Cross-Border Listings Guide - Johannesburg JSE Limited

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# Quick Summary

## Note

*Since 2017, a few new securities exchanges (apart from the JSE Limited) have been granted a licence to operate in South Africa, including Africa Exchange (4AX), A2X Markets (A2X), Equity Express Securities Exchange (EESE) and Cape Town Stock Exchange (CTSE). These exchanges presently have a relatively small number of securities listed on them and accordingly this document deals only with the JSE Limited.*

## Initial financial listing requirements

[Last updated: 1 January 2024, unless otherwise noted]

To qualify for listing on the Main Board of the JSE, the applicant company typically must satisfy the following criteria:

**Subscribed capital**

Subscribed capital, including reserves but excluding minority interests, revaluations of assets and intangible assets that are not supported by a valuation by an independent professional expert acceptable to the JSE prepared within the last six months, of at least R 50 million (approx. US$2.76 million).

**Audited profit history**

The applicant must have audited financial statements for the preceding three financial years and either:

The most recent financial statements reported an audited profit of at least R 15 million (approx. US$820,500) before taxation and after taking account of the headline earnings adjustment on a pre-tax basis.

It has a subscribed capital, including reserves but excluding minority interests, revaluations of assets and intangible assets that are not supported by a valuation by an independent professional expert acceptable to the JSE prepared within the last six months, of at least R 500 million (approx. US$27.35 million).

 The JSE may in its absolute discretion list a company which is in its development stage (other than a mineral company) and which does not have the required profit history, provided that the applicant has, prior to listing, (1) subscribed capital as determined in terms of the subscribed capital requirements (as set out above) of at least R 500 million (approx. US$27.35 million), and (2) existed for at least 12 months.

**Carrying on of main activity**

During the preceding three financial years, an applicant must have either:

Been conducting, either by itself or through one or more of its subsidiaries, an independent business as its main activity, which is supported by its historic revenue earning history and which gives it control (which for this purpose is defined as at least 50% plus 1% of the voting shares) over the majority of its assets.

Had a reasonable spread of direct interests in the majority of its assets and the right to actively participate in the management of such assets, whether by voting or through other rights that give it influence in the decisions relating to the assets.

The JSE may in its absolute discretion list a company which has only controlled or had a direct interest in the majority of its assets for 12 months, provided that such applicant: (1) has, per its audited financial statements, produced reporting profit of at least R 15 million (approx. US$820,500) before taxation and after taking account of the headline earnings adjustment on a pre-tax basis, for the period during which it has exercised control; (2) can illustrate that the underlying assets/companies are in a similar line of business and are dependent on one another or are complementary, and (3) at least one of the underlying assets/companies would qualify for a listing on the Main Board in its own right. In deciding whether to exercise its discretion, the JSE will have regard to, *inter alia*, whether the majority of the underlying assets/companies/subsidiaries have been in existence for three financial years.

## Other initial listing requirements

[Last updated: 1 January 2024, unless otherwise noted]

*Share price.* TheJSE does not require a minimum trading price.

*Distribution.* A company must have at least 25 million equity securities in issue and at all times at least 10% of each class of such securities must be held by the public to ensure reasonable liquidity, representing at least 100 shareholders.

*Foreign companies.* There are no additional ownership requirements specifically applicable to a listing of a foreign company's shares.

*Audited Financial Statements.* Financial information relied upon to satisfy the listing requirements must comply with the prescribed standards as set out in the JSE listing requirements and must have been reported on by an auditor without qualification, disclaimer, adverse audit opinion, the inclusion of a paragraph on material uncertainty relating to going concern or reference to an emphasis of matter.

In addition, a foreign applicant applying for a secondary listing on the JSE Main Board must:

Confirm that it has a primary listing on an approved exchange. The JSE will therefore not grant a secondary listing on the Main Board for an applicant that has a primary listing on a junior or secondary market of an exchange; and

Not have traded in its securities on the JSE in respect of which a secondary listing is sought of more than 50% of both the total volume and total value traded in those securities on all markets in which it is listed over the preceding 12 months.

*Accounting standards.* In respect of a company with a primary listing, audited financial statements must be prepared in compliance with IFRS as issued by the South African Accounting Practices Board. In respect of a company with a secondary listing, the JSE will accept financial information prepared in accordance with IFRS, IFRS as adopted by the European Union, and UK, US, Australian or Canadian GAAP.

*Financial statements.* The listing document must generally include a report of historical financial information which includes statements of comprehensive income, financial position, changes in equity and cashflows, accounting policies and segmental information in a consolidated form in respect of the last three years. In addition, the directors must provide a statement that in their opinion the working capital available to the applicant and its subsidiaries is sufficient for the group's present requirements. Pro forma financial information is also to be included in a pre-listing statement.

*Other markets.* The JSE also offers listings on the Alternative Exchange Board (AltX) (which has less stringent listing requirements). Information about this AltX market is available upon request.

*Modified industry-specific rules.* Companies in certain industries are subject to modified listing and maintenance rules. For example, mineral companies, property entities, pyramid companies and investment entities have separate sections in the JSE's listing requirements dedicated to each of them.

## Listing process

[Last updated: 1 January 2024, unless otherwise noted]

The JSE will review the prospectus, application forms and relevant announcements. If the offer is to be made to the South African public, the prospectus must, in addition to compliance with the requirements of the JSE, be registered with the Companies and Intellectual Property Commission, which will expand the timeline. The following is a fairly typical process and timetable for a listing of a company on the JSE via an underwritten non-public offering in South Africa.

[Link to Chart](https://resourcehub.bakermckenzie.com/en/-/media/crossborder-listings-handbook/files/2022-update/2022-johannesburg-jse-limited---listing-process.pdf?sc_lang=en)

**Fast-track listing**

The JSE does allow for a fast-track listing process for a company which has had a primary listing on an accredited exchange (currently the Australian, London, New York, NYSE Euronext and Toronto Stock Exchanges) for at least 18 months. This allows the accredited applicant to publish a pre-listing announcement (rather than a full pre-listing statement) subject to a shorter list of requirements.

## Corporate governance and reporting

[Last updated: 1 January 2024, unless otherwise noted]

Requirements for public companies include:

A policy detailing procedures for appointments to the board of directors.

A policy evidencing a clear balance of power and authority at the board of directors level.

Appointment of an audit committee, remuneration committee and social and ethics committee and their composition.

Appointment of a prescribed number of independent non-executive directors.

Appointment and annual evaluation of the competence, qualifications and experience of the executive financial director and company secretary.

Policy on the promotion of broader diversity at board level.

Appointment of a chief executive officer, a chairman and a company secretary.

Remuneration policy and implementation report to be tabled at the annual general meeting.

A listed company has continuing disclosure and reporting obligations under the JSE's listing requirements.

A foreign company listing on the JSE may be required to register as an external company in South Africa.

Foreign companies seeking a listing on the JSE must obtain the approval of the exchange control department of the South African Reserve Bank.

## Fees

[Last updated: 1 January 2024, unless otherwise noted]

A company seeking to list must pay both initial listing fees and annual fees. The initial listing fee ranges from approx. R 1,802.92 to R 3,753,232.88 (including VAT) (approx. US$99 to US$205,302). Additional shares listed subsequently will require additional payments. The annual fees range from a minimum fee of approx. R 63,173.79 (including VAT) (approx. US$3,456) to a maximum fee of approx. R 555,912.24 (including VAT) (approx. US$30,408). All new listings are subject to a new listing documentation fee of R 120,265.85 (including VAT) (approx. US$6,579), with additional documentation fees being applicable to mining and real estate companies. Where specific securities have only a secondary listing on the JSE, 50% of the annual listing fee, calculated as described above, is payable.

# Overview of exchange

## Overview of exchange

[Last updated: 1 January 2024, unless otherwise noted]

The JSE Limited (JSE), which is commonly referred to as the JSE, was established in 1887 and is Africa's premier and largest exchange by market capitalization. The JSE has been a member of the World Federation of Exchanges since 1963.

Since 2017 a few new exchanges have been granted a license to operate a securities exchange in South Africa, including 4 Africa Exchange (commonly referred to as the 4AX), A2X Markets (commonly referred to as the A2X), Cape Town Stock Exchange (CTSE) and Equity Express Securities Exchange (EESE). However, these exchanges presently have a relatively small number of securities listed on them, although they are becoming more attractive to small to medium sized issuers as alternative exchanges and for diversified instruments. Accordingly, this document does not deal with 4AX, A2X, CTSE or EESE but rather only with the JSE.

The JSE is a full-service exchange and offers a variety of investment products (including equities, depository receipts and a broader range of exchange-traded funds and debt instruments) in a range of markets issued by South African and international issuers. The JSE offers five financial markets, namely, equities and bonds, financial, commodity and interest rate derivatives. The JSE provides (i) a primary market, (ii) a secondary market, (iii) post-trade services, (iv) technology services and (v) information services. In addition, the JSE regulates both the primary and secondary markets.

The JSE equity market is currently comprised of two boards, the Main Board and the Alternative Exchange Board (AltX):

The Main Board is a market for companies that meet the profit and other financial criteria of the JSE. Companies can list their shares or debt instruments as a primary or secondary listing on the Main Board.

AltX is a parallel market focused on good quality, small- and medium-sized high growth companies and provides these smaller companies not yet able to list on the Main Board with a clear growth path and access to capital.

This summary focuses on the Main Board only.

Under the Financial Markets Act 2012, the Financial Sector Conduct Authority is the licensing authority in relation to the establishment of securities exchanges and overall supervisory authority in relation to securities services in South Africa. However, the JSE is the primary regulator for listings on its Main Board. The board of directors of the JSE is the competent authority with primary responsibility for applications by applicant issuers for the listing of securities on the JSE and an annual revision of the list. The board of directors has delegated its authority in relation to the Listing Requirements of the JSE to the management of the Issuer Regulation  Division of the JSE. In certain instances, such as where an offer of securities is made to the South African general public, the South African companies' authority, the Companies and Intellectual Property Commission (CIPC), would also be involved in a proposed listing on the Main Board.

The JSE allows foreign companies with a primary listing on a "recognized/ approved exchange" other than the JSE to list their securities on the JSE as secondary listings, provided that the foreign company registers as an external company in South Africa, if required. Approved exchanges in relation to the Main Board include the Australian Securities Exchange, London Stock Exchange, NYSE, Toronto Stock Exchange, Nasdaq Stock Market, Euronext Amsterdam, Euronext Brussels, Frankfurt Stock Exchange, Luxembourg Stock Exchange, SIX Swiss Exchange and, as of November 2023, the Hong Kong Exchanges and Clearing Ltd.. Such foreign companies must be in compliance with the listing requirements of the exchange where it has a primary listing.

Due to the decline in companies and foreign investment companies listing on the JSE and the increase in delistings, the JSE has announced its intention to completely overhaul the JSE Listings Requirements in an attempt at simplifying the requirements (Simplification Project).  The complete overhaul of the JSE Listings Requirements presents an opportunity for the JSE to reform and regulate listings in a manner that accommodates potential issuers, listed companies, sponsors, shareholders and investors. The Simplification Project aims to simplify the Listings Requirements using plain language to record concise regulatory objectives, allowing better understanding and application of the requirements by listed companies, sponsors, investors. An additional benefit of the simplification will be the significant reduction in the volume of the JSE Listings Requirements. During the process, the JSE will also assess the regulatory relevance of each provision and ‘cut red tape’ where possible to ensure that the JSE Listings Requirements are fit for purpose, aimed at an effective and appropriate level of regulation.

# Principal listing and maintenance requirements and procedures

## Principal listing and maintenance requirements and procedures

[Last updated: 1 January 2024, unless otherwise noted]

The JSE has one set of listing requirements that applies to both primary and secondary listings and to both foreign and domestic companies, subject to some minor differences.

A listing applicant must meet the requirements to qualify for a listing on the Main Board and remain compliant with all the requirements, even where the applicants are required to comply with other laws and/or regulations. The JSE may grant waivers from strict compliance with the requirements, and it assesses each waiver application on a case-by-case basis depending on the merits of each case. However, meeting the JSE's listing requirements does not guarantee a listing on the Main Board. The JSE may, in its overriding discretion, refuse a listing to an applicant even if it complies with the listing requirements on the grounds that, in the JSE's opinion, the grant or refusal of the listing is in the interest of the investing public.

There are no jurisdictions of incorporation or industries considered unacceptable to be listed on the JSE. In addition, the JSE has alternative listing and disclosure requirements for property companies, mineral companies and investment companies. However, there are certain conditions which are applicable to *all* markets, including, amongst others:

The applicant must be duly incorporated or otherwise validly established under the law of the country of incorporation or establishment and must be operating in accordance with its constitutional document as well as all laws of its country of incorporation or establishment.

The applicant must complete the contractual undertaking with the JSE in the form provided in the JSE listing requirements, which provides that from the date of admission to listing any of its securities it will comply fully with all the JSE listing requirements, irrespective of the jurisdiction in which the applicant is incorporated.

The applicant must also appoint an executive financial director and a company secretary (except for certain issuers) and the directors and senior management of the applicant must collectively have appropriate expertise and experience for the governance and management of the applicant and the group’s business.

Applicants seeking a listing on the Main Board must satisfy the following criteria:

An applicant must be able to demonstrate that it has a subscribed capital, including reserves but excluding minority interests, revaluations of assets and intangible assets that are not supported by a valuation by an independent professional expert acceptable to the JSE prepared within the last six months, of at least R 50 million (approximately US$2.74 million).

An applicant must have not less than 25 million equity shares in issue, and at least 10% of each class of such issued equity securities must be held by members of the public to promote reasonable liquidity, representing at least 100 shareholders. Securities will not be regarded as being held by the public if they are beneficially held, directly or indirectly, by (a) the directors (or an associate or extended family of a director) or associates of the company or of any of its subsidiaries, (b) the trustees of any employees' share scheme or pension fund established for the benefit of any directors or employees of the company, (c) a prescribed officer of the applicant issuer (d) the controlling shareholder(s) or (e) any person where restrictions on trading in the issuer's listed securities, in any manner or form, are imposed by the applicant issuer's listed securities for a period exceeding 6 months from the listing date. During the three financial years preceding its application, an applicant must either:

Have been conducting, either by itself or through one or more of its subsidiaries, an independent business as its main activity which is supported by its historic revenue earning history and which gives it control (which for this purpose is defined as at least 50% plus 1% of the voting shares) over the majority of its assets.

Have had a reasonable spread of direct interests in the majority of its assets and the right to actively participate in the management of such assets, whether by voting or through other rights which give it influence in the decisions relating to the assets.

However, the JSE may in its absolute discretion list a company which has only controlled or had a direct interest in the majority of its assets for 12 months provided that such applicant company:

Has produced audited financial statements reporting a profit of at least R 15 million (approximately US$820,500) before taxation and after taking account of the headline earnings adjustment on a pre-tax basis, for the period during which it has exercised control.

Can illustrate that the underlying assets/companies/subsidiaries are in a similar line of business and are dependent on one another or are complimentary for the production of the company's products.

Can demonstrate at least one of the underlying assets/companies/subsidiaries would qualify for a listing on the Main Board in its own right.

An applicant must have audited financial statements for the preceding three financial years and either:

The most recent audited financial statements reported an audited profit of at least
R 15 million (approximately US$820,500) before taxation and after taking account of the headline earnings adjustment on a pre-tax basis.

It has a subscribed capital, including reserves but excluding minority interests, revaluations of assets and intangible assets that are not supported by a valuation by an independent professional expert acceptable to the JSE prepared within the last six months, of at least R 500 million (approximately US$27.35 million).

In addition, the JSE may in its absolute discretion list a company which is in its development stage (other than a mineral company) and which does not have the required profit history provided that the applicant has, prior to listing, (a) subscribed capital of at least R500 million (approximately US$27.35 million) as determined in terms of the JSE's listing requirements, and (b) existed for at least 12 months.

The financial information relied upon to satisfy the requirements set out above must comply with the prescribed standards and must have been reported on by an auditor without qualification, disclaimer, adverse audit opinion, the inclusion of a paragraph on material uncertainty relating to going concern or reference to an emphasis of matter.

In addition to the requirements listed above, where the company seeking a listing is a mineral company, that is a company whose principal activity is that of mining and/or exploration or has substantial mineral assets (i) measured against the purchase or disposal consideration, as the case may be, of the asset in respect of a transaction, and (ii) measured against the market capitalization of the applicant in respect of a new listing, the JSE must be satisfied that the directors and senior management of the applicant, collectively, have appropriate expertise and experience for the governance and management of the applicant and the group's business. Details of such expertise and experience must be disclosed in any listing particulars prepared by the applicant. Please refer to the JSE Listing Requirements for a more detailed overview of the requirements applicable to mineral companies.

Where the company seeking a listing on the JSE is a property entity, that is a company primarily engaged in property activities including: (i) the holding of properties and development of properties for letting and retention as investments; or (ii) the purchase of land for development,  in addition to complying with all applicable listing requirements, the applicant must satisfy the JSE that the asset manager/management company and/or the executive directors responsible for managing the property portfolio have adequate, appropriate and satisfactory experience in the management of investments of the type in which the property entity proposes to invest. Please refer to the JSE Listing Requirements for a more detailed overview of the requirements applicable to property companies.

A foreign company seeking a secondary listing on the Main Board of the JSE must generally comply with all the above requirements, however, the JSE will review the requirements having regard to the jurisdiction in which the applicant is incorporated and the listing conditions of the primary exchange. In addition, such a foreign applicant must:

Confirm that it has a primary listing on an approved exchange. The JSE will therefore not grant a secondary listing on the Main Board for an applicant that has a primary listing on a junior or secondary market of an exchange.

Not have traded in its securities on the JSE, in respect of which a secondary listing is sought, more than 50% of both the total volume and total value traded in those securities on all markets in which it is listed over the preceding 12 months.

There are no additional ownership requirements specifically applicable to a listing of a foreign company's shares. There is no requirement for a listed foreign company to maintain a minimum trading price for its securities.

Each company listed or applying for a listing on the JSE (irrespective of whether it has a primary listing or secondary listing in the Main Board) is required to appoint and maintain a sponsor. The sponsor assists with ensuring compliance with the listing requirements and all necessary correspondence between the company and the JSE must be communicated through the sponsor. Sponsors typically are corporate brokers, banks and other professional advisors, including accountants and attorneys. A newly listed company need not appoint a compliance advisor.

A company that is listed on the JSE must, following its listing and in order to maintain its listing on the JSE, use its best endeavors to ensure that a minimum of 10% of each class of its securities continues to be held by the public so as to ensure reasonable liquidity.

In connection with the listing of securities on the JSE, there is no requirement that shares be placed into escrow or otherwise be restrained from being traded, such as through "lock-in" or "lock-up" arrangements.

Securities listed on the JSE must be traded and settled in South African Rand, even though they may be denominated in other currencies.

All companies listed on the JSE are required to:

Maintain a transfer office or a receiving and certification office if it has securities in issue that are evidenced by a certificate or other written instrument.

Be approved by Strate Proprietary Limited in respect of the clearing and settlement of uncertificated securities and comply with the rules of the Central Securities Depository.

# Listing documentation and process

## Listing documentation and process

[Last updated: 1 January 2024, unless otherwise noted]

Prior to any application being made or documents being drafted, a company that is seeking a listing on the Main Board should first establish if it is going to make an offer of securities to the South African public or if it wishes to list by way of private placement.

*Prospectus requirements*

Should an applicant decide to list on the Main Board by way of an offer to the public, within the meaning of the South African Companies Act, 2008 (Companies Act), that offer must be accompanied by a registered prospectus complying with the requirements set out in the Companies Act, in addition to complying with the JSE's listing requirements (as detailed below). In order for a prospectus to be considered as registered, the prospectus must comply with the requirements of the Companies Act and must have been filed for registration together with any prescribed documents within 10 business days after the date of the prospectus and thereafter must have been registered with the CIPC.

If an offer is required to be accompanied by a prospectus, the prospectus must contain all information that an investor may reasonably require to assess the assets and liabilities, financial position, profits and losses, cash flow and prospects of the company in which a right or interest is to be acquired and the securities being offered and rights attached to them. In addition, the prospectus must adhere to the prescribed specifications as set out in the Companies Act and the regulations promulgated thereunder, which prescribe certain requirements with regard to the form and content of a prospectus.

No securities of an entity incorporated in a jurisdiction outside South Africa may be offered to the public unless a copy of such entity's constitutional documents and a list of the names and addresses of its directors have been filed with the CIPC within 90 business days before the offer to the public is made.

When issuing a prospectus, the applicant must ensure that the prospectus includes all the material information concerning the offer set out in separate sections and paragraphs in the following order and must include at least the information set out beneath such section:

Section 1 – Information about the company whose securities are being offered, including:

Name, address and incorporation.

Directors, other office holders or material third parties.

History, state of affairs and prospects of the company.

Share capital of the company.

Options or preferential rights in respect of securities.

Commissions paid or payable in respect of underwriting.

Material contracts.

Interests of directors and promoter.

Loans.

Shares issued or to be issued otherwise than for cash.

Property acquired or to be acquired.

Amounts paid or payable to promoters.

Preliminary expenses and issue expenses.

Section 2 – Information about the offered securities, including:

Purpose of the offer.

Time and date of the opening and closing of the offer.

Particulars of the offer.

Minimum subscription.

Section 3 – Statements and reports related to the offer, including:

Statement as to adequacy of capital.

Report by directors as to material changes.

Statement as to listing on the stock exchange.

Report by auditor where a business undertaking is to be acquired.

Report by auditor where the company will acquire a subsidiary.

Report by auditor of the company.

Section 4 – Additional material information, which is material information relating to the offer not contemplated above.

Section 5 – Inapplicable or immaterial matters, which is a list of information that is required in in accordance with the above but is not applicable in the circumstances of the offer.

In circumstances where an offer is not an offer to the public, the applicant will not be required to issue a prospectus in compliance with the Companies Act. However, the applicant is still required to issue a pre-listing statement in compliance with the JSE's listing requirements.

*Pre-listing statement requirements*

A pre-listing statement must contain the information as set out in the JSE's listing requirements according to the nature and circumstances of the applicant and the type of security being listed. In addition, the applicant must provide such additional information as the JSE may consider investors reasonably require for the purposes of making an informed assessment of the prospects and status of the applicant.

The JSE's listing requirements do not set out a prescribed format for a pre-listing statement, except that:

The JSE may require that prominence be given to important information in such a manner as it considers appropriate.

A pre-listing statement must provide factual information in words and figures, in as easily analyzable and comprehensive a form as possible.

The following information must appear on the cover page together with the names of, where applicable, the issuer, sponsor, investment/merchant bank, auditors, financial advisers, attorneys and any other specialist advisers:

Share capital of the company.

Directors' responsibility statement (details set out below).

Particulars of the issue.

To the extent that the pre-listing statement is a prospectus, a statement that it has been registered with the CIPC.

Applicants are required to provide all the information required to be disclosed in a pre-listing statement in terms of the listing requirements. Where required information is inappropriate to the applicant's sphere of activity or legal form, the information must be adequately adapted so that the equivalent information is provided, and negative statements are required in all instances except where the JSE agrees otherwise.

A pre-listing statement is required to include the following information:

Details of the applicant and its capital, including:

The name and incorporation details of the applicant as well as the address of its registered office and transfer office.

The applicant's share capital, including details relating to different classes of shares, number of shares, value of each class of shares and the total number of treasury shares as well as a description of the rights attaching to the respective securities and information regarding the consents necessary for the variation of those rights.

A summary of any issues or offers of securities of the applicant and/or its major subsidiaries (being a subsidiary that represents 25% or more of total assets or revenue of the consolidated group based on a company's latest published interim or year-end financial results) and by any subsidiary where such issues or offers were material to the applicant during the preceding three years.

A statement advising who controls the issue or disposal of the authorized but unissued securities, such as directors or shareholders in general meeting.

A summary of any consolidations or subdivisions of securities during the preceding three years.

A statement as to what other classes of securities are listed and on which stock exchanges.

Information regarding the borrowing powers of the applicant, its major subsidiaries and any subsidiary, where such borrowing powers are material to the applicant, exercisable by the directors and the manner in which such borrowing powers may be varied, as well as any exchange control or other restrictions on the borrowing powers of the applicant or any of its major subsidiaries.

Details of material loans, including issued debentures, made to the applicant and/or any of its subsidiaries.

Details of all material commitments, lease payments and contingent liabilities.

Details of material loans made by the applicant, its major subsidiaries and any subsidiary where such loans are material to the applicant.

Names of the controlling shareholders of the applicant and, insofar as it is known to the applicant, the name of any shareholder other than a director, that, directly or indirectly, is beneficially interested in 5% or more of a class of securities, issued by the applicant, together with the amount of each such shareholders' interest.

A statement confirming that the required level of public shareholders has been achieved.

Details of the directors, managers, company secretary and advisors (including auditors, bankers, sponsor and attorneys) of the applicant, specifying, among other things, the principal activities performed by directors (including any activities performed outside the group where these are significant with respect to the group), remuneration and benefits paid or accrued and details of the interests of any director or promoter in securities and/or transactions of the applicant (as contained in the directors' declarations to be submitted together with the applicant's listing application).

Details of the securities for which application is being made, including a statement specifying the purpose of the offer giving reasons why it is considered necessary for the applicant to raise capital in terms of such offer and details of the minimum amount that in the opinion of the directors must be raised by the issue or offer of securities in order to provide the amounts required for payment of fees and expenses and any amounts required in order to achieve the purpose of the offer.

Details of group activities, including:

A general history of the applicant and its major subsidiaries.

A general description of the business carried on or to be carried on by the applicant and its major subsidiaries, detailing the degree of any government protection and of any investment encouragement law affecting the business.

Details of any material changes in the business of the applicant during the past five years.

The opinion of the directors, stating the grounds therefore, as to the prospects of the business of the applicant and its major subsidiaries and of any subsidiary or business undertaking to be acquired, together with any relevant material information.

Any change in controlling shareholders and trading objects of the applicant and its major subsidiaries during the previous five years.

Details of material acquisitions and disposals of securities in or the business of any other company or immovable properties during the past three years or proposed acquisition by the applicant or any of its major subsidiaries, or any subsidiary where the acquisition or proposed acquisition is material to the applicant.

Information of any legal or arbitration proceedings pending or threatened in the last 12 months that may have a material adverse effect on the group's financial position.

Information regarding every material contract entered into by the applicant, or any of its major subsidiaries or by any subsidiary where it is material to the applicant, being restrictive funding arrangements and/or a contract entered into otherwise than in the ordinary course of the business carried on, or proposed to be carried on, by the applicant or any of its subsidiaries which was entered into within the two years prior to the date of the pre-listing statement or which contains an obligation or settlement that is material to the issuer or its subsidiaries at the date of the pre-listing statement.

A statement regarding the issuer's implementation of the King Code through the application of the King Code disclosure and application regime (refer to 5 below).

A statement by (i) the social and ethics committee of the applicant issuer that it has fulfilled its mandate as prescribed by the regulations to the Companies Act and that there are no instances of material non-compliance to disclose (if instances of material non-compliance exist, these items must be disclosed) and (ii) the directors confirming that the applicant issuer is in compliance with the provisions of the Companies Act or relevant laws of establishment and operating in conformity with its constitutional documents.

A description of all material risks which are specific to the issuer, its industry and/or its securities.

Financial information in relation to the applicant, including:

Accountant's report on the applicant and the assets that are the subject of the transaction, if any.

A report on the historical financial information.

A statement by the directors of the applicant that in their opinion the working capital available to the applicant and its subsidiaries, if any, is sufficient for the group's present requirements for at least the next 12 months from the date of issue of the listing particulars, or, if not, and the applicant has securities already listed, how it is proposed to provide the additional working capital thought by the applicant to be necessary.

A description of any material change in the financial or trading position of the applicant and its subsidiaries that has occurred since the end of the last financial period for which either audited financial statements or unaudited interim reports have been published.

Profit forecasts and pro forma statements.

A directors' responsibility statement must be made by the directors whereby they collectively and individually accept full responsibility for the accuracy of the information given and certify that to the best of their knowledge and belief there are no facts that have been omitted which would make any statement false or misleading, and that all reasonable enquiries to ascertain such facts have been made and that the prospectus or pre-listing statement contains all information required by law and the JSE Listings Requirements. A pre-listing statement must be signed by every director of the applicant or by his agent or attorney, with a copy of the authority of such agent or attorney provided to the JSE and must be formally approved by the JSE before publication.

*Additional requirements for mineral companies*

Where the company seeking a listing on the JSE is a mineral company, the pre-listing statement must also include the following:

A public report (either in full or a detailed executive summary) prepared on the mineral assets and projects of the company, which complies with the listing requirements as well as the South African Code for Reporting of Exploration Results, Mineral Resources and Mineral Reserves (SAMREC Code) and the South African Code for reporting of Mineral Asset Valuation (SAMVAL Code) and is signed by the lead Competent Person or defined in the SAMREC Code.

Details of any beneficial interest of each director, Competent Person, Competent Valuator or related party has (or, within two years of the date of the pre-listing statement, had) in the share capital of the applicant or in any relevant asset.

A statement by the directors of the applicant regarding any legal proceedings that may have an influence on the rights to explore or mine, or an appropriate negative statement.

Confirmation that the applicant, or its group is in possession of the necessary legal title or ownership rights to explore, mine or explore and mine the relevant minerals.

*Alternative and additional requirements for property entities*

Requirements relating to the provision of audited historical financial information in relation to the applicant are limited to the extent that there are no historical operations. A property entity must also include the following additional information in its pre-listing statement:

A pro forma statement of financial position and a forecast statement of comprehensive income, including separate disclosure of (i) rental and non-rental revenue, (ii) contracted, near-contracted and uncontracted rental revenue, (iii) rental and non-rental revenue, together with a special property forecast report from an auditor on such statements prepared in accordance with the Listing Requirements.

Specified information in relation to the property portfolio and in respect of each specific property in the portfolio.

A valuation report prepared by an independent registered valuer on the entire property portfolio.

*Documents for inspection*

Each applicant is required to ensure that certain documents relating to the applicant and its major subsidiaries (including copies of the applicant's constitutional documents, all material contracts, audited financial statements since the date of incorporation or for the last three years, whichever is the lesser, reports referred to in the prospectus or pre-listing statement and service agreements with directors, managers or secretaries, underwriters, vendors and promoters entered into during the last three years, the latest sworn appraisals or valuations relative to movable or immovable property, any trust deed or agreement affecting the governance of the applicant or the interests of shareholders) are made available for inspection at the place where the applicant has its registered office and in Johannesburg for a reasonable period of time (not less than 14 days) prior to listing.

*Secondary listings*

An applicant seeking a secondary listing on the JSE must produce a pre-listing statement in compliance with the JSE's listing requirements save as otherwise specifically stated in the Listings Requirements. The applicant must disclose in its pre-listing statement headline earnings per share and diluted headline earnings per share together with an itemized reconciliation between headline earnings and the earnings used in the calculation. The JSE will accept financial information prepared in accordance with IFRS, IFRS as adopted by the European Union, and UK, US, Australian, or Canadian GAAP. In addition, the JSE may accept extracts of financial information which have been prepared in accordance with such accounting frameworks, provided that the information was published subsequent to the applicant being granted a listing on the exchange where it has a primary listing and in accordance with that exchange's listing requirements. Please refer to the JSE Listing Requirements for a more detailed overview of the secondary listing requirements.

*Typical process and timetable for listing of a company*

The length of time required to list a company from the kick-off meeting to the actual listing depends on a number of factors, such as the quality of the internal records of the company, the due diligence process and whether all requisite documents and approvals are available or have been obtained. In addition, whether or not the offer of securities is an offer to the public will have a bearing on the timeline. As mentioned above, where an offer to the public is concerned, a prospectus conforming to certain additional requirements as set out in the Companies Act and registered with the CIPC is required, which will expand the timeline.

The following diagram summarizes the process for a listing application on the Main Board.

[Link to Diagram](https://resourcehub.bakermckenzie.com/en/-/media/crossborder-listings-handbook/files/2024-update-10th-edition/johannesburg-jse-limited---long-form---listing-documentation-and-process.pdf?sc_lang=en)

The documentation requirements described in this section assume that no offer to the public is made and an issue price for the listed securities is fixed in the pre-listing statement. To the extent that no fixed price is specified in the pre-listing statement, but rather a range for the issue price, announcement of the final issue price will be made after close of the offer.

# Continuing obligations/periodic reporting

## Continuing obligations/periodic reporting

[Last updated: 1 January 2024, unless otherwise noted]

Once a company has been listed with a primary listing on the JSE, it must publish its interim and, if applicable, quarterly reports and its annual statements within prescribed timeframes. In addition, further continuing disclosure requirements for listed companies are prescribed by the JSE's listing requirements, including general obligations of disclosure in respect of material price sensitive information, trading statements and transactions which are of a certain value or may have a certain result.

*Price sensitive information*: A listed company must, without delay, unless this information is kept confidential for a limited period of time, release an announcement providing details relating directly or indirectly to that company that constitutes price sensitive information. If the necessary degree of confidentiality cannot be maintained, or the issuer suspects that confidentiality has or may have been breached, in respect of price sensitive information then the company must immediately publish a cautionary announcement.

*Trading statements*: A listed company must publish a trading statement as soon as it is satisfied that a reasonable degree of certainty exists that the financial results for the following reporting period will differ by at least 20% from the most recent of any profit forecast previously provided to the market in relation to such period or the financial results for the previous corresponding period. Trading statements must provide specific guidance by the inclusion of the period to which it relates and the comparative numbers for the previous published period as well as a specific percentage and number (or range of percentage and numbers) to describe the differences.

*Dividends and interest*: The declaration of dividends, interest and other similar payments by listed companies should be announced immediately. If the company decides not to declare any dividends, interest or other similar payments and that decision is deemed to be price sensitive, the decision not to declare or make any such payment must be announced immediately after the decision has been taken.

*Restatement of previously published results:* where an applicant issuer restates previously published results that impact earning per share, headline earnings per share and/or the amounts presented in the statement of financial position, profit or loss and other comprehensive income, changes in equity and/or cash flows, it must submit a restatement notification to the JSE when submitting its annual financial statements and annual compliance certificate. The restatement notification must, amongst other things, contain sufficient details of the restatement, the impact of the restatement on previously published results and the reasons therefor. Previously published results include interim results, summary financial statements, condensed financial statements and annual financial statements whether published separately or as part of another document.

*Interim and quarterly results*: A listed company must ensure that its interim results or  are published through the JSE's SENS by no later than three months after the end of the first six-month period of the company's financial year and a 12 month period commencing on the first day of a financial year if the listed company has changed its year end (consequently resulting in a financial year longer than 12 months). In the case of listed companies that elect to voluntarily report to shareholders on a quarterly basis, the quarterly reports must be published through the JSE's Stock Exchange News Service (SENS) as soon as possible after each quarter. Quarterly reporting does not negate the required release of the interim results.

*Auditors Report*: A listed company's auditor must audit the company's annual financial statements and the separate annual financial statements, where the listed company is a South African company, in accordance with the International Standards on Auditing or the national auditing standards acceptable to the JSE (in the case of a foreign listed company). In addition, a listed company's auditor must audit the listed company's condensed financial statements and interim results in accordance with the International Standard on Review Engagements or national standards acceptable to the JSE (in the case of a foreign listed company).

The release of condensed financial statements, summary financial statements, annual financial statements, annual reports, interim results or quarterly results without the requisite auditors' report is strictly not permitted. Further, a listed company runs the risk of its listing being suspended for a failure to comply with the required publication of annual or interim results within the stipulated periods.

*Annual financial statements*: A listed company must release a publication of results dealing with either condensed financial statements or annual financial statements / summary financial statements within three months after the end of each financial year end through the SENS. Further, every listed company must distribute its annual financial statements to shareholders within three months of the end of each financial year. Where annual financial statements have not been distributed to holders of securities within three months of its financial year-end, the issuer must publish a provisional report containing provisional annual financial statements within that three-month period, even if the financial information is unaudited at that time.

Every listed company must further, within four months of the end of each financial year, and at least 15 business days before the date of the annual general meeting, distribute to all shareholders and submit to the JSE a notice of the annual general meeting (together with a weblink to the annual report) as well as the annual financial statements for the relevant financial year, which financial statements must have been reported on by such company's auditor. The annual financial statements must be distributed to shareholders, an electronic copy thereof must be submitted to the JSE for publication on the JSE's website.

*Director*s: A listed company, through its sponsor, without delay and no later than the end of the business day following the decision or receipt of notice detailing the changes, must notify the JSE of any change to its board of directors or company secretary, including:

The appointment of a new director or company secretary.

The resignation, removal, retirement or death of a director or of the company secretary.

Changes to any important functions or executive responsibilities of a director.

Any change in sponsor.

The changes must be announced as soon as possible and must also be included in the company's next publication of listing particulars. Where a director retires and is re-appointed at an annual or other general meeting, no notification is required as this does not result in a change to the board of directors.

A listed company must, through its sponsor, announce details of all transactions in securities relating to the company by or on behalf of:

The directors, company secretary or a prescribed officer of the company.

The directors and company secretary of a major subsidiary of the listed company.

Each associate of such listed company and each major subsidiary company of that listed company.

*Transactions*: A listed company is required to publish an announcement, or publish an announcement together with a circular, detailing the terms of any proposed acquisitions and disposals by that listed company or its subsidiaries, depending on the value of the transaction (determined by assessing the size of the transaction relative to the market capitalization of the listed company proposing to make it).

*Mineral companies*: Announcements by mineral companies must comply with the SAMREC Code and the SAMVAL Code, where applicable, and must state the name of the Competent Person/Competent Valuator and that the Competent Person/Competent Valuator has approved the information in writing prior to publication. Mineral companies are required to make certain additional annual disclosures which are specified in the JSE listing requirements in relation to exploration companies, mining companies and oil and gas companies, respectively. Please refer to the JSE Listing Requirements for a more detailed overview of the requirements applicable to mineral companies.

*Secondary listings*: For a company that has a secondary listing on the JSE, the JSE will allow the disclosure requirements of the exchange where it has a primary listing to take precedence, subject to the following exceptions:

The annual financial statements and any other communication with shareholders must state where the primary and secondary listing of the company's securities are.

When the company wishes to release any information on another exchange it must ensure that the information is also released on the JSE and that the release takes place no later than the equivalent release on any other exchange.

The company must publish, in its interim and year-end results, headline earnings per share and diluted headline earnings per share together with an itemized reconciliation between headline earnings and the earnings used in the calculation.

The company must advise and obtain approval from the JSE with regard to the timetables for corporate actions stipulated in the relevant schedule to the listing requirements. Issuers must ensure that the JSE is notified in advance in order to ensure that the JSE can accommodate the processing of these corporate actions for shareholders on the South African share register.

In addition, a company with a secondary listing must submit to the JSE, together with its annual financial statements, details of the volume and value of securities traded on all exchanges where it has a listing (over the previous 12 months) in order for the JSE to consider the company's continued secondary listing status. If both the value and volume of securities traded on the JSE exceeded 50% of the total volume and total value of those securities traded on all exchanges where such company has a listing over the previous 12 months, then the company's listing status on the JSE in respect of those securities may be converted to a primary listing. The converse applies where both the volume and value of securities traded on the JSE over the preceding 12 months is equal to or less than 50% of those securities traded on all exchanges on which the company has a listing. Please refer to the JSE Listing Requirements for a more detailed overview of the requirements applicable to secondary listings companies.

# Corporate governance

## Corporate governance

[Last updated: 1 January 2024, unless otherwise noted]

In 1992, the King Committee on Corporate Governance was formed in South Africa, and, in line with international thinking, considered corporate governance from a South African perspective. The first King Code on corporate governance for South Africa was established in 1994 and has been subsequently amended and updated. Although the code is not enforced through legislation, it co-exists with a number of laws that apply to companies and directors including the Companies Act. Compliance with the King Code is a requirement for companies listed on the JSE. The most recent update to the King Code, known as King IV, came into effect during May 2017.

A company listed on the JSE is required to disclose the following information in its annual report and in its annual financial statements with respect to the King Code:

A statement addressing the company’s implementation of the King Code through the application of the King Code disclosure and application regime.

A listed company must comply with the following specific requirements of the King Code:

There must be a policy evidencing a clear balance of power and authority at board of directors’ level to ensure that no one director has unfettered powers of decision-making.

The company must have an appointed chief executive officer and chairman and these positions must not be held by the same person. Either the chairman must be an independent non-executive director, or the company must appoint a lead independent director, in accordance with the King Code.

The company must appoint an audit committee, a remuneration committee and a social and ethics committee. The composition of such committees must comply with the Companies Act (as applicable) and should be considered in accordance with the recommended practices in the King Code on an apply and explain basis. A brief description of their mandates, the number of meetings held and other relevant information must be disclosed in the annual report.

A brief curriculum vitae of each director must be provided in respect of a new listing. Further, a brief CV for each director standing for election or re-election at a general meeting or annual general meeting should accompany the notice of the general meeting or annual general meeting.

The capacity of each director must be categorized as executive, non-executive or independent, using the following as guidelines to determine which category is most applicable to each director:

Executive directors are directors that are involved in the management of the company and/or in full-time salaried employment of the company and/or any of its subsidiaries.

Non-executive directors are directors that are not involved in the day-to-day management of the business, or are not full-time salaried employees of the company and/or any of its subsidiaries.

Independent directors should be determined holistically, and on a substance over form basis in accordance with the indicators provided in Section 94(4)(a) and (b) of the Companies Act and the King Code. In addition, it must be noted that any director that participates in a share incentive/option scheme, will not be regarded as independent.

The company must have an executive financial director. The JSE may, at its discretion, when requested to do so by such company, and due to the existence of special circumstances, allow the financial director to be employed on a part-time basis only. This request must be accompanied by a detailed motivation by the company and the audit committee.

The audit committee must (i) consider, on an annual basis, and satisfy itself of the appropriateness of the expertise and experience of the financial director, (ii) ensure that the issuer has established appropriate financial reporting procedures and that those procedures are operating (which should include consideration of all entities included in the consolidated group IFRS financial statements, to ensure that it has access to all the financial information and allow the issuer to effectively prepare and report on its financial statements), and (iii) assess the suitability for appointment or reappointment of the company's current or prospective audit firm. The audit committee must further ensure that the appointment of the auditor is presented and included as a resolution at the annual general meeting of the listed company. The company must confirm to its shareholders that the audit committee has executed these responsibilities.

The company must have a company secretary and should apply the recommended practices in the King Code. The board of directors must consider and satisfy itself of the competence, qualifications and experience of the company secretary. The company must confirm this by reporting to its shareholders, including providing details of the steps taken and information relied upon by the board in making the assessment.

The board of directors or the nomination committee, as the case may be, must have a policy on the promotion of broader diversity at board level, specifically focusing on the promotion of the diversity attributes of gender, race, culture, age, field of knowledge, skills and experience. The issuer must confirm this by reporting to shareholders in its annual report on how the board or the nomination committee, as the case may be, have considered and applied the policy in the nomination and appointment of directors.

The remuneration policy and the implementation report must be tabled every year for separate non-binding advisory votes by shareholders of the issuer at the annual general meeting. The remuneration policy must record the measures that the board of directors of the company commit to take in the event that either the remuneration policy or the implementation report, or both, are voted against by 25% or more of the votes exercised. In order to give effect to the minimum measures referred to in the King Code, in the event that either the remuneration policy or the implementation report, or both, are voted against by shareholders exercising 25% or more of the voting rights exercised, the issuer must in its voting results announcement provide for (a) an invitation to dissenting shareholders to engage with the issuer; and (b) the manner and timing of such engagement.

# Specific situations

## Specific situations

[Last updated: 1 January 2024, unless otherwise noted]

There are no additional requirements, or any changes in the normal requirements, that apply to very large multinational companies or smaller companies.

Companies in certain industries are subject to modified listing and maintenance rules. For example, mineral companies, property entities, pyramid companies and investment entities have separate chapters in the JSE's listing requirements which are dedicated to each of these types of companies.

*Fast-track Listing Process*

A company which has had a primary listing on an accredited exchange (currently the Australian Stock Exchange, London Stock Exchange, New York Stock Exchange, New York Stock Exchange Euronext and Toronto Stock Exchange) for at least 18 months (an accredited applicant) can apply for a secondary listing on the JSE using the fast-track process. The process allows the accredited applicant to publish a pre-listing announcement, subject to a shorter list of requirements, instead of complying with the requirements for a pre-listing statement. In the event that capital will be raised in conjunction with the fast-track listing process, the JSE must be consulted, and the accredited company must confirm that such capital raising will comply with the requirements of the accredited exchange.

# Presence in the jurisdiction

## Presence in the jurisdiction

[Last updated: 1 January 2024, unless otherwise noted]

Where appropriate, a foreign company listing on the JSE must, prior to any application for listing being submitted, register as an external company in South Africa. Each applicant issuer must obtain a legal opinion as to whether it is required to register as an external company. An external company must continuously maintain at least one office in South Africa and register the address of its office by providing the required information when filing its registration as an external company with the CIPC.

An external company with a listing on the JSE must appoint and maintain, while it remains listed on the JSE, a person authorised to accept service of due process and notices on its behalf in South Africa and must notify the JSE of such appointment (or termination, providing that in the event of termination another person must be immediately appointed and their details provided to the JSE).

# Fees

## Fees

[Last updated: 1 January 2024, unless otherwise noted]

*Initial listing fees:* The fees charged for a listing of securities are currently determined as follows:

[Link to Table](https://resourcehub.bakermckenzie.com/en/-/media/crossborder-listings-handbook/files/2024-update-10th-edition/johannesburg-jse-limited---long-form---fees1.pdf?sc_lang=en)

The monetary value of securities for which application for listing is made is determined by the number of securities for which application for listing is made multiplied by the issue price per security. In respect of introductions of existing issued securities where no price is attributable to the securities, the securities are deemed to have a value calculated by multiplying the number of securities listed by the closing price on the first day of trading.

The fees are payable at the time of application except in the case of an introduction, where they are due on the day following the first day of trading after listing.

*Annual listing fees*: The annual fees are calculated by taking the average market capitalization of the securities over the previous year and finding the corresponding market capitalization tier for the securities. Once the tier has been determined, multiplying the residual amount of market capitalization that exceeds the lower limit of the tier by the variable charge (remember that the variable charge is per million), and adding the result of the above calculation to the minimum fee for the appropriate tier (see the table below). All new listings are subject to a new listing documentation fee of R120,265.85 (including VAT) (approx. US$6,579), with additional documentation fees being applicable to mining and real estate companies.

[Link to Table](https://resourcehub.bakermckenzie.com/en/-/media/crossborder-listings-handbook/files/2024-update-10th-edition/johannesburg-jse-limited---long-form---fees2.pdf?sc_lang=en)

\**As at 1 January 2022 ZAR 1 million = (approx.) US$54,700.*

Notwithstanding the above, where more than one of the aforesaid classes of securities are listed, the issuer shall pay the higher annual listing fee only. If a listing is terminated on or before 30 June, 50% of the annual listing fee paid will be refunded to the issuer.

Where specific securities have only a secondary listing on the JSE, 70% of the annual listing fee, calculated as described above, is payable.

In respect of issuers with preference shares listed, an amount of R16,379.80 (US$896) (including VAT); and in respect of issuers with debentures or loan stock listed, an amount of R8,204.04 (US$449) (including VAT).

A listing of securities may be suspended and ultimately terminated unless fees that are due, but unpaid, are paid within one month after written notice of demand has been given to an applicant issuer by the JSE.

*Documentation fees*: Documentation inspection fees are payable to the JSE in addition to the listing fees payable in respect of the listing of securities.

# Additional Information

## Additional Information

[Last updated: 1 January 2024, unless otherwise noted]

All information and materials submitted to the JSE to disclose in the market in South Africa must be in English.

An additional requirement for foreign companies seeking a listing on the JSE is that the foreign company must obtain approval for exchange control purposes from the Financial Surveillance Department of the South African Reserve Bank. The JSE's approval of an issue and listing will not be given until copies of the requisite authority from the South African Reserve Bank, giving a ruling regarding the use of the funds introduced through normal banking channels from abroad or from a non-resident account or from an emigrant's block Rand account relating to the issue, is received.

There are many items that a foreign company should examine when considering a cross-border listing. Whether the foreign company is already listed on any stock exchange or not, when considering a listing on the JSE, the company, its directors and senior management should familiarize themselves with the continuing compliance obligations imposed by the JSE and other relevant South African securities law and regulations.

# Contacts

## Contacts within Baker McKenzie

Lydia Shadrach-Razzino and Tanya Seitz in the Johannesburg office are the most appropriate contacts within Baker McKenzie for inquiries about prospective listings on the JSE.

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