contracts supply the REITs with steady cash flows to support dividends.

The JSE is currently undertaking active research on infrastructure REITs in order to expand its existing and established REIT offering. This project recognises the opportunities in the REIT environment beyond the current limited application to property entities. The inclusion of infrastructure REITs and other sectors will require amendments to the Listings Requirements and will be subject to the various public consultation processes and engagements with National Treasury, the South African Revenue Service and the FSCA.

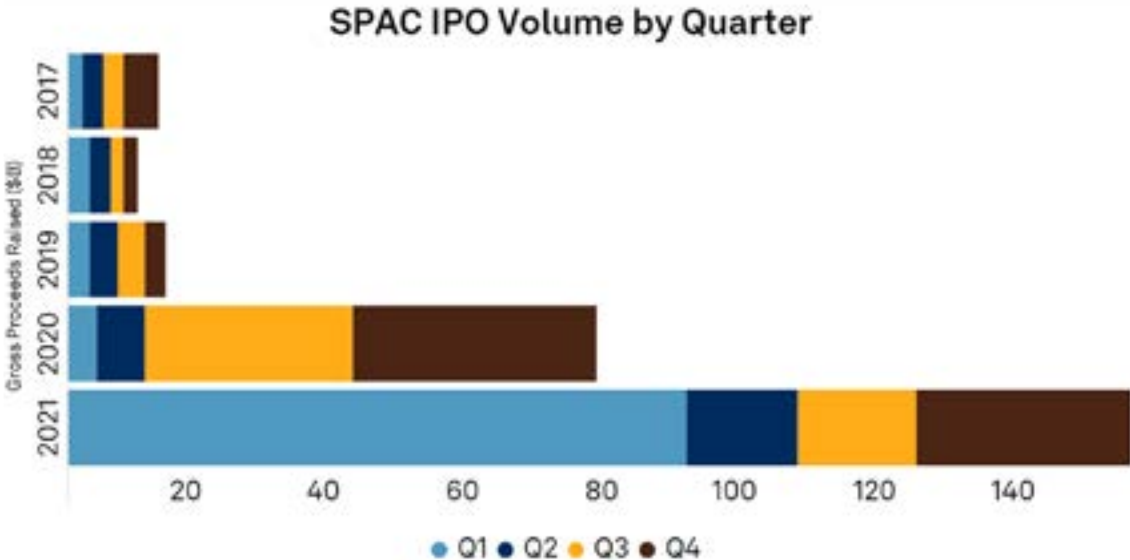
3. Special Purpose Acquisition Companies

SPACs were introduced by the JSE back in 2013. A SPAC is a special purpose acquisition company, established for the purpose of facilitating the primary capital raising process to enable the acquisition of viable assets in pursuit of a listing on the Main Board or the Alternative Exchange (“**AltX**”).

The listing of SPACs is currently permitted in several international stock exchanges, including, but not limited to the NYSE, Nasdaq, the LSE, the Toronto Stock Exchange (“**TSX**”) and Bursa Malaysia.

During 2020 and 2021 the pandemic raised volatility levels, making traditional listings riskier. This resulted in a SPAC boom, especially in the US. SPACs continue to be attractive investment vehicles as can be seen from the figure below.

Figure 3: SPAC IPO volume by quarter (2017 -2021)[13]



Source: S&P Global Capital (2022)

[13] *https://www.spglobal.com/marketintelligence/en/news-insights/blog/spac-and-equity-issuance-finish-2021-with-strong-momentum*
[14] *https://www.spglobal.com/marketintelligence/en/news-insights/blog/spac-and-equity-issuance-finish-2021-with-strong-momentum*

In the US in Q4 2021, SPACs raised a total of UD$31 billion in capital from IPOs across 120 transactions. The volume of proceeds raised from SPACs in 2021 increased 99% from 2020, and total transactions jumped 69% year over year.[14]

Although the JSE believes that its SPAC offering is accessible and flexible, there may be a need to tweak some areas to be more in line with the international markets where SPACs are flourishing. The JSE is also directly involved in the SPAC Network of the International Organisation of Securities Commissions, which has regular meetings on different SPAC regimes and developments.

Key considerations that have come to the fore that are not currently contained in the Listings Requirements are redemption rights for shareholders on the acquisition of viable assets, an extended acquisition period for viable assets, shares/incentives at no-consideration for founder shareholders/ management and conflicts of interest disclosure, to name a few.

The JSE is undertaking active research to ensure that its SPAC offering remains current and relevant and aligns with leading international markets.

The SPAC expansion will require amendments to the Listings Requirements and will be subject to the various public consultation processes and engagement with our fellow regulators and stakeholders, as well as approval from the FSCA.

4. Financial reporting disclosures

The JSE is undertaking a project to simplify the financial reporting disclosure provisions contained mainly in Section 3 (Continuing Obligations) of the Listings Requirements. These provisions are rather prescriptive and are expanded across various sections, appendices and practice notes in the Listings Requirements.

The project is aimed to address two specific focus areas:

- Removal of the concept of Abridged Reports

  The main objective is to remove the concept of abridged reports (including preliminary and provisional reports) from the Listings Requirements. As such, the obligation to prepare a separate and additional set of abridged results will no longer be required. Whilst the annual financial statements will be immediately accessible, it is recognised that the information is voluminous. In order to ensure the efficient and timeous dissemination of annual financial statements in our market, items (b) has been added in support of the approach.

  In summary, the proposed approach will comprise the following:

  (a) Removing abridged reports where the full annual financial statements are available. The full annual financial statements will be published on the JSE SENS cloud; and

  (b) A new (expanded) short form results announcement will be prepared.

- Simplification:
  - Simplifying the whole look and feel of financial reporting disclosures, where the regulatory obligations and required disclosures are now clearly identifiable.
  - Removing appendices and practice notes in other sections that merely repeat what is already addressed in the Listings Requirements, effectively reducing the allocation pages on financial reporting disclosures; and
  - Removing administrative items that serve no regulatory purpose (e.g., releasing certain information on SENS and then submitting the same announcement separately to the JSE and repeating the information in the annual financial statements).

5. Actively managed certificates

The JSE has taken active steps to expand on its specialist securities offerings pursuant to Section 19 of the Listings Requirements.

During October 2021, the JSE commenced with public consultation to amend the Listings Requirements to include specific provisions dealing with the listing of actively managed certificates. An actively managed certificate is a non-interest paying debt instrument that pays the investor the performance of a basket of securities that is actively managed by a portfolio manager according to a specific investment mandate.

There has been a significant trend internationally to list actively managed certificates and locally there has been an increasing demand to list this type of product on the JSE.

6. Actively managed exchange traded funds

During April 2022, the JSE commenced with public consultation to amend the Listings Requirements to include specific provisions dealing with the listing of actively managed exchange traded funds.

Actively managed exchange traded funds are funds where managers use an active strategy to produce a return for the investor instead of passively tracking an index or other type of asset.

There has also been a significant trend internationally to list actively managed exchange traded funds and locally there is an increasing demand to list this type of fund on the JSE. Globally the market for actively managed exchange traded funds is greater than US$300bn in assets under management. The first actively managed exchange traded fund listed in the US market in 2008 and to date there are more than 1,000 actively managed products listed across the globe.

As with actively managed certificates, there has been a significant trend internationally to list actively managed exchange traded funds and locally there is an increasing demand to list this type of product on the JSE.

7. Section 19 – (Specialist Securities) – Rejuvenation Project

The JSE is also currently reviewing the appropriateness and composition of the current Section 19 – Specialist Securities. In an ever-evolving market and considering the specialist nature of these instruments, the provisions of Section 19 have remained largely unchanged for the last five years.

The main focus areas for the Rejuvenation Project are as follows:

- Making the section easier to apply, in that similar products will have to apply the same framework;
- Removing ambiguities;
- Removing provisions that are administrative in nature;
- Restructuring the section to make it easier to add new types of products in the future; and
- Aligning the provisions with international best practice within the local regulatory framework.

The restructuring of Section 19 of the Listings Requirements will require amendments to the Listings Requirements and will be subject to the various public consultation processes pursuant to the provisions of the Listings Requirements and FMA, as well as approval from the FSCA.

8. Repositioning of BEE Segment

A company seeking a listing of BEE securities on the BEE Segment of the JSE can do so by meeting the listings entry criteria under various sections in the Listings Requirements, the most common being that of listing as an asset backed security. The requirements pertaining to assets backed securities were not drafted or designed specifically for BEE securities and this often causes tension during the application process.

After discussions with certain market participants, the JSE is undertaking a project to simplify the BEE listings and house all the requirements relating to BEE listings in one bespoke section in the Listings Requirements, where the application process and the Listings Requirements for the listing route elected will be easily determinable. Furthermore, the JSE is also considering amending the Listings Requirements to allow the listing of BEE operational companies on a stand-alone basis in the normal course, where trading will only be allowed between eligible BEE participants.

The aim is to simplify and expand the JSE's current BEE offerings. This project will require amendments to the Listings Requirements and will be subject to the various public consultation processes pursuant to the provisions of the Listings Requirements and FMA, as well as approval from the FSCA.

9. Secondary Listings Framework Review

A company seeking a listing on the JSE may do so via a primary or secondary listing.

- A primary listing means that the JSE is the primary regulator and the listed company is subject to the Listings Requirements in all respects; and
- A secondary listing means that a listed company will only be required to comply with the Listings Requirements of the exchange where it has its primary listing, unless otherwise specifically stated in the Listings Requirements e.g., a company that is primary listed on the LSE with the LSE being the primary regulator that then seeks a further secondary listing on the JSE.

Secondary listings facilitate liquidity and investment on both sides of the border. Specifically in South Africa, secondary listings provide a rand hedge within the prudential limits for local investors, given secondary listings are seen as domestic under prudential limits. An applicant issuer seeking a secondary listing on the JSE has to meet the JSE listings entry criteria and prepare a pre-listing statement, which is subject to the normal review timelines and process as with a primary listing.

In 2018, the JSE introduced an approved list of foreign exchanges to afford foreign companies more clarity on JSE eligibility when seeking a secondary listing in the ordinary course. The basis for this list is that the JSE is comfortable and familiar with the regulatory frameworks of these stock exchanges and applicant issuers from these jurisdictions know from the outset that they are eligible to seek an application for secondary listing on the JSE.

The JSE currently affords secondary listing to companies with a primary listing on:

Approved Exchanges (secondary listing in the ordinary course)	
1	Australian Stock Exchange
2	London Stock Exchange
3	New York Stock Exchange
4	Toronto Stock Exchange
5	Singapore Stock Exchange
6	The Nasdaq Stock Market
7	Euronext Amsterdam
8	Euronext Brussels
9	Frankfurt Stock Exchange
10	Luxembourg Stock Exchange
11	SIX Swiss Exchange
12	Singapore Stock Exchange (New)

In 2014, the JSE introduced the fast-track secondary listing route, whereby companies with a primary listing on a foreign accredited exchange do not require the preparation of a pre-listing statement to list on the JSE's Main Board or AltX, provided the company has been listed on the accredited exchange for at least 18 months. The company can then list on the JSE merely through the publication of a pre-listing announcement. The foundation of the fast-track secondary listing route is based on the premise that information on these companies is well disseminated in their markets, and as such affords an easy and seamless process to a secondary listing on the JSE.

Some of the benefits of a fast-track listing include:

- Expedited approval of listing between three to six weeks;
- Fewer costs and resources are required on the basis that no pre-listing statement is required compared to a pre-listing announcement; and
- Minimal once-off fees and discounted annual listing cost.

The JSE currently affords fast-track secondary listings to companies with a primary listing on:

Accredited Exchanges (fast-track secondary listing)	
1	Australian Stock Exchange
2	London Stock Exchange
3	New York Stock Exchange
4	Toronto Stock Exchange
5	Singapore Stock Exchange

The JSE has the authority to expand this list.

On 25 November 2021 the JSE announced the expansion of its secondary listings framework, to include companies with a primary listing on the SGX to seek a secondary listing on the JSE, additionally qualifying for the fast-track listing secondary route. This resulted in the expansion of the approved list of exchanges to twelve and the accredited list of exchanges to five.

The JSE is now undertaking a further project to expand on its list of approved and accredited exchanges:

- The first part of the project is to undertake an exercise to "upgrade" all the approved exchanges to accredited exchanges which will then allow fast-track secondary listings from all twelve approved exchanges, and not only five accredited exchanges which is currently the case; and
- The second part of the project is to add further approved exchanges to the current list of twelve exchanges.

This project will significantly enhance the JSE's attractiveness as a secondary listings jurisdiction.

The Listings Requirements afford the JSE the discretion to expand on its list of accredited and approved exchanges for secondary listing purposes, and as such, no amendments to the Listings Requirements are needed.

10. Delisting Process – Secondary Listings

It has been argued that the delisting process for secondary listed companies makes the JSE's secondary listing offering unattractive. The reason is that obtaining a secondary listing on the JSE is very flexible and efficient, however should the company's secondary listing on the JSE not achieve the desired objectives of liquidity and capital raising, it is then difficult for the company to delist from the JSE. This concern has been raised by several sponsors and secondary listed issuers/applicants.

Currently, the same delisting process is applied to both primary and secondary listings on the JSE, which does not seem to align with the status of secondary listing on the bourse. Secondary listing status means that once the company is listed, it will only be required to comply with the Listings Requirements of the exchange where it has its primary listing, save as otherwise specifically stated in the Listings Requirements. The Listings Requirements do not expressly address the delisting process for secondary listed companies, therefore the application of the primary delisting process to secondary listed companies is in compliance with the provisions of the FMA.

The concerns raised are important, because if the JSE is trying to attract more secondary listings as proposed above but does not address concerns raised in relation to them, the attractiveness as a secondary listings destination may be diminished or even lost. The JSE is therefore undertaking research to address these concerns in order to ensure that its secondary listings regime is internationally competitive. Once it has established a firm position on the matter and amendments to the Listings Requirements are required, such amendments will be subject to the various public consultation processes, as well as approval from the FSCA.

Request for Guidance 2: International Exchanges

Given the present list of twelve recognised foreign exchanges above, are there any recommendations as to which other international exchanges the JSE should target in order to make its secondary listings offering more appealing and accessible?

Considering the concerns raised on the attractiveness of the JSE's secondary listings offering, is there support to reconsider the delisting regime for secondary listed companies?

11. Sustainability Disclosure Guidance and Climate Change Disclosure Guidance

Investors are increasingly seeking funds that consider environmental, social and governance (ESG) factors.

The awareness of sustainability issues has grown rapidly in the global landscape given climate change and the sustainable development goals. In light of the continuously evolving space in global sustainability standards and initiatives, as well as the significant recent increase in investor interest in sustainability and climate-related issues, the JSE is in the process of developing Sustainability Disclosure Guidance, along with Climate Change Disclosure Guidance specifically tailored to the South African market.

The JSE notes the challenges faced by companies as they attempt to evolve their business practices in more sustainable ways, and this guidance is intended to assist companies navigate the areas of sustainability and disclosure more confidently and meaningfully. This Sustainability Disclosure Guidance is intended to serve as an umbrella for topic-related guidance as needed, with the first such guidance on Climate Change Disclosure released at the same time.

The JSE is committed to providing guidance on topics that are essential to the proper functioning of capital markets. Climate change is a mega-trend impacting all sectors of the economy. Therefore, the JSE aims to guide its companies and investors on understanding the climate crisis and how disclosure can be used not only to anticipate risk, but also to identify opportunities.

The JSE Sustainability Disclosure Guidance is aligned with and draws on the most influential global initiatives on sustainability and climate change disclosure – including the GRI Sustainability Reporting Standards, the Taskforce on Climate-related Financial Disclosures (TCFD) recommendations, and the IIRC's International <IR> Framework – as well as an extensive range of other frameworks and standards, and the sustainability/ESG guidance of various peer exchanges. This JSE Sustainability Disclosure Guidance is not intended to replace any of these global metrics, but rather seeks to help companies navigate the landscape of reporting standards without being onerous, and to provide guidance explicitly for the South African context. In addition to these JSE initiatives, the National Government has projects in development:

- The 2022 Budget Speech recognised that the structure of the economy will need to change to adapt to the needs of addressing climate change. As indicated in the speech, The Climate Risk Forum, chaired by the National Treasury, will develop an approach to meeting the net-zero emissions target on a voluntary basis. In 2022, this forum will publish its green taxonomy and principles for effective climate-related disclosures; and
- The Prudential Authority and the FSCA, under the Intergovernmental Sustainable Finance Working Group, will publish guidance on a green taxonomy and disclosure framework in 2022, to inform the development of future regulatory instruments.

The JSE is very much involved in some of these initiatives and is monitoring developments at the International Sustainability Standards Board (ISSB) in the development of sustainability standards. The JSE will consider the appropriateness of ESG disclosures including climate disclosures in its Listings Requirements once clear regulatory direction has been given at a national level and a global standard, such as ISSB standards, are in place.

The Sustainability Disclosure Guidance, along with Climate Change Disclosure Guidance has recently been the subject of public consultation, and the JSE encourages active participation and engagement to set the sustainability and climate disclosure principles for the benefit of shareholders, investors and all stakeholders.

12. JSE Debt Listings Requirements and Sustainability

The amended JSE Debt Listings Requirements introduce a new segment, known as the Transition Segment and expansion of the current Sustainability Segment. These amendments have been approved by the FSCA and became effective from 11 April 2022.

The Transition Segment is a platform on which Transition Debt Securities may be listed and where issuers can raise funds for climate or just transition-related purposes. Transition finance is expected to play a significant role in enabling a just transition and is of particular relevance to a carbon-intensive economy such as South Africa. This initiative will help the country achieve its national commitment to the Paris Agreement, and the associated goal of being net zero by 2050 within the context of our nationally determined contributions.

The Transition Debt Securities take the form of either Sustainability Use of Proceeds Debt Securities or Sustainability-Linked Debt Securities. Sustainability-linked securities do not require a ring-fencing of the use of proceeds, hence allowing the issuer flexibility on how it chooses to use the proceeds of a capital raise, as long as it meets the agreed goals and targets which it has set related to its sustainability objectives. These are forward-looking in nature and are also referred to as performance-linked securities. The issuer will need to report annually on its performance against its targets, and the cost of capital is linked to the achievement of these targets with a "step-up" or "step-down" element.

As a critical enabler of the South African economy, the JSE aims to support and facilitate a just transition which will be critical to ensure that our economy and our markets are resilient and globally competitive. The Transition Bond segment is an essential platform to access finance as companies with credible transition plans journey to becoming low carbon companies.

The Sustainability Segment comprises Sustainability Use of Proceeds Debt Securities and Sustainability-Linked Debt Securities.

In June 2020 the JSE expanded the Green Bond Segment into a fully-fledged Sustainability Segment where companies could for the first time list social, green, and sustainability bonds on one platform while allowing investors to trade in these securities.

PART 5

JSE Proposals

As mentioned above, it is vital for the JSE to take all necessary measures to encourage inbound investment and increase confidence for local and international investors. In order to achieve this, the JSE needs to consider the best initiatives from other leading markets and/or competitors and combine them with its own initiatives.

Capital market reform is a long and winding road, which can only be sustainably navigated with constant self-assessment and improvement.

The JSE welcomes any thoughts on the proposals outlined below that may be relevant and/or in support of these proposals, and input need not be limited to the specific questions posed by the JSE under "Proposal for Consideration".

1. Market Segmentation

The JSE has two markets, namely the Main Board and AltX.

Well-established companies who want to raise equity to grow their business exponentially list on the Main Board of the JSE, which is subject to the highest level of regulation for listed companies pursuant to the provisions of the Listings Requirements.

The Alternative Exchange (**"AltX"**) is focused on small- and medium-sized companies. The AltX provides smaller companies with a springboard onto the Main Board with a clear growth path and access to capital. The AltX was envisaged as helping smaller companies in the growth phase to improve liquidity and to gain access to capital markets. The AltX mirrors the model applied by the Alternative Investment Market (AIM) of the LSE. In similar fashion, the AltX provisions in the Listings Requirements affords more flexibility for issuers although only in certain respects compared to the Main Board.

London's AIM has performed exceptionally well over the years, given the strong presence of both institutional and retail investors in that market. In contrast, the number of listed companies on the AltX has dwindled since its inception back in 2007. Many of the AltX top performers have since migrated to the Main Board, which aligns with the founding strategy of the AltX. However, many have since delisted or have been taken over due to the lack of liquidity and investor interest, and as a result of institutional investment mandates not permitting investment into AltX listed companies. It must further be recognised that South Africa's retail investors are not as strong or active as investors in other markets.

Also, recognising the recent spate in delistings (whatever the reasons may be) and steady decline of the total number of listed companies on the JSE, it is time to be bold and recognise that reform is required for both the Main Board and AltX - more so, when considering the role that SMEs play in the national economy.

When undertaking a review of other markets, it becomes apparent that there are three distinct segments:

1 **High cap premium segment with high-level regulation**

2 **Mid/Low cap segment with standard regulation**

3 **Growth segment with light regulation, in order to promote growth**

Below we present a brief snapshot of international markets and their market segmentation.

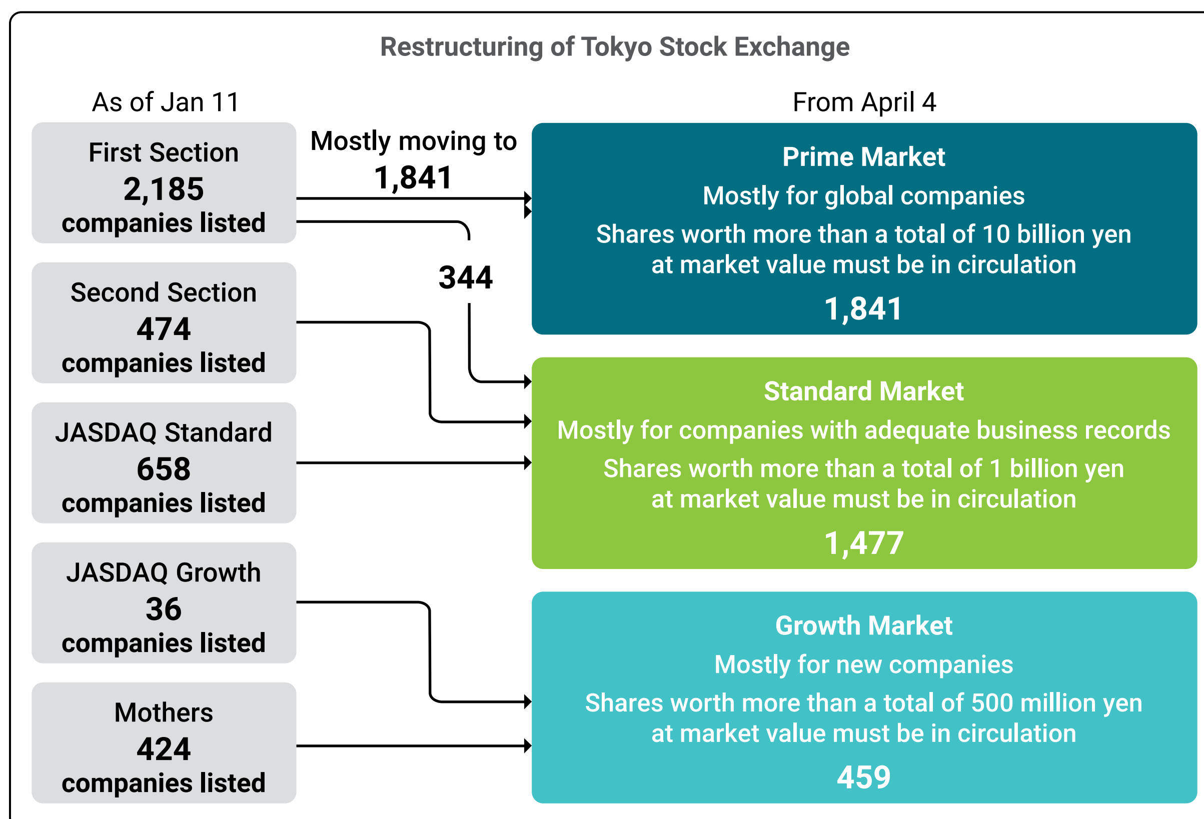
- **Tokyo Stock Exchange**

  The Tokyo Stock Exchange ("TSE") announced on 11 January 2022 that it had launched the new "prime" section of the market with 1,841 companies, or 84% of the current top market section, in its biggest revamp in half a century. The move is aimed at promoting more competition between listed companies and making the nation's capital market more dynamic and attractive to global investors.[15]

  The TSE had five boards: the First Section, Second Section, JASDAQ Standard, JASDAQ Growth and Mothers. These boards have been reorganised into three market sections effective 4 April 2022.

- The "Prime Market" is for companies with a high market cap (JPY 10 billion), high free float (at least 35% of shares) and high-quality corporate governance. These companies will also be required to issue disclosures aligned with the TCFD[16] recommendations and be subject to Japan's revised corporate governance code;
- The "Standard Market" is for companies with a standard market cap (JPY 2 billion), standard free float, and standard corporate governance; and
- The "Growth Market" is for companies with higher growth potential but higher risks.[17]

Figure 4: Tokyo's Market Restructure[18]



Source: The Asahi Shimbun (2022).

- **London Stock Exchange**

  The LSE also has three different segments on its Main Market: the Premium, Standard and High Growth Segments, each tailored to different capital raising requirements.

  AIM is a platform for small and medium sized growth companies in need of access to capital to realise their growth and innovation potential.

[15] *Tokyo Stock Exchange to start 'prime' section with 1,841 firms – Nikkei Asia.*

[16] *Task Force on Climate-related Financial Disclosures.*

[17] *https://www.regulationasia.com/tse-publishes-market-segment-selections-by-listed-companies/.*

[18] *Accessed at https://www.asahi.com/ajw/articles/14520215*

Companies looking at listing on the LSE have a wider choice of listing categories to consider as the Official List has two tiers:

- A Premium Listing, retaining the standards currently applicable to all existing primary listings by UK companies on the official list; and
- A Standard Listing, with less onerous standards.

The standards applicable to a Premium Listing are more stringent than the minimum EU standards for admission to a regulated stock market, including the class tests that have required companies to seek shareholder approval for certain major transactions. In contrast, the Standard Listing segment, which replaces the secondary listing that was previously only available to overseas companies, will require only the minimum EU standards to be met, which is primarily disclosure based.

The High Growth Segment can be seen as a transitional route to the Official List for fast growing companies which are too big for London's AIM, but which may at present find it difficult to comply with the listing criteria for the Official List.

Companies listed on the High Growth Segment will not be admitted to the Official List and are not subject to the listing rules as there is a specific rule book for the High Growth Segment.

Figure 5: Summary of LSE main market listing routes[19]

Routes to London Stock Exchange's Main Market	
Premium	• For equities of trading companies and closed open-ended investment entities • EU Regulated Market and part of the Official List • Highest standards of regulation and corporate governance through EU directives and super-equivalent UK Listing Rules apply
Standard	• For equities, debt securities, GDRs and securities derivatives • EU Regulated Market and part of the Official List • Regulatory framework based on minimum EU standards
High Growth Segment	• New segment for equities, designed specifically for high growth, revenue generating EEA incorporated businesses • EU Regulated Market • Subject to minimum EU standards and London Stock Exchange's HGS rulebook

Source: LSE

- **Nasdaq European Markets**

The Nasdaq European Markets comprise Nasdaq Nordic (Sweden, Denmark, Finland and Iceland) and Nasdaq Baltic (Latvia, Estonia and Lithuania).

The Nasdaq European Markets also have three different segments, Nasdaq First North Growth Market, Nasdaq First North Premier Growth Market and Main Market.

Nasdaq First North Growth Market was developed by Nasdaq in 2006 as a marketplace for early-stage companies to grow both financially and organically. The First North Growth Market has more flexible listing requirements than the Main Market, thus enabling smaller companies to access the capital markets. The Nasdaq First North Premier Growth Market segment is designed to further assist companies in raising investor visibility and to prepare them for a Main Market listing. The Premier segment targets companies that make a conscious decision to comply with higher disclosure and accounting standards than imposed under the Nasdaq First North Growth Market rules. Some requirements on the Premier segment are aligned with the requirements of the Main Market and serve to prepare the company for the Main Market.[20]

[19] *https://www.lseg.com/markets-products-and-services/our-markets/london-stock-exchange/equities-markets/raising-equity-finance/high-growth-segment*

[20] *file:///C:/Users/AlwynF/Downloads/Nasdaq_First_North_%20GM_%20Introduction_2020_1.pdf.*

Figure 6: Summary of Nasdaq European Market[21]

Source: Nasdaq

Considering the international markets above, there is an opportunity to reconstitute the JSE's equity listing offering by expanding it beyond the traditional two segments of the Main Board and AltX. The Listings Requirements currently only offer high-end regulation and lower-end regulation frameworks being the Main Board and AltX.

Although this is an exploratory proposal that requires far more in-depth research and consultation, the JSE is considering whether it is time to reposition its equity offering into three segments, effectively representing the segments as outlined above:

1. **High cap premium segment with high-level regulation**
2. **Mid/Low cap segment with standard regulation**
3. **Growth segment with light regulation, in order to promote growth**

Blueprint Model

Conceptually it would mean that the Main Board is divided into two segments, being a high-cap and mid/low-cap segment. These segments then need to provide for a level of regulation appropriate for the market cap and liquidity of those issuers. The higher the market cap/liquidity the higher the level of regulation and vice versa. This proposition may afford a substantial number of mid/low-cap companies with much needed flexibility to focus more on business operations and growth, based on the standard regulation model. The key consideration would not be to diminish the status of the existing listed Main Board companies in any way. As can be seen from the LSE segments, both the Premium Segment and Standard Segment form part of the Official List. Access by institutional investors to current Main Board companies remains vital and must be preserved. It is merely the level of regulation for the two Main Board segments that will bring a level of appropriate regulation to mid/low cap issuers.

[21] *file:///C:/Users/AlwynF/Downloads/Nasdaq_First_North_%20GM_%20Introduction_2020_1.pdf.*

Missing Middle

Research shows that the listing structure of the JSE differs from most advanced exchanges in that approximately 40% of invested funds come from foreign investors. Typically such investors look to invest in larger companies that have a high profile and high liquidity. Some of the large companies have an international profile that makes it easy for overseas investors to invest in them. This is in contrast to the low free float often associated with small companies with decreased visibility to overseas based investors. The effect of this invisibility to foreign investors deprives small companies from greater liquidity; a situation that ultimately leads to a decision to delist.

Approximately 90% of monthly trades on the JSE are driven by institutional investors with a natural focus on large companies. The remaining 10% of monthly trades that come from retail investors is simply not enough to move the needle of small companies listed on the exchange. This lack of interest from institutional investors deprives small companies of enhanced liquidity, which ultimately leads to a decision to delist.[22] Inadequate coverage by equity analysts leads to mispricing, a higher cost of capital and an under-valuation of the company. Empirical research concludes that a significant reason for the decision to delist is the inability of companies, primarily recently listed companies, to attract a critical mass of analyst coverage and consequently investor interest.[23]

Finally, the majority of companies that delist have small to medium market capitalisation. A company with a market capitalisation of below R10 billion is considered medium and a company with a market capitalisation of below R3 billion is considered small. From the market commentators' viewpoint, it is mainly these small to medium companies that are most affected by visibility problems, which increases the likelihood of delisting.[24]

The proposal is to have the highest market-cap companies with high levels of liquidity subject to the current Listings Requirements (**"Main Board Plus"**) and then have bespoke Main Board Listings Requirements applicable to the mid and lower cap companies with lower liquidity (**"Main Board"**). The Main Board Plus and Main Board segments will then collectively constitute the Main Board on the JSE. The naming conventions of "Main Board Plus" and "Main Board" are purely illustrative.

The segregation of Main Board Plus listings and Main Board listings can simply be based on a market capitalisation and liquidity test over a period of time - say two years. If a company has consistently maintained a certain market capitalisation and liquidity for a period of two years, it will then either be classified as Main Board Plus or Main Board (the **"Main Board Segment Benchmark"**). Only if the market capitalisation and liquidity of a company has remained consistently above or below the Main Board Segment Benchmark for a period of two years, will the company be reclassified by the JSE to the appropriate segment of the Main Board. This reclassification of the Main Board will happen at a specified time every second year to afford companies and the market clarity on the level of regulation applying to Main Board listed companies. Also, once classified, the classification will remain valid for two years to afford companies certainty on the Main Board listings framework to be applied.

However, if an issuer is classified as Main Board based on the Main Board Segment Benchmark, an issuer should be able to elect to continue to comply with the regulation applied to Main Board Plus and continue its listing on the Main Board Plus segment.

This approach will afford new companies seeking a Main Board listing on the JSE with certainty on where they will be placed on the Main Board, as either Main Board Plus or Main Board, considering their anticipated market capitalisation and level of liquidity at the time. This may also create more listing opportunities for companies that

[22] *Why do stock exchanges go private? The Case of the Johannesburg Stock Exchange (Working Paper) Andile M. Nikani & Mike Holland at 37 and 38.*

[23] *Why do stock exchanges go private? The Case of the Johannesburg Stock Exchange (Working Paper) Andile M. Nikani & Mike Holland at 22.*

[24] *Why do stock exchanges go private? The Case of the Johannesburg Stock Exchange (Working Paper) Andile M. Nikani & Mike Holland at 37 and 38.*

have no intention of listing on the Main Board Plus segment but wish to have the benefits of a Main Board listing. Some companies may take time to achieve the market capitalisation for the Main Board Plus segment. In the meantime, such companies will be benefiting from a more flexible and appropriate level of regulation applicable to the Main Board, making a listing a far more attractive and sustainable proposition without diminishing the status of a Main Board listing.

Bespoke provisions for Main Board listings could include the following flexibilities:

- Broader ranges for category 1 and 2 transactions or purely disclosure at certain levels;
- Broader ranges for related party transactions or purely disclosure at certain levels;
- Broader ranges for issue for cash authorities or purely disclosure at certain levels;
- Adoption of the King IV Code on Corporate Governance, with less mandatory JSE corporate governance provisions;
- Reduced free float requirements; and
- Lesser continuing obligations, focusing on key items.

In conjunction with the new proposed segmentation of the Main Board, the AltX could also be repositioned as a truly growth board in line with the above markets. It seems that these markets place special emphasis on growth companies, in our case SMEs. Here the focus should purely be disclosure based, with an appropriate level of regulation aimed at growth.

These are progressive and conceptual considerations on the part of the JSE to allow for the appropriate level of regulation for different size companies and growth companies on the JSE. To the extent that there is support, this will involve extensive consultation with the investor fraternity, issuers, stakeholders and the FSCA.

Proposal for Consideration 1: Market Segmentation

Considering the recent spate of delistings, the steady decline in the number of listed companies over the last 15 years and calls for the JSE to cut red tape, is there appetite in the market to consider the above market segmentation to provide the necessary regulatory relief for mid/low cap and growth companies?

Are there any other thoughts you may wish to share with the JSE on how to better position the proposed market segmentation?

2. Dual Class Shares ("DCS")

Currently, the Listings Requirements expressly prohibit the listing of a company with low or high voting shares and the JSE will not allow an existing listed company to issue low or high voting shares. It is however recognised, that where a company is currently listed with low or high voting shares, the JSE will grant a listing of additional shares of that class. The Listings Requirements further stipulate that securities in each class for which listing is applied must rank pari passu in respect of all rights. Every holder of an ordinary share must have one vote in respect of each share.

Dual class shares allow a shareholder (or group of shareholders) to retain voting control over a company disproportionate to their economic interest in the company. A typical DCS structure involves a company having two classes of shares identical in all respects except for voting rights. One class of shares is a "low vote" share, carrying one vote per share (typically Class A Shares) and another class of shares is a "high vote" share, typically carrying 10 or 20 votes per share (typically Class B Shares).

[25] *C.C McKinnion "Dual-Class Capital Structures: A Legal, Theoretical & Empirical Buy-Side Analysis" Michigan Business & Entrepreneurial Review Volume 5 Issue 1 (2016) at 89.*

When shareholders invest in a dual-class company, "[they are] betting on someone whose judgment [they] trust for the long term" says Professor Eisenmann of Harvard Business School. At Google, Facebook, and Alibaba, for example, Larry Page and Sergey Brin, Mark Zuckerberg, and Jack Ma control the direction and strategy of their respective companies. Despite knowing these corporate insiders hold a disproportionate amount of control, investors purchase stock in dual-class companies, placing their faith and money in the hands of company founders, believing them to have superior decisions about the businesses they created.[25]

The Listings Requirements were amended in 1999 to prohibit the creation of any new high or low voting shares ("**N shares**"). However, as mentioned above, there is an exemption to allow companies that listed prior to 1999 which have maintained an N share structure to continue to be listed on the JSE. DCS structures are therefore not totally unfamiliar on the JSE, being employed as a means for founding families or management to maintain voting control. Lower or non-voting shares tend to trade at a discount to their higher-voting counterparts, which can be considered an advantage for initial investors who aren't interested in voting on corporate management decisions. In many cases, however, these structures concentrate the powers of running the company, such as the appointment of the board of directors in the hands of a few and shields management from shareholder oversight. This can lead to questionable corporate governance practices, making it important for shareholders to scrutinise these companies closely.

The use of DCS structures for public companies is varied across different countries:

- The NYSE, Nasdaq, TSX and Nasdaq OMX Stockholm permit listed companies to adopt DCS structures;
- Europe does not yet have a universal application for DCS structures. They are however allowed under company laws in Denmark, Finland, France, Italy, Ireland and Sweden but are not allowed in Germany, Portugal and Spain;
- The Australia Securities Exchange does not typically permit companies with DCS structures to list;
- In 2018 both the Hong Kong SAR ("HKEX") and SGX revised their listing rules within months of each other to permit the listing of companies with dual class or weighted voting right shares and in 2019 the Shanghai Exchange launched a new board that permitted DCS structures;
- The UK listing rules for the premium segment have for long supported the proportionality principle (i.e., voting power should be broadly proportionate to economic interest) and DCS structure companies could only list on the Standard Segment of the LSE. However, following the publication of the UK Listings Review Report and the EU Report, both the UK and EU have turned favourably to the listing of DCS structures.

Following a similar approach undertaken by the HXSE, the SGX has introduced a number of safeguards intended to mitigate the risk of DCS structures. These include:

- Requiring an enhanced voting process where all shares carry one vote each regardless of class for the appointment and removal of independent directors and/or auditors, variation of rights attached to any class of shares, a reverse takeover, winding-up or delisting.
- Requiring the majority of the audit committee, the nominating committee and the remuneration committee, and each of their respective chairmen, to be independent directors.
- Capping each multiple voting (MV) share at 10 votes a share and limiting the holders of MV shares to named individuals or permitted holder groups whose scope must be specified at the IPO.[26]
- Requiring sunset clauses where MV shares will auto-convert to ordinary voting shares under circumstances the company must stipulate at the time of the IPO.

The LSE announced the application of the DCS structure rules for the Premium Segment with effect from 3 December 2021,[27] to encourage innovative, often founder-led companies, onto public markets sooner. In line with the recommendations by Lord Hill, dual class shares will only be permitted where the weighted voting rights meet the following conditions:

- A maximum weighted voting ratio of 20:1;
- May only be held by directors of the company or beneficiaries of such director's estate; and
- Conversion to ordinary premium listed shares upon transfer to anyone other than a beneficiary of such director.

[26] *https://www.sgx.com/media-centre/20180626-sgx-launches-rules-listing-dual-class-shares-companies*

[27] *https://www.lsegissuerservices.com/spark/new-rules-for-the-lse-main-market.*

The new rules adopted by the HKEX, SGX and LSE attempt to reach a middle ground, permitting listing flexibility for high-growth companies while mitigating the governance risks associated with DCS structures.

It should be mentioned that this proposal will not impact historical N Share structures currently listed on the JSE – this proposal is indeed forward looking.

The **UK Listings Review Report** made the following recommendation regarding DCS structures:

> *"Dual class shares …provide a way for the founder of the company to continue to be able to execute their vision for how the company should evolve and grow while still allowing others to share in that growth – be it employees or new shareholders and the general public. Their vision and their ability to execute that vision is often part of the company's selling point. Investors will factor this into price, which will affect whether they do or don't want to buy the company's shares.*
>
> *When founders bring their companies to market, they often seem to be concerned mostly about their vision not being derailed by being removed as a director/CEO. However, perhaps the bigger risk to founders as they come to market is that their vision is not able to come to fruition because the company, once listed, can be subject to an opportunistic takeover bid at a conventional bid premium to the market price. We have seen a number of examples of this in recent years.*
>
> *Therefore, providing founders with a transition period during which they are able to ensure that control is retained – on the basis of their vision and control rights having been fully disclosed to prospective investors at the time of listing – would seem to be a sensible way forward. We recommend that the FCA creates new rules-based provisions within the Listing Rules for dual class share structures – in the same way as the measures put in place for sovereign-controlled companies a couple of years ago. These rules would provide a transition period, with conditions that apply during that time, for issuers that have dual class share structures to be eligible for a premium listing.*
>
> *These rules should include the following restrictions:*
>
> - *A maximum duration of five years;*
> - *A maximum weighted voting ratio of 20:1 – to ensure that holders of weighted voting rights need to have a minimum economic interest in the company;*
> - *Limitations on transfer - the shares must convert on transfer, subject to limited exceptions including for (a) transfers for estate planning purposes; (b) transfers for charitable purposes;*
> - *Limitations on who is able to hold the voting class shares – limiting it to individuals who are directors of the company, limiting the set of matters that could be subject to weighted voting for the duration of the DCSS, namely the holder of the Class B shares:*
>   - *Being able to ensure they remained as a director; and*
>   - *Being able to block a takeover.*
>
> *At the end of the transition period, companies would either become subject to all of the rules of the premium listing segment, or alternatively, could move segment and maintain or even expand the scope of their share structure, subject to a shareholder vote. This regime is designed to address the concerns of founder-led companies. The restrictions on its use are therefore intended to ensure the holder of the B class shares is engaged in the running of the company and maintains an economic interest in the company."*

The **EU Report** made the following recommendation regarding DCS structures:

> ***"Loss of control is widely cited by unlisted companies as the most important reason for staying private. Equity-raising very often generates a tension between existing owners, who rarely want to cede control of their business, and new investors who want to have control over their investment. This tension affects in particular family-owned companies but also the founders of tech, science and other high-growth companies who are often interested in preserving their ability to influence the strategic direction of the company after going public.***
>
> ***In order to encourage companies to list without owners having to relinquish control of their companies, multiple voting right shares have been used in a number of EU countries and have been highlighted as an efficient control-enhancing mechanism. It is however worth noting that currently only some Member States allow for multiple voting rights. Amongst Member States that do allow multiple voting right share structures there are divergences as to the maximum allowed voting rights ratio. Whilst multiple voting rights allow founders to keep control over their business, they may also make it easier for owners to extract private benefits to the detriment of investors, for instance by engaging in related-party transactions. The trade-off associated with multiple voting rights has led some countries to allow these types of shares provided that they include a sunset clause i.e. after a certain period, the shares with additional voting rights become regular shares. This safeguard aims at making sure that founders do not have indefinite control over their companies. Both the HLF as well as the TESG stated that multiple voting right shares are a key ingredient for improving the attractiveness and competitiveness of European public market ecosystems and that allowing them across the whole EU would/could facilitate the transition of companies from private to public markets."***

Proposal for Consideration 2: Dual Class Share Structures

There appears to be a general acceptance globally for the listing of DCS structures, provided there are suitable safeguards in place to promote corporate governance. In order for the JSE to remain competitive and relevant, the question is whether there is investment appetite for companies with DCS structures to list on the JSE, provided due safeguards to enhance governance are in place similar to those imposed by the SGX and LSE?

3. Free Float and New Listings

Free float refers to the portion of a company's issued share capital that is in the hands of public investors, as opposed to company officers, directors, or shareholders that hold controlling interests.

There has been a renewed focus on free float emanating from the UK Listings Review and the EU Report, where there is a focused drive to reduce free float requirements for new listings.

The **UK Listings Review Report** made interesting observations on free float:

> ***"Existing FCA rules on free float levels are seen as one of strongest deterrents to companies when they consider where to list, particularly for high growth and private equity backed companies. Making available a quarter of a company's equity can be a daunting prospect, particularly if the company is already of significant size, or if there aren't enough willing sellers.***
>
> ***Different listing venues around the world approach setting the level of shares in public hands – i.e. those that are freely tradeable – at and following IPOs in various ways. Other markets use a combination of metrics to ascertain how much stock a company needs to float. Very few use one single metric to do so and there is evidence that the existing metric in the Listing Rules of an absolute threshold set at 25% of a company's issued share capital does not act as a reliable measure for liquidity over time. Analysis conducted by the London Stock Exchange, included in Annex B, shows that in the US, where a significant number of companies have a lower free float than currently allowed under FCA rules, there is no significant drop in secondary market liquidity until below a 10% free float."***

See the comparison of requirements in other jurisdictions regarding free float in Annexure A.[28]

The proposed change published by the Financial Conduct Authority in the UK dated July 2021, stated the following:

"We propose to change the free float required under our premium and standard Listing Rules from 25% to 10% both at listing and as a continuing obligation. Data suggests that a significant number of main global IPOs take place at a free float of below 25% but very few at free float of below 10%. If we reduced our requirements to 10%, we would therefore allow most issuers flexibility to structure their IPOs in the way that suits them."

The LSE announced the application of the new rules with effect from 3 December 2021.[29]

Lower free float: The free float requirement has been lowered from 25% to 10%.

- ***This will allow issuers more flexibility in structuring their IPO and in particular benefit fast growing companies looking to raise a smaller amount initially avoiding significant dilution; and***
- ***When a free float drops below 10%, issuers will be asked by the FCA to present a plan for returning to compliance with the rules as soon as possible***

[28] *https://www.fca.org.uk/publication/consultation/cp21-21.pdf.*

[29] *https://www.lsegissuerservices.com/spark/new-rules-for-the-lse-main-market.*

The EU is also reconsidering its free float requirements through the EU Report. Currently Member States have discretion in setting the percentage of the shares that would be needed to be floated at the time of listing. Accordingly, these percentages in the EU-27 vary from 5% to 45%.

The JSE currently requires Main Board listed companies to have a free float of 20% to ensure reasonable liquidity. Considering the renewed focus from leading markets on free float it may be time for the JSE to reconsider the appropriateness of its free float requirements for Main Board listed companies, considering that this percentage of free float has remained largely unchanged for more than 20 years.

A real concern is if the JSE does not reconsider its free float requirements, it may significantly impact its competitiveness as a primary and secondary listings jurisdiction, and result in a bizarre scenario where companies qualify for a listing on premier international exchanges but then fail to qualify for a secondary listing on the JSE based on its free float requirement of 20%.

Proposal for Consideration 3: Free Float and New Listings

Considering the developments in the UK and EU on the reassessment of free float, the questions the JSE poses are the following:

- Is free float a good measure to ensure liquidity?
- Could a minimum free float requirement be a barrier to listing?
- Is the recommended threshold for a Main Board listing set at 20% appropriate?

4. Institutional Investors and Free Float Assessment

As mentioned above, free float is determined by the securities in the hands of public investors as opposed to company officers, directors, or shareholders that hold controlling interests, as public holdings are aimed to promote liquidity.

Research shows that approximately 90% of monthly trades on the JSE are driven by institutional investors and the remaining 10% of monthly trades come from retail investors. Our market is by its nature institutional investor heavy.

Paragraph 4.25 of the Listings Requirements deals with the holdings that will qualify as free float. One type of holdings of securities which does not qualify as free float is any holdings of 10% or more in the securities of an issuer.[30] It is very common for fund managers/institutional investors to hold more than 10% in an applicant issuer on listing, which will then exclude them from the free float assessment.

However, under certain circumstances such fund managers/institutional investors holding 10% or more can qualify for free float provided the interest is held in more than one fund, and the separate funds hold less than 10% of the securities in the applicant issuer.[31] This exemption for the interests of 10% or more held by a fund manager/ institutional investor to qualify for free float is rather limited and complex.

Considering the entrenched and established presence of institutional investors in our market, a proposal that may better assist applicants meeting the free float requirement on listing, is not to automatically exclude fund managers/institutional investors holding more than 10% in an applicant issuer from the free float assessment on listing - the caveat being only where the applicant issuer and the fund managers/institutional investors can show the JSE that the funds used to acquire the interest in the applicant issuer represent those of underlying clients/ policyholders and not that of the institutional investor itself and/or its shareholders. The interest is effectively held on behalf of clients/policyholders by the fund manager/institutional investor.

[30] *Paragraph 4.25(f) of the JSE Listings Requirements.*

[31] *Paragraph 4.26(a) of the JSE Listings Requirements.*

This may be an avenue to assist applicant issuers meeting free float on listing with a more flexible and easier approach compared to the current requirements, considering the investor demographics of our market. The liquidity afforded by fund managers/institutional investors in the South African market should be recognised. The automatic exclusion of interests held of 10% or more seem limiting especially where such holdings represent underlying clients/policyholders.

Proposal for Consideration 4: Free Float Assessment

Considering the liquidity fund managers/ institutional investors offer, should holdings of 10% or more in an applicant issuer on listing qualify for free float, provided the funds used to acquire the interest in the applicant issuer represents those of underlying clients/policyholders and not that of the institutional investor itself and/or its shareholders?

5. Depositary Receipts and Africa

A depositary receipt (**"DR"**) is a financial instrument representing a foreign listed security, where the instrument confers rights in respect of such securities. Investors transact with a major financial institution within their home country, which typically reduces fees and is far more convenient than purchasing securities directly in foreign markets. DRs provide investors with the benefits and rights of the underlying foreign securities which may include voting rights and dividends and affords investors access to markets they would not normally have access to.

DRs are a good option for investors who want to diversify their portfolios globally and gain exposure to foreign equity markets via the JSE. For issuers, depository receipts have become a globally accepted, flexible instrument that enables them to reach investors located outside their home markets while reducing the risk associated with cross-border investments, including foreign legislation, transaction costs and delays, currency fluctuations and complicated settlement transaction processes.

DRs can be either sponsored or unsponsored. Sponsored DRs require a formal legal relationship between the arranger and the foreign listed issuer, where the DR is established at the direction of the issuer in accordance with a deposit agreement. An unsponsored DR does not require the involvement of the foreign listed issuer, but rather the involvement of a depositary where the securities of an issuer or underlying reference entity are held in trust.

An issuer of a sponsored DR must further meet the requirements for a secondary listing on the JSE, thus being from an approved exchange (which currently includes no African exchanges). With an unsponsored DR, there must be sufficient liquidity and the issuer must be listed on an exchange which is a member of the World Federation of Exchanges (**"WFE"**). If the exchange is not a member of the WFE, the issuer must have a subscribed capital of a least R500 million.

DRs are largely unattractive because applicants need to comply with almost the identical provisions applicable to a secondary listing. Because DRs are negotiable financial instruments and not equity securities in the ordinary sense, there is more scope for the JSE to expand on the DRs offering to make it more attractive.

There is a window of opportunity for the JSE as a key player in the continent's most sophisticated market to gain traction in its own back yard. Slow economic growth in South Africa suggests that the JSE, like its clients, may have to look at the wider African region for growth prospects. The rest of Africa is a region of mostly high growth rates, economic and political reform, and a key destination for investment from the JSE's own listed companies.

Africa-listed companies are not seeking primary listings on the JSE for various reasons. However, DRs may create a far more attractive and flexible avenue to investors to gain exposure to African listed securities. The JSE must take into account that the basic entry criteria for DRs can be repositioned to be more Africa-friendly and beyond, especially from a sponsored DR perspective.

Proposal for Consideration 5: Depositary Receipts and Africa

Considering the growth potential in the wider Africa region and the nature of a DR, is there support for the proposal to afford investors access to Africa listings and beyond through DRs on the JSE?

6. JSE Technology Board

A tech start-up is a company whose purpose is to bring technology products or services to market. These companies deliver new technology products or services or deliver existing technology products and services in new ways and are generally characterised by a distinct phase of development and research during which time the product or service is in development and revenues are either minimal or non-existent.

In 2019 China officially launched Shanghai's Nasdaq-style tech board which is largely seen as a government-backed move to become self-sufficient in core technologies such as chips, IT and biotech. The STAR Market (Shanghai Stock Exchange Science and Technology Innovation Board) is one of China's boldest moves at reforming its capital markets to make it easier for tech start-ups to raise funds at home and to ensure that the next Alibaba or Baidu do not flock to exchanges in the US or elsewhere. It is also a part of Beijing's desire to become technologically self-reliant at a time when Chinese tech firms such as Huawei have been targeted by the US, allegedly to extract trade concessions.

The STAR Market is a trading platform that implements more inclusive and adaptable listing rules to support technology and innovation enterprises. It was established with the aim of helping the growing number of China's technology and innovation enterprises to raise funds in the domestic capital market. One of the main reforms associated with the STAR Market is the inclusive listing rules which allow the listing of companies that are not yet profitable and/or with differentiated voting rights. Unlike the Shanghai and Shenzhen stock exchanges in China, the financial requirements of the STAR Market are less focused on assets, cash flow and net income. Companies in high-tech fields, such as new materials, biomedicine, and information technology, are the main targets.

The UK Government has also progressed in making the LSE more attractive for tech IPOs:

"Following a year of bumper public debuts by tech companies, analysis shows that tech IPOs in the UK raised £6.6 billion, more than double 2020's figures of £3.1 billion, according to data from the LSE. With 126 companies listing in the UK in 2021, tech companies made up 29% of listings on the LSE, indicating the UK tech industry's increasing maturity and driving much of the London market's success.

The publication of Lord Hill's UK Listings Review in March 2021 was a turning point in encouraging innovative and tech-led companies to choose London. It demonstrated the UK Government wants the UK Capital Markets to be the global destination for innovative companies to fund themselves. Proposals to reform dual class share structures, free float requirements and other elements of importance to founder-led businesses were picked up and taken forward by government and the Financial Conduct Authority at pace, followed by a surge in tech listings seen last year.

Following the success of the UK's tech sector in recent years, 2022 now has the potential to be another record-breaking year, with the maturity of the UK tech sector indicating a strong pipeline of companies ready to come to market. According to the latest data by Dealroom, the UK is now home to 116 unicorns - tech companies that are worth $1 billion or more in value - and 213 futurecorns - high growth tech companies that are predicted to reach the coveted $1 billion mark in the future, indicating a strong pipeline of listings to come."[32]

During 2021, many South African start-ups collaborated with big brands and retailers to expand their reach of clientele – Pargo Pickup Points[33] is one of these companies. It appears that start-ups are innovatively making a difference and creating impact in various communities.

[32] *https://www.gov.uk/government/news/tech-ipos-raised-a-record-66-billion-in-2021-double-2020-figures.*

[33] *Pargo, a smart logistics company, has a partnership with online and omni-channel businesses in SA. This year, the company expanded its network from 2,500 to over 3 000 click-and-collect pickup points in South Africa, offering online shoppers the ability to easily collect their orders.*

Several start-up companies that may not currently meet the JSE listing entry criteria as set out in the Listings Requirements have been identified as disruptors in the SA technology space in 2020 and 2021 and are classified as "small to medium enterprises" or companies in a growth phase with substantial capital needs.

Here is a list of South African tech start-ups that successfully secured investment, received international and local recognition or expanded globally in 2021:

https://smesouthafrica.co.za/south-african-tech-startups-that-disrupted-2020/

Considering the proposal on DCS structures above, the establishment of a JSE Technology Board may be a good addition to further lure tech companies to the JSE through more inclusive and adaptable listing rules to support technology and innovation enterprises.

Currently the JSE does have the ability to list a company on the Main Board that is in development stage and that does not have the required profit history.[34] However, this only affords flexibility on one of the five listing entry criteria. The JSE is considering whether a dedicated space should be created as a focal point for technology start-up companies, which in many instances are SMEs, where more flexibilities will be afforded for these companies to grow and focus on innovation.

The following are proposed flexibilities that may be considered for the JSE Technology Board:

- Allow DCS structures;
- Over a period of two years:
  - No profit required;
  - No qualified audit opinion in its financial statements; and
  - No major adverse changes in the main business, directors, senior managers and core technical staff;
- Lower threshold for subscribed capital;
- Lower level of equity shares in issue;
- Lower free float threshold;
- Broader ranges for category 1 and 2 transactions; and
- Broader ranges for issue for cash authorities.

The JSE is of the view that more flexibilities should be afforded for start-up and innovation technology companies. The benefits of SME activity to the South African economy have been well documented and publicised and in order to stimulate the SME growth sector the JSE believes that a dedicated and flexible space should be created for start-up and innovation technology companies on the Main Board.

Proposal for Consideration 6: JSE Technology Board

There are many high-tech and innovation companies incorporating DCS structures globally. Often companies in the technology sector are considered to be high growth companies. As a result, the JSE seeks to establish a Technology Board with clearly identified regulatory flexibilities to guarantee that it caters to their unique nature.

Recognising that South Africa may not be the leader or even well known for fintech start-ups, a platform to enhance and support fintech innovation may be worth considering given the success of such platforms in other markets. Depending on the acceptability of DCS structures for the South African financial markets as proposed above, international fintech companies may consider the JSE as a secondary listings destination of choice to raise capital.

The JSE is posing the question: Is there investment appetite for a Technology Board on the exchange, with more regulation flexibilities in order to promote growth?

[34] *Paragraph 4.28(c)(ii) of the Listings Requirements.*

7. Simplification Project: The JSE Listings Requirements

The Listings Requirements in its current form and in its familiar red binder, has been in place for more than 20 years and comprises 22 sections and 18 schedules. The complexity of the financial markets has significantly changed since early 2000 and more provisions have been added to the Listings Requirements over the years. These provisions relate not only to more regulation being imposed by the JSE, but also to the introduction of more products to the List, new listing segments being introduced (such as the BEE Segment and AltX) and corporate governance being enhanced through the various King Reports, to name a few.

Certain commentators have been increasingly vocal on the JSE's perceived overregulation and red tape.

Although the JSE has made active advancements since 2013 to simplify the application of the Listings Requirements and on cutting red tape during 2021, there may still be provisions of the Listings Requirements that may be redundant, not fit for purpose or purely administrative in nature. The Listings Requirements also include various administrative matters and processes which may strictly not be deemed necessary to be addressed in the Listings Requirements.

An argument can be made that the Listings Requirements should be limited to the core provisions speaking purely to regulatory principles and objectives. The JSE is therefore considering an exercise to simplify the Listings Requirements, using plain language to record concise regulatory principles and objectives with the ultimate aim of significantly cutting the volume of the Listings Requirements.

However, the JSE recognises that market participants may have become very used to and too familiar with the current look and feel of the Listings Requirements, and that a complete rewrite and repackaging may potentially cause more disruptions and frustrations. Of course, should there be support to rewrite and repackage the Listings Requirements, this will be a gradual process over time involving various public consultations in the normal course pursuant to the provisions of the Listings Requirements and the FMA, and be subject to the approval of the FSCA.

Proposal for Consideration 7: Simplification Project

Is there a demand from market participants for the JSE to commence with a project to rewrite and repackage the Listings Requirements in their entirety? The aim is to simplify the application and significantly reduce the volume of the Listings Requirements.

Conclusion

The JSE acknowledges that self-assessment and improvement is critical for capital markets reform, provided it is undertaken in a responsible, thorough and engaging manner. Engaging with the market on these concept proposals is vital to ensure that the JSE remains the premier listing destination in Africa for the benefit of local and foreign investors.

It is very important for market participants to understand that the JSE is open to any discussions and engagements involving capital markets and/or regulation that could enhance the competitiveness and trustworthiness of South African financial markets. Through active and regular involvement of market participants, the JSE will be able to be agile and flexible in addressing market needs as they arise.

The JSE must ensure that its offerings meet market needs and through this paper and subsequent engagements the JSE aims to achieve exactly that.

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Annexure A

Free Float Comparisons[35]

NYSE	NASDAQ	EuroNext
No % free float	No % free float	25% or €5m as size of float
Main Minimum round lot of 400 shareholders Minimum value of publicly held shares – $40m shareholding Minimum of 1.1 publicly held shares Minimum of share price $4 For Non-US companies: 5,000/2.5m/$60/$4	**Global Select** Unrestricted round lot shareholders of 450 or 2,200 shareholders Minimum value of publicly held shares at IPO– $45m to$110m for 'seasoned companies' Global round lot 400 shareholders. 1.1m shares Minimum value of $8m Income Standard, $18m Equity Standard, $20m Market value	**Euronext High Growth** Minimum value of €2.5m made available to trading
MKT Market value for public float: $3m Public shareholders: 400 Public flowat: $1,000,000	**Capital** Round lot holders: 300 Publicly held shares 1 million Market value of publicly held shares: $15m (Equity and maket value standards) $5m (Net income stanadrds)	

HONG KONG	SINGAPORE	AUSTRALIA
25% + minimum value of HK$125m (16m USD) Can reduce to 15% of market cap >HKS$10bn (1.2bn USD) Minimum 300 shareholders Not more than 50% of the shares to be owned by the largest three shareholders Normally suspended from listing if free float falls below 15% (or 10% if on the 15% float limit) But can be waived in exceptional circumstances	<S$300m (225m USD), 25% S$300m to S$400m (225m to 300m USD), 20% free float between S$400m and S$1,000m (225m to750m USD), >S$1,000m (750 USD), 12% All of the above combined with a minimum of 500 shareholders. Ongoing requirement for 10% free float. Suspended from listing if float fall below 10% but can be waived for a three month period or more to get free float back to this level without suspension.	20% (increased from 10% in 2016) Minimum of 300 non-affiliated investors, with holdings of at least A$2,000 each

[34] *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966133/UK_Listing_Review_3_March.pdf*

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