BIRD'S EYE VIEW OF
THE JSE'S RECENT PROPOSALS TO REFORM
ITS LISTINGS FRAMEWORK

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The JSE has asked for public comment on various proposals to revise its listings framework and, based on encouraging responses, will proceed to start work on a number of amendments this year and next year.

BACKGROUND

In May 2022, the JSE Limited (JSE) published a consultation paper (Consultation Paper) to obtain market input on various proposals to reform its listings framework, in light of international developments and recent JSE initiatives. The Consultation Paper also provided insight into the JSE's current works-in-progress and requested guidance on three of these initiatives. In August 2022, the JSE published a response paper to the Consultation Paper (Response Paper), setting out (i) market appetite to proceed with the three identified works-in-progress and the proposals and (ii) a roadmap of the reforms that will be prioritised by the JSE, including broad scope timelines.

The Response Paper indicated positive responses to the requests for guidance (in respect of the three works-in-progress) and proposal considerations. The JSE will progress the identified works-in-progress and proposals, except for the proposal to introduce a Technology Board (which it will revisit at a later stage).

Once the JSE has drafted amendments to the Listings Requirements (LR), they will be subject to the public consultation processes required by the LR and the Financial Markets Act, 2012 (FMA), and to approval by the Financial Sector Conduct Authority. As part of the amendment process, the JSE will engage with commentators who did not support a particular proposal.

On the basis of general comments received, the JSE has stated in the Response Paper that it will consider the impact of the LR on capital raisings and consider whether amendments can be made to the LR to improve retail participation. It has also identified fairness opinions in related party transactions and restricted matters as two areas that require further investigation and international exchange benchmarking.

The tables below provide a "bird's eye view" of the works-in-progress and proposals identified in the Consultation Paper and the outcomes of the Response Paper, including the JSE's broad scope timelines.

WORKS-IN-PROGRESS

Consultation Paper: Work-in progress item	Consultation Paper: Request for guidance	Response Paper: Outcome and JSE roadmap
Removal of Auditor Accreditation Model The JSE has proposed removing the current Auditor Accreditation Model, given financial reporting improvements and initiatives. The JSE has engaged with The Independent Regulatory Board for Auditors (IRBA) on this workstream and will continue to do so through the public consultation process.	Given financial reporting improvements and the JSE's involvement in initiatives that enhance reporting, is there support for the removal of the Auditor Accreditation Model?	• 75% of commentators supported the removal of the Auditor Accreditation Model. • Based on the positive level of support, the JSE aims to proceed with this workstream. • The JSE will commence this process in Q3 2022, recognising that significant research and consultation has already taken place.
Secondary listings framework review The JSE currently has 12 approved exchanges and 5 accredited exchanges. Applicant issuers who have a primary listing on an approved exchange are eligible for a secondary listing on the JSE. If the applicant issuer is listed on one of the 5 accredited exchanges, it is eligible for a fast-track secondary listing on the JSE. The JSE is currently working on the following initiatives to expand its secondary listings framework: • upgrading all approved exchanges to accredited exchanges (enabling fast-track secondary listings from these exchanges); and • adding further exchanges to the current list of approved exchanges.	Given the present list of recognised foreign exchanges, are there any recommendations as to which other international exchanges the JSE should target to make its secondary listings more appealing and accessible?	• Responses included that the JSE should consider various African, European and Asian exchanges, which the JSE said it would consider. • The JSE will commence this process in Q4 2022. • The LR afford the JSE the discretion to expand on its list of accredited and approved exchanges for secondary listings and no amendments to the LR are needed, according to the JSE.

WORKS-IN-PROGRESS

Consultation Paper: Work-in progress item	Consultation Paper: Request for guidance	Response Paper: Outcome and JSE roadmap
Review of delisting process in secondary listings The JSE is currently researching the delisting process for secondary listed companies, in light of the argument that it is difficult for a secondary listed company to delist from the JSE. The JSE has recognised that currently the same delisting process is applied to both primary and secondary listed companies, which does not seem to align with the status of a secondary listing on the exchange.	Given the concerns raised on the attractiveness of the JSE's secondary listing offering, is there support to reconsider the delisting regime for secondary listed companies?	• 100% of commentators supported the JSE reconsidering the delisting regime for secondary listed companies. • Based on the positive level of support, the JSE aims to proceed with this workstream to amend the LR. • The JSE will commence the process in 2023. • The JSE will take into account the delisting provisions in the FMA, peer exchange benchmarking, the interests of investors and the objectives of secondary listed issuers.

PROPOSALS

Consultation Paper: Proposal item	Consultation Paper: Proposal for consideration	Response Paper: Outcome and JSE roadmap
Market segmentation The JSE currently has two markets: Main Board and AltX. The JSE proposes the following market segmentation blueprint model for consideration. • Reposition the Main Board into "Main Board" and "Main Board Plus" (illustrative names), and classify companies into one of these segments based on a market capitalisation and liquidity test over a period of time, eg 2 years. • Reposition AltX as a truly growth board, with special emphasis on growth companies. • "Main Board Plus" would consist of high capitalisation companies with high levels of liquidity, subject to the current LR. • "Main Board" would consist of low and medium capitalisation companies with lower liquidity, subject to bespoke Main Board listings requirements offering more regulation flexibilities, such as (i) broader ranges for category 1 and 2 transactions/related party transactions or purely disclosure-based requirements at certain levels; (ii) fewer mandatory JSE corporate governance provisions; (iii) reduced free float requirements and (iv) lesser continuing obligations.	Is there appetite in the market to consider the proposed market segmentation to provide the necessary regulatory relief for mid/low cap and growth companies?	• 94% of commentators supported the JSE considering the market segmentation proposal. • Based on the positive level of support, the JSE aims to proceed with this proposal. • The JSE will commence this process in Q4 2022. This is subject to internal discussions relating to technology requirements, proper positioning of the proposed segments and peer exchange benchmarking.

PROPOSALS

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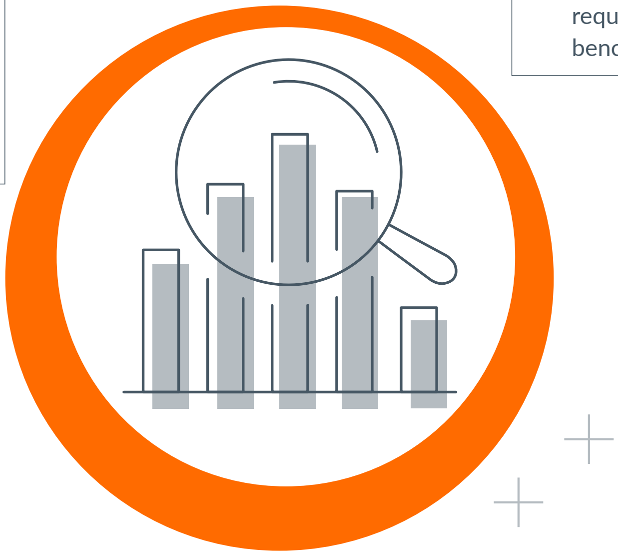
Dual class shares The LR currently prohibit the listing of a company with low or high voting shares and the issue of low or high voting shares by an existing listed company (subject to the allowance to list additional shares of an existing listed low/high class). Dual class shares (DCS) allow a shareholder to retain control over a company disproportionate to its economic interest and are attractive to founders who wish to retain control, at least initially. Given developments on the London Stock Exchange (LSE), Singapore Stock Exchange (SGX) and other international markets, the JSE proposes the introduction of a DCS structure, subject to appropriate restrictions to afford necessary investor protection, such as (i) requiring an enhanced voting process where all shares carry one vote for certain matters; (ii) capping multiple voting shares and (iii) requiring sunset clauses where multiple voting shares will auto-convert to ordinary voting shares).	In order for the JSE to remain competitive and relevant, is there 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?	• 73% of commentators supported the JSE considering the introduction of DCS structures on the JSE. • Based on the positive level of support, the JSE aims to proceed with this proposal. • The JSE will commence this process in Q4 2022. • The JSE has stated it will be paramount that it ensures due safeguards are in place, specifically sunset clauses, to promote governance and transparency in DCS companies. • The JSE will take into account established listings requirements of peer exchanges and exchange benchmarking.



PROPOSALS

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Free-float and new listings Free float refers to the portion of the company's issued share capital in the hands of public investors as opposed to company officers, directors or shareholders that hold controlling interests. In line with recent LSE reforms, the JSE is considering whether the 20% free float threshold for a Main Board listing is still appropriate and whether a reduced level could make listings more attractive. The JSE has raised the concern that if it does not reconsider its free float requirements, it may become less competitive and result in the bizarre scenario where companies qualify for listing on premier international exchanges but fail to qualify for a secondary listing on the JSE.	Considering developments in the UK and EU on the reassessment of free float: • is free float a good measure to measure 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?	• 70% of commentators supported the JSE reconsidering the existing free float requirement for new listings. • Based on the positive level of support, the JSE aims to proceed with this proposal. • The JSE will commence the process in Q3 2022. • The JSE will take into account recent developments in the UK and EU, exchange benchmarking and retail investor participation.
Institutional investors and free float assessment Under the LR, any holdings of 10% or more of the securities in the issuer do not qualify as free float. However, it is common for institutional investors to hold more than 10% in an applicant issuer on listing, which will then exclude them from the free float assessment. While fund managers/institutional investors holding 10% or more can qualify to be part of the free float in certain circumstances, the JSE has recognised that this exemption is limited and complex. The JSE is considering whether it would help applicants to meet the free float requirement on listing if the LR did not automatically exclude fund managers/institutional investors holding more than 10% from the free float assessment, provided that the applicant issuer and fund manager/institutional investor can show that the funds used to acquire the interest represent those of underlying clients or policyholders and not those of the institutional investor and/or its shareholders.	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 represent those of underlying clients/policy holders and not those of the institutional investor itself and/or its shareholders?	• 88% of commentators supported the JSE reconsidering the free float assessment for fund managers/institutional investors. • Based on the positive level of support, the JSE aims to proceed with this proposal. • The JSE will commence this process in Q3 2022. This is subject to further research, exchange benchmarking and retail investor participation.

PROPOSALS

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Depository receipts by African listed companies A depository receipt (DR) is a financial instrument representing a foreign listed security and confers rights in such security (including voting rights and dividends). A sponsored DR requires 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 involves a depositary where the securities of an issuer or underlying reference entity are held in trust. The JSE's current requirements for both sponsored and unsponsored DRs could deter applicants from listing DRs. These requirements include that (i) the issuer of a sponsored DR must meet the requirements for a secondary listing on the JSE and therefore be listed on an approved exchange (which currently includes no African exchanges) and (ii) with an unsponsored DR, there must be sufficient liquidity and the issuer must be listed on a member exchange of the World Federation of Exchanges or, if not, have a minimum subscribed capital of ZAR 500 000 000. The JSE proposes affording investors access to Africa listings through enabling African listed companies to obtain access to the JSE through DRs.	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?	• 94% of commentators supported the JSE considering the proposal to afford investors access to Africa listings and beyond through DRs on the JSE. • Based on the positive level of support, the JSE aims to proceed with this proposal. • The JSE will commence the process in Q1 2023. This is subject to further research/consultation and proper consideration of potential exchange control implications.

PROPOSALS

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Introduction of a Technology Board The JSE proposes establishing a Technology Board, which will give start-up companies more flexibility to grow and focus on innovation. The Technology Board may include certain regulatory flexibilities, such as (i) allowance of DCS structures; (ii) no requirements for profits for the first 2 years and (iii) lower levels of subscribed capital and issued shares.	Is there investment appetite for a Technology Board on the exchange, with more regulation flexibilities in order to promote growth? The question was posed against the backdrop of the recognition that South Africa is not well known for tech start-ups. However, depending on the acceptability of the proposal on DCS structures, international fintech companies may consider the JSE as a secondary listings destination of choice to raise capital.	• 66% of commentators supported the JSE considering the introduction of a Technology Board. • The JSE will not proceed with this proposal at this stage. • The JSE said that while there is general support for the proposal, it is recognised that the market segmentation proposal will offer flexibilities to small and medium capitalisation companies. • The JSE will focus its attention on the market segmentation proposal and revisit the proposal for the Technology Board at a later stage.
Simplification of the Listings Requirements The JSE is considering simplifying the LR, which will involve using plain language to record regulatory principles and reducing its volume. The JSE has recognised that some provisions may be redundant, purely administrative or not strictly necessary. The JSE is also aware that market participants are familiar with the LR in its current format and a potential rewrite may cause more frustration. It stated that if there was support for this proposal, it would be a gradual project.	Is there demand from market participants for the JSE to commence with a project to rewrite and repackage the LR in their entirety?	• 95% of commentators supported the JSE considering the proposal to simplify the LR. • Based on the positive level of support, the JSE aims to proceed with this proposal. • The JSE will commence the process in Q3 2022, noting that the magnitude of the project must be recognised.

MEET OUR AUTHORS

For more information on the JSE's proposals to reform its listings framework, please contact our authors.

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