**SPECIALIST SECURITIES (DRs) – CHECKLIST**

**CLIENT:**

**JSE REFERENCE**:

This documentation will be subject to the turnaround times as stipulated in paragraph 16.3 in the Listings Requirements.

# Company name:

**Round of comments:**

**Introduction:**

My comments are given in the following ways

1. Under the heading “Principle issues and general comments” I will list all the principle issues you did not comply with as well as the general comments.
2. The checklist details all the requirements for the specific transaction. Comments on the checklist means the following:

* “Please note” – means that you don’t need to comply with the requirement. NB: the issuer may be required to comply with the requirement at a later stage, e.g. those sections that will be required in the Final pricing supplement.
* “N/A” means that you do not have to comply with that specific requirement in this circular.
* “√” means that the requirements has been complied with to the JSE’s satisfaction
* “Blank” means that you still have to comply with the specific requirement or advise that it is N/A.
* OS = Outstanding
* Any other comment on the checklist will be of a more specific nature.
* “Confirmed n/a” – Means that the advisors have confirmed this item to be not applicable.

1. Under the heading “Outstanding Documents” you will find details of documents that was not submitted.

Please don’t hesitate to call me if something is not clear.

**CFO:**

**Tel: 011 520 xxxx**

**General comments and principle issues:**

|  |  |  |  |
| --- | --- | --- | --- |
| **JSE Section 19 Listings Requirement** | **Sponsor’s 1st Comment** | **JSE Comments** | **JSE 2nd Comments** |
| **Depository Receipts** |  |  |  |
| 19.86) This section sets out the requirements for the listing of sponsored DRs and unsponsored DRs as defined. The following provisions apply to sponsored DRs - |  |  |  |
| Paragraph - |  |  |  |
| 19.1 and 19.2 |  |  |  |
| 19.4 to 19.6 |  |  |  |
| 19.8 |  |  |  |
| 19.18 and 19.19 |  |  |  |
| 19.21 |  |  |  |
| 19.25 to 19.28 |  |  |  |
| 19.30 |  |  |  |
| 19.87 to 19.90 |  |  |  |
| 19.92 to 19.95 |  |  |  |
| 19.97 to 19.101 |  |  |  |
| The following provisions apply to unsponsored DRs - |  |  |  |
| Paragraph - |  |  |  |
| 19.1 and 19.2 |  |  |  |
| 19.4 to 19.8 |  |  |  |
| 19.10(a) to (d) |  |  |  |
| 19.18 to 19.19 |  |  |  |
| 19.26 to 19.28 |  |  |  |
| 19.30 |  |  |  |
| 19.87 to 19.89 |  |  |  |
| 19.91 to 19.94 |  |  |  |
| 19.96 to 19.105 |  |  |  |
| **General** |  |  |  |
| 19.87) Due to the complex nature of DRs the JSE must be consulted at an early stage before formal application for listing is made.  Depending on the nature and structure of any particular issue, the requirements set out in the following paragraphs may be  modified or additional requirements may apply. |  |  |  |
| **Sponsor** |  |  |  |
| 19.88) The issuer of both sponsored and unsponsored DRs must comply with the provisions of Section 2 regarding the  appointment of a sponsor. In relation to unsponsored DRs, the depository will carry out limited duties and responsibilities, in  accordance with the provisions set out below. |  |  |  |
| **Criteria for DRs** |  |  |  |
| 19.89) An applicant issuer or depository seeking a listing of DRs must satisfy the following criteria - |  |  |  |
| (a) it must be a sponsored or unsponsored DR |  |  |  |
| (b) the DRs must be issued by a depository which must be independent of the issuer or underlying entity. |  |  |  |
| (c) The depository must maintain adequate arrangements to safeguard DR holders' rights to the securities to which the DRs relate,  and to all rights relating to the securities and all money and benefits that it may receive in respect of them, subject only to  payment of the remuneration and proper expenses of the issuer of the depository. |  |  |  |
| (d) the entity referred to in (c) above must hold in trust or custody, for the sole benefit of the holders of DRs, the securities to  which the DRs relate, all rights relating to the securities and all the money and benefits that it may receive in respect of them,  subject only to payment of remuneration and proper expenses of the entity. |  |  |  |
| (e) the DRs must be fully covered at all times |  |  |  |
| (f) the DRs must be fully paid up and freely transferable. |  |  |  |
| (g) the securities which the DRs represent must be free from all liens and any restrictions on the right of transfer to the  Depository. |  |  |  |
| (h) there must be a duly signed deposit agreement in accordance with paragraph 19.94 in place between the issuer, the depository  and the custodian (if applicable), for sponsored DRs. |  |  |  |
| (i) there must be a duly signed unsponsored terms and conditions in accordance with paragraph 19.94 for unsponsored DRs. |  |  |  |
| (j) the entity referred to in (c) above must be independent from the issuer or underlying entity, unless otherwise agreed to by the  JSE, and such entity must be insolvency remote. |  |  |  |
| 19.90) An issuer of sponsored DRs must - |  |  |  |
| (a) demonstrate to the JSE that it meets the Listings Requirements set out in paragraphs 18.1 to 18.6. |  |  |  |
| (b) be in full compliance with all the requirements of the exchange on which it has its listings. |  |  |  |
| 19.91) For unsponsored DRs, the underlying entity must - |  |  |  |
| (a) be sufficiently liquid to ensure efficient price formation in the secondary market |  |  |  |
| (b) have its primary listing on another exchange and it must |  |  |  |
| (i) be listed on an exchange that is a member of the World Federation of Exchanges, and such primary listing must be  at least on an equivalent board/exchange to the JSE Main Board |  |  |  |
| (ii) have a subscribed capital, as defined in section 4.28(a) of at least R500 million |  |  |  |
| 19.92) The depository must satisfy the JSE that it has the relevant expertise to arrange an issue of DRs or has access to such  expertise |  |  |  |
| 19.93) Arrangements must be made to the satisfaction of the JSE’s Clearing and Settlement Division, to ensure that sufficient DRs are available on the South African DR register. |  |  |  |
| **The Deposit agreement or unsponsored terms and conditions** |  |  |  |
| 19.94) The deposit agreement for sponsored DRs, or unsponsored terms and conditions for unsponsored DRs, must provide  without limitation for the following - |  |  |  |
| (a) In the case of sponsored DRs, the appointment of the depository by the issuer with authorisation to act on behalf of the issuer  in accordance with the deposit agreement. |  |  |  |
| (b) the status of DRs as instruments, representing ownership interests in securities of an issuer or underlying entity, that have  been deposited via the depository. |  |  |  |
| (c) the status of beneficial holders of DRs as the legal owners of those DRs. |  |  |  |
| (d) the role of the depository to issue DRs, the role of the depository to issue DRs as agent of the issuer in the case of sponsored  DRs, and to arrange for the deposit of the securities which the DRs represent. |  |  |  |
| (e) the duties of the depository, which must include the duty to keep in South Africa and make available for inspection a register  of holders of DRs and the transfers of the DRs, as well as the duty to keep a record of the deposits of securities which the DRs  represent, the issue of DRs, the cancellation of DRs and the withdrawal of securities. |  |  |  |
| (f) the role and duties of the custodian, if applicable, appointed by the depository to hold the deposited securities for the account  of the depository on behalf of the holders of the DRs, segregated from all other property of the custodian. |  |  |  |
| (g) the mechanism for the issue and registration of DRs by the depository upon receipt of securities in the issuer or underlying  entity and the form of the DR. |  |  |  |
| (h) the right of DR holders to surrender DRs to be cancelled in exchange for the delivery of the shares which the DRs represent,  subject to payment of any applicable charges and taxes and any legal or regulatory restrictions. |  |  |  |
| (i) the right of DR holders to corporate action entitlements. The deposit agreement or unsponsored terms and conditions should  address the rights (if any) and procedures applying to cash distributions, distributions of shares, rights issues or any other  distribution accruing to the securities which the DRs represent, as per Schedule 18 or in such other manner acceptable to the JSE. |  |  |  |
| (j) to the extent applicable, the right of DR holders to exercise the voting rights attached to the securities represented by the DRs  and the procedures by which DR holders will be notified of shareholder meetings or solicitations of proxy votes and their  entitlement to issue instructions to the depository as to how to exercise their voting rights. |  |  |  |
| (k) the manner in which any corporate action, or other reclassification of the issuer or underlying entity's securities, will be  represented by and accrue to the DRs, in accordance with the principle that holders of DRs are to be treated as having generally  equivalent rights to holders of the securities which the DRs represent. |  |  |  |
| (l) the conditions and process for the issue of new DRs if any DR instrument is lost, destroyed, stolen or mutilated (if  applicable) |  |  |  |
| (m) the obligations of holders of DRs, including any liabilities for taxes and other charges and the obligation to disclose the  beneficial ownership of the DRs on request of the issuer (for sponsored DRs), the depository or the JSE. |  |  |  |
| (n) a clear statement of the fees and charges payable by holders of DRs, including fees and charges payable to the depository and  the custodian (if applicable) |  |  |  |
| (o) procedures for the replacement or removal of the depository and/or the custodian, by or with the consent of the issuer in the  case of sponsored DRs, including an obligation to inform DR holders by advance announcement, of any prospective resignation,  removal and replacement of the depository and/or the custodian. |  |  |  |
| (p) procedures for the amendment of the deposit agreement or unsponsored terms and conditions. |  |  |  |
| (q) the governing law of the deposit agreement or unsponsored terms and conditions should be that of South Africa or, if another  jurisdiction is chosen, one that is generally used in accordance with international practice and that is acceptable to the JSE. |  |  |  |
| (r) For sponsored DRs - |  |  |  |
| (i) the procedures by which the depository and/or the custodian, at the direction of the depository, will, in consultation  with the issuer for sponsored DRs, fix corporate action dates in accordance with Schedule 18. |  |  |  |
| (ii) the procedures by which the depository will, at the direction of the issuer, dispatch to holders of DRs copies of all  notices, reports, voting forms or other communications sent by the issuer to its shareholders. |  |  |  |
| (iii) an obligation to provide sponsored DR holders with a minimum of 30 days notice period prior to any material  changes to the unsponsored terms and conditions being effected. |  |  |  |
| (t) For unsponsored DRs - |  |  |  |
| (i) an obligation to provide unsponsored DR holders with a minimum of 30 days’ notice period prior to any material  changes to the unsponsored terms and conditions being effected. |  |  |  |
| (ii) the procedures by which the depository will notify holders of DRs as to where copies of all notices, reports, voting  forms or other communications published by the underlying entity to its shareholders can be obtained. |  |  |  |
| **Listing documents in respect of sponsored DRs** |  |  |  |
| 19.95 An issuer must produce a listing document and address the following in such document - |  |  |  |
| (a) disclosure as follows - |  |  |  |
| (i) in respect of the issuer and the depository - |  |  |  |
| 1. its full name. |  |  |  |
| 2. its place and date of incorporation. |  |  |  |
| 3. the full names and addresses of its directors; (or in the event that the issuer is not a company, the persons  with corresponding duties and powers in relation to the issuer of the DRs ); |  |  |  |
| (ii) a statement that the JSE’s approval of the listing of the DR is not to be taken in any way as an indication of the  merits of the issuer of the DR, and that the JSE has not verified the accuracy and truth of the contents of the  documentation and that to the extent permitted by law, the JSE will not be liable for any claim of whatsoever kind. |  |  |  |
| (iii) the names and addresses of the advisors and transfer secretaries to the issuer, if any. |  |  |  |
| (iv) a statement to the effect that investors must seek their own independent tax advice. |  |  |  |
| (v) every pre-listing statement must contain the following statement on the front of the document:  “Prospective purchasers of any DRs must ensure that they understand fully the nature of the product and the  extent of their exposure to risks, and that they consider the suitability of DRs as an investment in light of their  own circumstances and financial position” |  |  |  |
| (b) the provisions relating to pre-listing statements as set out in paragraphs 18.11 to 18.18. |  |  |  |
| (c) full details of the deposit agreement must be included as per paragraph 19.94. |  |  |  |
| (d) any other details that the JSE may deem appropriate. |  |  |  |
| **Listing documents in respect of unsponsored DRs** |  |  |  |
| 19.96 The depository must produce a listing document and include the following in such document - |  |  |  |
| (a) in respect of the underlying entity to the extent available through public filings, as well as the depository - |  |  |  |
| 1. its full name. |  |  |  |
| 2. its place and date of incorporation. |  |  |  |
| 3. the description of business of the underlying entity. |  |  |  |
| 4. The alpha code, ISIN number, and a description of where information on the underlying entity can be obtained. |  |  |  |
| (b) a statement that the JSE’s approval of the listing of the DR is not to be taken in any way as an indication of the merits of the issuer of the DR, and that the JSE has not verified the accuracy and truth of the contents of the documentation and that to the extent permitted by law, the JSE will not be liable for any claim of whatsoever kind. |  |  |  |
| (c) the names and addresses of the advisors and transfer secretaries to the issuer, if any. |  |  |  |
| (d) a statement to the effect that investors must seek their own independent tax advice. |  |  |  |
| (e) every listing document must contain the following statement on the front of the document:  “Prospective purchasers of any DRs must ensure that they understand fully the nature of the product and the extent of their exposure to risks, and that they consider the suitability of DRs as an investment in light of their own circumstances and financial position. It must be noted that it is the investors’ responsibility to seek and obtain the information pertinent to the underlying entity. |  |  |  |
| (f) full details of the unsponsored terms and conditions must be included as per paragraph 19.94. |  |  |  |
| (g) any other details that the JSE may deem appropriate. |  |  |  |
| **Continuing Obligations** |  |  |  |
| 19.97 to 19.99) Kindly take note of the requirements. |  |  |  |
| **Documents to be submitted to the JSE on application for listing** |  |  |  |
| 19.100 The following documentation must be submitted to the JSE for approval via a sponsor or depository in the case of  unsponsored DRs - |  |  |  |
| (a) the listing document. |  |  |  |
| (b) exchange control approval. |  |  |  |
| (c) the deposit agreement or unsponsored terms and conditions, depository agent agreement, and custody agreement. |  |  |  |
| (d) the formal application for listing complying with Schedule 1. |  |  |  |
| (e) confirmation in writing from the Central Securities Depository that the applicant has been approved in terms of the Central  Securities Depository Rules and Directives. |  |  |  |
| (f) such other information as may be requested by the JSE. |  |  |  |
| **Announcements** |  |  |  |
| 19.101)(a)(i-ii) Kindly take note of the requirements |  |  |  |
| **Responsibilities of the depository for unsponsored DRs** |  |  |  |
| 19.102 to 19.103(a) – (j) Kindly ensure compliance with the requirements. |  |  |  |