

# MFSA

MALTA FINANCIAL SERVICES AUTHORITY

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## **Circular 01/07 to: All Company Secretaries and Stockbroking Firms**

20 February 2007

### ***Amendment to Listing Rules***

The Listing Authority has approved various amendments to the Listing Rules. These changes, in the main, transpose the provisions of Directive 2004/109/EC of the European Parliament and of the Council, dated 15 December 2004.

The scope of the Directive/109/EC is to harmonise the transparency requirements to disclose information about Issuers whose securities are admitted to trading on a regulated market. The Directive replaces and updates parts of the existing EU legislation in this area – mainly the ‘Consolidated Admissions and Reporting Directive’ better known as the CARD Directive. The Directive 2004/109/EC is designed to enhance transparency on EU Capital Markets by requiring regulated market Issuers to produce periodical financial reporting and shareholders in such companies to disclose major holdings.

The Transparency Directive also deals with the mechanisms through which this information is to be disseminated and stored.

An Explanatory Note explaining the various changes was posted on the MFSA website on 21 December 2006 and triggered a consultation process with the various interested parties. The documents attached to the Explanatory Note included the proposed amendments to the Definitions Chapter, Chapters 1, 8, 9, 12, 13 and 15 of the Listing Rules.

Following the consultation process and feedback received some amendments were carried out and the attached are the final amendments which have been approved by the Listing Authority.

**The attached Listing Rules incorporate the amendments to the Definitions Chapter and to Chapters 1, 8, 9, 12, 13, and 15 of the Listing Rules and should replace the existing relative Chapters. These amendments come into effect on the 1<sup>st</sup> March 2007 subject to the following:**

(i) Listing Rule 8.119: By not later than 1<sup>st</sup> May 2007, a shareholder shall notify an issuer of the proportion of voting rights and capital one holds in accordance with Listing rule

8.110 and 8.116, unless the shareholder has already made a notification containing equivalent information.

(ii) Listing Rule 8.126: An issuer shall disclose information received in accordance with L.R. 8.119 by not later than 1<sup>st</sup> June 2007.

(iii) Listing Rule 8.131: An issuer incorporated in a non-EU or non-EEA Member State shall be exempted from preparing its Annual Financial Report and half-yearly report in accordance with Listing Rules 9.36 and 9.42 prior to the financial year starting on or after 1 January 2007.

(iv) Listing Rule 9.36.4: The requirement that issuers publish their annual accounts within four months of the end of the financial year to which they relate shall apply to accounting periods commencing on or after 1<sup>st</sup> January 2007.

(v) Listing Rule 9.40.5: The requirement to include the statement referred to in Listing Rule 9.40.5 shall apply to audited annual accounts relating to financial periods commencing on or after 1<sup>st</sup> January 2007.

(vi) Listing Rule 9.44: The requirement of an interim directors' report in terms of L.R. 9.44.2 and a statement in terms of L.R. 9.44.3 shall apply to half yearly financial reports relating to financial periods commencing on or after 1 January 2007.

(vii) Listing Rule 9.51: The requirement to make public a statement referred to in L.R. 9.51 shall apply to Interim Directors' Statements relating to financial periods commencing on or after 1<sup>st</sup> January 2007.

(viii) Listing Rule 15.104.4.3: The requirement to include the statement referred to in Listing Rule 15.104.4.3 shall apply to audited annual accounts relating to financial periods commencing on or after 1<sup>st</sup> January 2007.

(ix) Listing Rule 15.105.2.5: The requirement of an interim directors' report in terms of L.R. 15.105.2.2 and a statement in terms of L.R. 15.105.2.3 shall apply to half yearly financial reports relating to financial periods commencing on or after 1 January 2007.

(x) Listing Rule 15.106: The requirement to make public a statement referred to in L.R. 15.106 shall apply to Interim Directors' Statements relating to financial periods commencing on or after 1<sup>st</sup> January 2007.

(xi) Listing Rule 15.116: A shareholder shall notify the Scheme by not later than 1<sup>st</sup> May 2007, of the proportion of voting rights and capital it already holds in accordance with Listing Rule 15.109 and 15.113 with Issuers as at that date, unless it has already made a notification containing equivalent information before this date.

(xii) A scheme shall disclose information received in notifications mentioned in Listing Rule 15.116 by not later than 1<sup>st</sup> June 2007.

### **Audit Committee**

The Listing Authority has also approved an amendment to Listing Rule 8.53 to read as follows:

*“The Audit Committee shall meet, at least, six times a year preferably every two (2) months. The Head of Internal Audit should attend the meeting of this Committee”*

The reason for this amendment is to allow some flexibility between meetings instead of sticking rigidly to the previous requirement of holding meetings every two months.

P J Spiteri  
Chairman, Listing Committee

# LISTING AUTHORITY

# LISTING RULES

## Listing Authority

### Listing Rules

#### Definitions

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17. Second Tier Market Requirements.
18. Takeover Bids

Listing Authority

Listing Rules

Definitions

Term	Meaning
Accountant/s	An individual who holds a warrant to act as an accountant issued under the Accountancy Profession Act (Cap. 281) or is a partnership of accountants duly registered under the said Act.
Administrator	A person who may or may not be the manager or who carries out all or part of the general administration of a Collective Investment Scheme.
Admissible to Listing	Admissible to Listing in accordance with the provisions of Article 12 (1) of the FMA and “Admissibility to Listing” and “Admissibility” shall be construed accordingly.
Admission Document or STM Admission Document	The document issued in connection with an application for authorisation for Admissibility to Listing on a STM containing the information required under Article 90 of the CA and the information required in terms of Chapter 19.
Admission to Listing or Trading	Admission to Listing or Trading on a Recognised Investment Exchange in accordance with the provisions of Article 12 (2) of the FMA and “Admitted to Listing or Trading” or “Admission” or “Admit to listing” shall be construed accordingly.
Announcement	Company announcements made by the Issuer in compliance with the ongoing listing obligations.
Annual Accounts	As defined in Article 2(1) of the CA and “Accounts” shall be construed accordingly.
Annual Financial Report	See definition of ‘Annual Accounts’
Applicant	A Company which is proposing to apply, or is applying, for Admissibility in respect of any of its Securities.
Approval	The positive act at the outcome of the scrutiny of the completeness of the Prospectus by the Listing Authority including the consistency of the information given and its comprehensibility.
Associated Undertaking	An Undertaking in which another Undertaking has a Participating Interest and over whose operating and financial policy it exercises a significant influence and which is not: <ul style="list-style-type: none"> <li>a) a Subsidiary Undertaking of the Parent Company; or</li> <li>b) a joint venture, where one Undertaking manages another Undertaking</li> </ul>

	<p>jointly with one or more other Undertakings.</p> <p>A holding of twenty percent (20%) or more of the voting rights in another Undertaking, shall be presumed to be a Participating Interest unless the contrary is shown.</p>
Auditor	As defined in Article 2(1) of the CA.
Available to the public	<p>The information shall be deemed to be available to the public when published either</p> <ul style="list-style-type: none"> <li>• by insertion in one or more widely circulated newspapers; or</li> <li>• in a printed form to be made available, free of charge, to the public at the offices of the market on which the securities are being traded or proposed to be traded, or</li> <li>• in a printed form to be made available, free of charge, at the registered office of the Issuer and at the offices of the financial intermediaries placing or selling the securities, including paying agents; or</li> <li>• in an electronic form on the issuer's website and, if applicable, on the website of the financial intermediaries placing or selling the securities, including paying agents; or</li> <li>• in an electronic form on the website of the Regulated Market where the securities are being traded or proposed to be traded; or</li> <li>• in an electronic form on the website of the Listing Authority if the said Authority has decided to offer this service.</li> </ul>
Base Prospectus	A Prospectus containing all relevant information as specified in Chapter 6 concerning the Issuer and the securities admitted to trading, and, at the choice of the issuer, the final terms of the offering.
Book Value of Properties	The value of the Issuer's Properties, excluding any classified as current assets of the Issuer and before deduction of mortgages or borrowings, as shown in the latest published Annual Accounts.
Business Day	Any day which is not a Saturday or a public holiday in terms of the National Holidays and other Public Holidays Act (Cap. 252) or any other day designated as a day which is not a business day by the Listing Authority.
Central Securities Depository	As defined in Section 2 of the FMA.
Certificate Representing Shares or Certificate	An instrument which confers a contractual right (other than an option) to acquire Shares otherwise than by subscription.
Circular	Any document issued to holders of Securities Admissible to Listing including notices of meetings, but excluding Prospectus, Annual Accounts, interim reports, proxy forms and dividend or interest vouchers.

Class	Securities the rights attaching to which are, or will be, identical and which form a single issue or series.
Clear Business Days	In relation to the submission of draft documents, means that period of Business Days, excluding the day when the draft document is submitted or lodged with the Listing Authority, and the intended date of publication of the document.
Collective Investment Scheme or Scheme	As defined in Article 2(1) of the Investment Services Act (Cap. 370).
Community	The European Community established by the established by the Treaty of Rome in 1957 and amended institutionally and otherwise in 1986 by the Single European Act, in 1993 by the Treaty on European Union, in 1997 by the Treaty of Amsterdam and in 2001 by the Treaty of Nice, and as amended by accession agreements and as may be further amended from time to time.
Companies Act or CA	Companies Act 1995 (Cap. 386).
Company	As defined in Article 2(c) of the FMA.

Company Announcement	See definition of “Announcement”
Connected Person	<p>A person is a Connected Person of a Director of an Undertaking if the person is:</p> <ul style="list-style-type: none"> <li>a) that Director’s dependants, including, without limitation, the Director’s spouse, child or step-child; or</li> <li>b) except where the context requires otherwise, a body corporate in which the Director (i) holds Shares of a nominal value equal to at least twenty percent (20%) of the share capital of that body corporate; or (ii) is entitled to exercise or control the exercise of more than twenty percent (20%) of the voting power at any general meeting of that body corporate; or</li> <li>c) acting in a capacity as trustee of any trust, the beneficiaries of which include: (i) the Director, the Director’s dependants, including, without limitation, the Director’s spouse, children or step-children ; or (ii) a body corporate with which one is associated as set out above; or</li> <li>d) acting in a capacity as partner of that Director or of any person who is connected with that Director as above.</li> </ul>

Connected Client	<p>In relation to a Sponsor, any client who is:</p> <ul style="list-style-type: none"> <li>a) a partner, Director, employee or controller of the Sponsor or of an undertaking described in (d) below;</li> <li>b) the dependants, including, without limitation, the spouse or child of any individual described in (a) above;</li> <li>c) a person in a capacity as trustee of a private trust (other than a pension scheme) the beneficiaries of which include any person described in (a) or (b) above; or</li> <li>d) an undertaking which in relation to the Sponsor is a Group company.</li> </ul>
Consolidated Admissions and Reporting Directive (CARD) or the CARD Directive	Directive 2001\34\EC of the European Parliament and of the Council of the European Union on the admission of securities to official stock exchange listing and on information to be published on those securities.
Consolidated Accounts	As defined in Article 2 (1) of the CA.
Controlled Undertaking	<p>Any undertaking;</p> <p>in which a natural or legal person has a majority of the voting rights; or</p> <ul style="list-style-type: none"> <li>(a) of which a natural or legal person has the right to appoint or remove a majority of the members of the administrative, Directors or supervisory body and is at the same time a shareholder in, or member of, the undertaking in question; or</li> <li>(b) of which a natural or legal person is a shareholder or member and alone controls a majority of the shareholders' or members' voting rights, respectively, pursuant to an agreement entered into with to her shareholders or members of the undertaking in question; or</li> <li>(c) over which a natural or legal person has the power to exercise, or actually exercises, dominant influence or control;</li> </ul> <p>The holder's rights in relation to voting, appointment and removal shall include the rights of any other undertaking controlled by the shareholder and those of any natural or legal person acting, albeit in its own name, on behalf of the shareholder or of any other undertaking controlled by the shareholder.</p>
Convertible Securities	Securities which are convertible into or exchangeable for other Securities or Securities accompanied by warrants or options to subscribe or purchase other Securities, and "Conversion" and "Convertible" shall be construed accordingly.
Corporate Governance Principles	The Code of Principles of Good Corporate Governance set out at Appendix 8.1 of the Listing Rules.

Credit Institutions	As defined in Article 2 (1) of the Banking Act (Cap. 371) and shall include an undertaking the business of which is to receive deposits or other repayable funds from the public and to grant credits for its own account.
Custodian	A person responsible for the supervision of the Manager of a Collective Investment Scheme in order to ensure compliance with the investment policy adopted by the Scheme
Debt Securities	Bonds or other forms of transferable securitized debts, with the exception of securities which are equivalent to shares in companies or which, if converted or if the rights conferred by them are exercised, give rise to a right to acquire shares or securities equivalent to shares.
Directives	Directives of the European Parliament and Council of the European Union.
Directive 80/390/EEC	Council Directive 80/390/EEC of 17 March 1980 coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing'
Directive 85/611/EEC	Council Directive 85/611/EEC OF 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).
Directive 93/6/EEC	Council Directive 93/6/EEC of 15 March 1993 on the capital adequacy of investments firms and credit institutions.
Directive 2003/6/EC	Council Directive 2003/6/EC of 28 January 2003 on insider dealing and market manipulation (market abuse).
Directive 2004/39/EC	Council Directive 2004/39/EC of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.
Director	As defined in Article 2 (1) of the CA and shall include a partner of a commercial partnership where the context so requires.
EEA State	A State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2 <sup>nd</sup> May 1992 as amended by the Protocol signed at Brussels on the 17 <sup>th</sup> March 1993 and as amended from time to time.
Electronic means	Means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.
Emoluments	Includes remuneration paid and benefits in kind granted and charged by an Issuer or Applicant to overheads or the profit appropriation account.
Equity Securities	Shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any of the aforementioned securities as a consequence of their being converted or the rights conferred by them being exercised, provided that securities of the

	latter type are issued by the Issuer of the underlying shares or by an entity belonging to the Group of the said issuer.
Equity Share Capital	In relation to an or a Company, its issued share capital excluding any part of that capital which, in the event of a distribution whether in respect of dividend or capital or on a return of capital, only carries a right to participate up to a specified amount.
Equivalent Offering Document	Document published or required to be published by certain classes of Issuer and in respect of certain types of Securities in place of the Prospectus.
Expert	Includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.
Financial Markets Act or FMA	Financial Markets Act (Cap. 345)
Financial Institution	As defined in Article 2 (1) of the Financial Institutions Act (Cap. 376)
Financial Year	Means accounting period as provided for in Articles 164 and 165 of the CA and shall include the definition of “accounting period” provided in Article 29 of the Second Schedule to the CA.
Gazette	The Official Gazette of the Government of Malta as defined in Article 3(1) of the Interpretation Act.
Generally Accepted Accounting Principles and Practice	As provided for in Article 2 (4) of the CA.
Group	As construed in Article 2 (1) of the CA.
Group Company	As defined in Article 2 (1) of the CA
Home Member State	Home Member State in relation to a Prospectus – As defined in Article 2(1) of the CA. Home Member State for the purposes of Chapters 8 and 9 – (a) in the case of an Issuer of Debt Securities the denomination per unit of which is less than four hundred and thirty liri (or the equivalent in any other currency) or an of shares:  (i) where the Issuer is incorporated in the Community, the Member State in which it has its registered office;  (ii) where the Issuer is incorporated in a third country, the Member State in which it is required to file the annual information with the competent authority in accordance with Article 10 of the Prospectus Directive;

	(b) for any Issuer not covered by (a), the Member State chosen by the Issuer from among the Member State in which the Issuer has its registered office and those Member States which have admitted its securities to trading on a Regulated Market on their territory. The Issuer may choose only one Member State as its home Member State. Its choice shall remain valid for at least three years unless its securities are no longer admitted to trading on any Regulated Market in the Community.
Host Member State	Host Member State in relation to a Prospectus – As defined in Article 2(1).  Host Member State for the purposes of Chapters 8 and 9 - A Member State in which securities are admitted to trading on a regulated market, if different from the home Member State.
International Accounting Standards or IAS	The International Accounting Standards formulated by the International Accounting Standards Committee or any successor body.
International Financial Reporting Standards or IFRS	The International Financial Reporting Standards formulated by the International Financial Reporting Standards Committee or any successor body.
International Standards on Auditing	The International Standards on Auditing formulated by the International Auditing Practices Committee of the International Federation of Accountants or any successor body.
Investment Adviser	A person who may or may not be the Manager, who provides investment advice for a Scheme.
Issuer	Any Company or other legal person or undertaking (including a Public Sector Issuer), any Class of whose Securities have been authorised as Admissible to Listing or is the subject of an application for Admissibility. For the purposes of Chapter 8 and 9, in the case of depository receipts representing securities, the Issuer of the securities represented.
Listing Authority	Such person or body appointed by the Minister by notice in the Gazette in accordance with Article 2 of the FMA including, where the context so permits, any committee, employee, Officer or servant to whom any function of the Listing Authority may for the time being be delegated.
Listed Company	A Company, any Class of whose Securities have been Admitted to Listing or Trading on a Regulated Market.
Listing Committee	The Listing Committee of the Listing Authority
Listing Rules or	These or any other Listing Rules, made by the Listing Authority in accordance

Rules	with the provisions of the FMA as they may be amended from time to time.
Manager	The legal entity appointed by a Scheme that has overall responsibility for the management and performance of the functions of the Scheme. The functions may include the provisions of investment advice and operational services. Where the Scheme does not appoint a Manager, the functions of the Manager must be delegated by the board of Directors of the Scheme to a managing Director.
Management Company	A Company as defined in Article 1a(2) of Council Directive 85/611/EEC
Market Maker	A person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him.
Market Value	Means the average of the prices for that Security published in the daily Recognised List of the Recognised Investment Exchange on which such Security is Admitted to Listing and/or Trading over the last 10 Business Days prior to the relevant date or as the Listing Authority may calculate from time to time.
Memorandum and Articles of Association	Memorandum and Articles of Association and/or equivalent constitutional documents of an Applicant or Issuer.
Member State	A Member State of the European Community established by the Treaty of Rome in 1957 and amended institutionally and otherwise in 1986 by the Single European Act, in 1993 by the Treaty on European Union, in 1997 by the Treaty of Amsterdam and in 2001 by the Treaty of Niece, and as amended by accession agreements and as may be further amended from time to time.
MFSA	Malta Financial Services Authority
Minister	The Minister responsible for finance.
Net Annual Rent	The current income or income estimated by the valuer: <ul style="list-style-type: none"> <li>(i) ignoring any special receipts or deductions arising from the Property;</li> <li>(ii) excluding value added tax (where applicable) and before taxation (including tax on profits and any allowances for interest on capital or loans); and</li> <li>(iii) after making deductions for superior rents (but not for amortisation), and any disbursements including, if appropriate, expenses of managing the Property and allowances to maintain it in a condition to command its rent.</li> </ul>
New Applicant	An Applicant no Class of whose Securities is already authorised as Admissible to Listing.
Non-equity securities	All securities that are not equity securities.
Normal	9.00 am to 5.00 pm on each Business Day or any other times specified as such

Business Hours	by the Listing Authority.
Offering Programme	As defined in article 2(1) of the CA.
Officer	As defined in Article 2 (1) of the CA.
Officially Appointed Mechanism	A mechanism where an Issuer or the person who has applied for admission to trading on a Regulated Market without the Issuer's consent, discloses Regulated Information in a manner ensuring fast access to such information on a non-discriminatory basis
Ordinary Business	In relation to an annual general meeting: (a) receiving or adopting Annual Accounts; (b) declaring a dividend; (c) reappointing Directors and appointing Directors to replace those retiring at the meeting not offering themselves for reappointment; and (d) reappointing Auditors and authorising the Directors to fix their emoluments.
Oversea Company	As defined in Article 2(1) of the CA.
Overseas Collective Investment Scheme or Overseas Scheme	A Collective Investment Scheme formed or established other than in accordance with the Laws of Malta.
Parent Company or Parent Undertaking or Parent	As respectively defined in Article 2 (2) of the CA.
Participating Interest	As defined in Article 2(1) of the CA.
Paying Agent	A person licensed to provide investment services and duly authorised to remit transfers on behalf of an Issuer or a Scheme.
Primary Listing	The listing of Securities by virtue of which listing the Issuer is, in respect of those Securities, subject to the full regulatory requirements applicable to listing imposed by the competent authority, equivalent regulatory body or Recognised Investment Exchange granting or authorising such listing, as the case may be.
Property	Immovable property
Property Company	A Company primarily engaged in Property activities (and includes a closed-ended scheme investing or intending to invest 20% or more of its gross assets in Property) which include: (i) the holding and the development of Properties for letting and retention

	<p>as investments; or</p> <p>(ii) the purchase or development of Properties for subsequent sale; or</p> <p>(iii) the purchase and development of Properties for retention as investments; or</p> <p>(iv) all or any of the above.</p>
Prospectus	As defined in Article 2 (1) of the CA.
Prospectus Directive	Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the Prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC.
Public Offer	As defined in Article 2 (3) of the CA and “offered to the public” shall be construed accordingly.
Public Sector Issuers	States and their regional and local authorities, state monopolies, state finance organisations, public international bodies and corporations and other legal persons set up by Act of Parliament.
Published Valuation	The valuation, whether produced independently or by the Directors of the Issuer, referred to in the Issuer’s latest published Annual Accounts or the most recent Listing Particulars or Circular published since the latest published Annual Accounts.
Published	See definition of ‘Available to the public’
Recognised Investment Exchange	As provided for in Part II of the FMA.
Recognised Jurisdiction	Any state that is a state, country or territory that may be formally declared by directive of the Listing Authority to be a “Recognised Jurisdiction” and the term “non-Recognised Jurisdiction” shall be construed accordingly.
Recognised List	Any list prepared and published by any Recognised Investment Exchange in accordance with the bye-laws of such Recognised Investment Exchange.
Regulated Information	For the purposes of Chapters 8 and 9, - all the information which the Issuer or any other person who has applied for the admission of securities to trading on a Regulated Market without the Issuer’s consent, is required to disclose in terms of Chapters 8 and 9 of these Listing Rules and Article 6 of Directive 2003/6/EC.
Regulated Market	A multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments - in the system and in accordance with its non-discretionary rules - in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly.
Regulation (EC)	Council Regulation (EC) No 1606/2002 of 19 July 2002 on the application of

No 1606/2002	international accounting standards.
Registrar	The person appointed by the Minister as the Registrar of Companies pursuant to article 400 of the CA
Related Company	As defined in Article 2 of the FMA.
Related Party	Parties are considered to be related if one party has the ability to directly or indirectly control the other party or exercise significant influence over the other party in making financial and operating decisions.
Secondary Listing	A listing which is not a Primary Listing.
Second Tier Market or STM	A market on which the Securities of Companies which satisfy the requirements of Chapter 17 may be traded.
Securities	<p>For the purpose of Chapters 8 and 9 and in relation to a Prospectus, -</p> <p>with the exception of instruments of payment, those Classes of securities which are negotiable on the capital market such as:</p> <p>(a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;</p> <p>(b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;</p> <p>(c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.</p> <p>For the purposes of this definition, Classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers having a maturity of less than 12 months shall not be construed as securities.</p>
Securities issued in a continuous or repeated manner	Debt Securities of the same Issuer on tap or at least two separate issues of securities of a similar type and/or Class over a period of 12 months.
Share	As defined in Article 2 (1) of the CA and shall include Preference Shares.
Shareholder	<p>For the purpose of Chapters 8 and 9,</p> <p>any natural or legal person who holds, directly or indirectly:</p> <p>a) shares of the Issuer in its own name and on its own account;</p> <p>b) shares of the Issuer in its own name, but on behalf of another natural or</p>

	<p>legal person or undertaking;</p> <p>Depository receipts, in which case the holder of the underlying shares represented by the depository receipts.</p>
Sponsor	Sponsor appointed in terms of Chapter 2.
STM Company	A Company, any of whose Securities have been admitted for trading on a Second Tier Market.
Subsidiary Company, Subsidiary Undertaking or Subsidiary	As defined in Article 2 of the CA
Substantial Shareholder	Anyone entitled to exercise or control the exercise of ten percent (10%) or more of the votes able to be cast at general meetings of an Issuer or is in a position to control the composition of a majority of the Board of Directors of an Issuer.
Tap Issue	An issue of Securities whereby the terms of those Securities are identical to those of a previous issue other than the date of Admission and such Securities are in all respects fully fungible with those previously Admitted to Listing and to which previous Admission they relate.
Tribunal	Financial Services Tribunal established under Article 42 of the FMA (Cap. 345)
Umbrella Fund	A Collective Investment Scheme that offers access to separate portfolios or sub-funds, covering different types of investment and represented by different classes of units.
Uncertificated Unit of a Security	A unit of a Security, title to which is recorded on a relevant register of Securities, as being held in uncertificated form, and title to which may be transferred without the use of a written instrument.
Undertaking	As defined in Article 2 (1) of the CA.
Units of a Collective Investment Undertaking or "Units"	A share in a closed-ended scheme, units in a Unit Trust or unit in any other form of Collective Investment Scheme which relate to the proportionate holding, right or interest that an investor has in such a Scheme. Any reference to fractional units relates to whole units carrying a fraction of the rights carried by whole standard units. The extent of the right to participate in Property conferred by fractional Shares in relation to standard Shares must be fixed by the constitutional documents of the Scheme.
Unit Trust	A Collective Investment Scheme constituted by a trust deed between a management Company (operator) and a trustee whereby the assets which constitute the Collective Investment Scheme are held on trust for unit holders.
Unpublished Price Sensitive	Information of a precise or specific nature, which has not been made public, relating to Companies that have issued Securities or to the Securities themselves, and which, if it were made public, would be likely to have a

Information	material or significant effect on the price or value of the Securities in question.
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CHAPTER 1  
Listing Authority, Compliance with and Enforcement of  
the Listing Rules

This Chapter describes the information relating to the authority of the Listing Authority, and of Compliance with the rules regarding enforcement of the Listing Rules, and how information may be communicated.

### *General*

- 1.1 Issuers must comply with all Listing Rules applicable to them.
- 1.2 Issuers must pay to the Listing Authority as they fall due the fees set out in Appendix 1.3 in relation to an application for Admissibility and in relation to their continued Admissibility to Listing status.
- 1.3 The Listing Authority will appoint a Listing Committee comprising not less than three (3) persons to consider Applications for Admissibility to Listing.
- 1.4 The Listing Committee will be responsible for:
  - 1.4.1 scrutinising all applications for Admissibility to Listing of Securities;
  - 1.4.2 considering requests for the discontinuation or suspension of the listing of any Securities;
  - 1.4.3 forwarding its recommendations to the Listing Authority for the authorisation of the Admissibility to Listing of any Securities as the Listing Authority may consider appropriate or for discontinuing or suspending the listing of any Securities from time to time; and
  - 1.4.4 ensuring compliance with any requirements or conditions set out in these Listing Rules for listed securities to remain listed.
- 1.5 Any communication, lodging or filing to be made with the Listing Authority shall be addressed to: The Listing Authority, Malta Financial Services Authority, Attard.

### *Procedure for Admissibility*

- 1.6 All matters concerning applications for Admissibility to Listing of Securities must be dealt with between the Listing Authority and the Sponsor (see Chapter 2).

### *Application for Admissibility*

- 1.7 Applications for Admissibility to Listing of Securities shall be authorised by the Listing Authority. It is entirely at the discretion of the Listing Authority to accept or reject such applications for Admissibility to Listing of Securities.
- 1.8 No application for Admissibility to Listing of Securities may be entertained by the Listing Authority unless it is made by, or with the consent of, the Issuer of the Securities concerned, evidenced by appropriate corporate authority.
- 1.9 In particular the Listing Authority may refuse a request for Admissibility to Listing of Securities:
  - 1.9.1 if it considers that the Applicant's situation is such that an authorisation for Admissibility to Listing of the Securities would be detrimental to the interests of investors;
  - 1.9.2 in respect of Securities already listed in a Recognised Jurisdiction if the Applicant has failed to comply with the obligations to which it is subject by virtue of that listing; or
  - 1.9.3 if it considers that the Applicant does not comply or has not complied with the requirements of the Listing Rules or with any special condition imposed upon the Applicant by the Listing Authority.

*Information Gathering and Additional Information*

- 1.10 Issuers must provide to the Listing Authority without delay:
- 1.10.1 all the information and explanations that the Listing Authority may reasonably require for the purpose of any decisions of the Listing Authority as to whether to grant an application for Admissibility to Listing of Securities;
  - 1.10.2 all the information that the Listing Authority considers appropriate in order to protect investors or to ensure the smooth operation of any Recognised Investment Exchange market;
  - 1.10.3 any other information or explanations that the Listing Authority may reasonably require for the purpose of verifying whether the Listing Rules are being and have been complied with.
- 1.11 Additionally, in order to maintain high standards of disclosure and for investor protection, the Listing Authority may:
- 1.11.1 require an Issuer to provide the Listing Authority for publication in such form and within such time limits as the Listing Authority considers appropriate, further information not specified in these listing requirements;
  - 1.11.2 impose, and make Admissibility to Listing of Securities subject to, additional requirements, provided that these apply generally for all Issuers or for individual classed of Issuers.
- 1.12 The Listing Authority may require information or documents from;
- 1.12.1 issuers or persons seeking for admissibility to listing, and the persons that control them or are controlled by them,
  - 1.12.2 Auditors and managers of the Issuer or person seeking for admissibility to listing, as well as financial intermediaries commissioned to ask for admissibility to listing,
  - 1.12.3 any other person subject to the Listing Rules:
- Provided that no duty, including the duty of professional secrecy, to which an Auditor referred to in Listing Rule 1.12.2 may be subject, shall be regarded as contravened by reason of his communication in good faith to the Listing Authority, whether or not, in response to a request from it, any information or opinion on a matter of which the Auditor has become aware in his capacity as Auditor and which is relevant to any functions of the Listing Authority and such communication shall not involve the Auditor in liability of any kind
- 1.13 The Issuer must comply with such requirements to provide information, and, if it fails to do so, the Listing Authority may itself publish such information after having heard the representations of the Issuer.

*Suspension of Trading*

- 1.14 If the Listing Authority establishes that the Listing Rules have been infringed or has reasonable grounds for suspecting that the Listing Rules have been infringed, it may;
- 1.14.1 Suspend an admission to trading for a maximum of 10 consecutive working days on any single occasion;
  - 1.14.2 prohibit or suspend advertisements for a maximum of 10 consecutive working days on any single occasion;
  - 1.14.3 suspend or ask the relevant regulated markets to suspend trading on a Regulated Market for a maximum of 10 consecutive working days on a any single occasion;

- 1.14.4 prohibit trading on a regulated market;
- 1.14.5 make public the fact that an Issuer or any other person subject to the Listing Rules is failing to comply with its obligations.
- 1.15 The Listing Authority shall suspend the listing of a security to protect investors or where the smooth operation of a Recognised Investment Exchange market otherwise is, or may be, temporarily jeopardised.
- 1.16 Suspension may be either with or without the request of the Issuer. Any request by the Issuer to suspend the listing of any securities must be made to the Recognised Investment Exchange and the Listing Authority.
- 1.17 An Issuer, the listing of whose Securities is suspended, must continue to comply with all Listing Rules applicable to it, unless the Listing Authority otherwise agrees.
- 1.18 Where listing has been suspended, the procedure for lifting the suspension will depend on the circumstances and the Listing Authority reserves the right to impose such conditions and/or sanctions as it considers appropriate in such circumstances.
- 1.19 The continuation of a suspension for a prolonged period without the Issuer taking adequate action to obtain restoration of the listing of the relevant securities shall constitute sufficient reason for the Listing Authority in its absolute discretion, to discontinue the listing.
- 1.20 There may also be cases where Listing should be cancelled without suspension intervening (for example a significant change in the Issuer rendering its Securities unsuitable for Admission to Listing).

*Discontinuation of Listing*

- 1.21 The Listing Authority may discontinue the listing of any Security if, inter alia, it is satisfied that, owing to special circumstances normal regular dealings in any Security are no longer possible or upon the request of the Issuer or a Recognised Investment Exchange.

*Discontinuation of Listing upon the Issuer's Request*

- 1.22 An Issuer intending to make an application for the discontinuation of Listing of any of its Securities (hereinafter in this chapter referred to as "Application for Discontinuation of Listing") shall:
  - 1.22.1 obtain approval from its board of Directors or any other equivalent governing body (hereinafter in this Listing Rule 1.22 referred to as the "Directors") duly convened for the purpose;
  - 1.22.2 formulate a resolution in writing that shall be submitted for approval at a meeting of the holders of that Security (hereinafter in this chapter referred to as the "Security Holders") duly convened for that purpose within one month from the date of the said approval by the Directors;
  - 1.22.3 give advance notice to the Security Holders of the convening of any meeting in accordance with Listing Rule 1.22.2 above at least fourteen (14) days prior to the date of such meeting and shall provide the text of the resolution together with an appropriate explanatory memorandum setting out the reasons for the Application for Discontinuation of Listing. The notice, resolution and explanatory memorandum shall be in the English and Maltese languages and shall be delivered to the Listing Authority on the same day of despatch to the Security Holders; and
  - 1.22.4 ensure that any meeting convened in accordance with Listing Rule 1.22.2 above complies with the matters set out in Appendix 1.1.

- 1.23 A resolution which becomes effectual upon satisfaction of the criteria laid down in paragraph 3 of Appendix 1.1 shall form the subject of an application for the Discontinuation of Listing of a Security upon an Issuer's request in the format set out in Appendix 1.2. Such duly completed application for the Discontinuation of Listing shall

be delivered by hand to the Listing Authority by the Issuer by the opening of trading of the Business Day next following the date of the holding of the meeting referred to in Listing Rule 1.22.2.

- 1.24 An application for Discontinuation of Listing made in accordance with Listing Rule 1.22 above shall be considered by the Listing Authority as soon as practicable upon receipt thereof by the Listing Authority. It shall determine whether, on the basis of the information submitted by the Issuer in the application, the requirements as set out in Listing Rule 1.22 in respect of the application for Discontinuation of Listing have been satisfied.
- 1.25 If the Listing Authority determines that on the basis of the said information the requirements as set out in Listing Rule 1.22 and 1.23 in respect of the application for Discontinuation of Listing have been satisfied, it shall publish a notice announcing the Discontinuation of Listing of the relevant Security and the effective date of Discontinuation of Listing which shall be ninety (90) days following the date of submission of the relevant application for Discontinuation of Listing.
- 1.26 An Issuer who intends to make or has made an Application for Discontinuation of Listing shall forthwith make a Company Announcement as provided in Listing Rule 8.7 below on any of the following matters as appropriate:
- 1.26.1 the date fixed for any meeting of the board of Directors at which the Issuer's intention to make an application for Discontinuation of Listing is expected to be considered;
  - 1.26.2 whether the resolution of the Directors referred to at Listing Rule 1.22.2 was carried or not;
  - 1.26.3 the date fixed for any meeting of the Security Holders convened in accordance with Listing Rule 1.22.2 above;
  - 1.26.4 the result of any vote of the Security Holders taken at a meeting convened in accordance with Listing Rule 1.22.2 above (and in compliance with paragraph 7 of Appendix 1.1); and
  - 1.26.5 the delivery to the Listing Authority of an application for Discontinuation of Listing.

*Dispensing and Modification of Listing Rules*

- 1.27 The Listing Authority may dispense with, vary or not require compliance with any of the terms of these Listing Rules to suit the circumstances of a particular case. In circumstances where this discretion is availed of by the Listing Authority, a statement to this effect shall be included in the Prospectus. Furthermore, the Issuer concerned may be required to enter into an ancillary agreement prepared by the Listing Authority as a precondition of such dispensation, variation or non-compliance.

*Investigations and Imposition of Sanctions*

- 1.28 The Listing Authority may appoint one or more competent persons as investigators to conduct an investigation on its behalf into circumstances suggesting contravention of the Listing Rules or the rules or bye-laws of any Recognised Investment Exchange. The powers of any such investigators are governed by the relevant provisions of the FMA.
- 1.29 If the Listing Authority considers that an Applicant or Issuer or any other person subject to the Listing Rules has contravened any provision of the Listing Rules or of any rules of a Recognised Investment Exchange it may impose on the Applicant or Issuer or any other person subject to the Listing Rules a financial penalty or publish a statement censoring the Applicant or Issuer subject to the provisions of the FMA or both.

Notwithstanding Listing Rule 1.29, no person shall be liable for statements made in a summary which is part of a Prospectus in terms of Listing Rule 6.2, including the

translation thereof, except when such statements are untrue when read together with the other parts of the Prospectus.

*Electronic Communication*

1.30 Where the Listing Rules require an Issuer to send, circulate or otherwise despatch documents to holders of Securities Admissible to listing, an Issuer may, in addition, communicate to any specific holder where:

1.30.1 the Issuer and the holder of such Securities have agreed in writing to the use of electronic communication for sending copies of documents to the holder and provided that:

1.30.1.1 the documents are documents to which the agreement applies; and

1.30.1.2 copies of the documents are sent using electronic communication to such address, number or other location as may for the time being be advised by the holder to the Issuer for that purpose; or

1.30.2 the Issuer and the holder of such Securities have agreed to the holder having access to documents on a website (instead of the documents being sent to the holder) and provided that:

1.30.2.1 the documents are documents to which the agreement applies; and

1.30.2.2 the holder is advised, in a manner for the time being agreed for the purpose between the holder and the Issuer, of:

1.30.2.2.1 the publication of the documents on a website;

1.30.2.2.2 the address of that website;

1.30.2.2.3 the place on that website where the documents may be accessed and how they may be accessed; and

1.30.2.2.4 the period of time for which the documents will be available on the website, which must be for a period of not less than twenty-one (21) days from the date of advice or, if later, until the conclusion of any general meeting to which the documents relate; and

1.30.2.3 the documents are published on that website throughout the period referred to in Listing Rule 1.30.2.2.4 above, provided that if the documents are published on that website for a part but not all of such period, the documents will be treated as published throughout that period if the failure to publish those documents throughout the period is wholly attributable to circumstances which it would not be reasonable to have expected the Issuer to prevent or avoid.

1.31 Where an Issuer makes use of Listing Rule 1.30, it must make the documents available during Normal Business Hours to holders of its Securities Admissible to Listing for a period of not less than twenty-one (21) days from the date of communication or advice or, if later, until the conclusion of any general meeting to which the documents relate, in printed form and free of charge in sufficient numbers to satisfy demand from holders of its Securities Admissible to Listing at:

1.31.1 the Issuer's registered office in Malta (if any); and

1.31.2 the offices of any Paying Agent of the Issuer in Malta.

*Cooperation with other regulatory authorities*

- 1.32 The Listing Authority shall cooperate with other regulatory authorities for the purpose of assisting other regulatory authorities in carrying out their duties and making use of their powers, particularly for the following purposes:
- 1.32.1 Exchange of information and cooperation when an Issuer has more than one home regulatory authority;
  - 1.32.2 Transfer of the Approval of a Prospectus to the regulatory authority of another Member State or EEA State.
  - 1.32.3 When requiring suspension or prohibition of trading for securities traded in various Member States or EEA States in order to ensure a level playing field between trading venues and protection of investors.
- 1.33 Where Malta is the Host Member State and the Listing Authority finds that breaches have been committed by the Issuer or the financial institutions responsible for seeking admissibility to listing or any other person subject to the Listing Rules, it shall refer those findings to the regulatory authority of the Home Member State or EEA State.
- 1.34 If measures taken by the regulatory authority of the Home Member State or EEA State do not prevent the Issuer or the financial institutions responsible for seeking admissibility to listing or any other person subject to the Listing Rules, from breaching the relevant provisions of these Listing Rules, the Listing Authority shall, after informing the regulatory authority of the Home Member State or EEA State, take all the appropriate measures in order to protect investors. The European Commission shall be informed of such measures at the earliest opportunity.

## APPENDIX 1.1

### Meetings of Security Holders in Relation to Discontinuation of Listing

- 1 No business shall be transacted at any such meeting convened as provided in Listing Rule 1.22.2 of this Chapter unless a quorum of Security Holders is present at the time when the meeting proceeds to business. A Security Holder or Security Holders present in person or by proxy holding in aggregate more than fifty percent (50%) of the nominal value of the Security outstanding at the date of the holding of the meeting shall be a quorum. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall be dissolved.
- 2 The Chairman or the deputy Chairman, if any, of the Issuer's board of Directors or any other equivalent governing body, shall preside as Chairman of the meeting or if there is no Chairman or deputy Chairman, or if any such person shall not be present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act, the Directors present shall elect one of their number to be Chairman of the meeting, and that failing, the Security Holders present and entitled to vote shall appoint one of their number to be Chairman.
- 3 A resolution for the Discontinuation of Listing of a Security shall be ineffectual unless such resolution is:
  - 3.1 taken by a poll called exclusively for this purpose;
  - 3.2 approved by the Security Holders represented and entitled to vote at the meeting for this purpose, holding in the aggregate not less than seventy five percent (75%) of the nominal value of the outstanding issued amounts of the relevant Security of the Issuer or such other higher percentage as the Memorandum and Articles of Association of the Issuer may prescribe;
  - 3.3 not disapproved by Security Holders represented at the meeting holding 5% or more of the nominal value of the issued securities of the Issuer.
- 4 On the occasion of such a poll, every Security Holder shall have one (1) vote for each Security of which he is a holder. Votes may be given either personally or by proxy.
- 5 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a copy of the power or authority duly certified by a notary public, lawyer or legal procurator shall be deposited at the registered office of the Issuer or at such other place in Malta as is specified for that purpose in the notice convening the meeting, or in any instrument of proxy sent by the Issuer in relation to the meeting, not less than twenty four (24) hours before the time appointed for the taking of the poll or such longer time as required by the Memorandum and Articles of Association of the Issuer, and in default the instrument of proxy shall not be treated as valid.

When two (2) or more valid but differing instruments of proxy are delivered in respect of the same Security for use at the same meeting, the one which is last delivered (regardless of its date or of the date of its execution) shall be treated as replacing and revoking the others as regards that Security. If the Issuer is unable to determine which was last delivered, none of them shall be treated as valid in respect of that Security. Delivery of an instrument appointing a proxy shall not preclude a member from attending and voting in person at the meeting or poll concerned. An instrument of proxy shall be designed by the Issuer as provided in Paragraph 10 of Appendix 8.3.
- 6 No objection shall be raised to the qualification of any voter except at the meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.

- 7 A resolution which becomes effectual upon satisfaction of the criteria laid down in paragraph 3 of this Appendix 1.1 shall also form the subject of a Circular to be issued by the Issuer to all Security Holders of the Issuer as soon as practicable after the meeting referred to in the said paragraph 3, but in no case later than twenty four (24) hours after the result of the poll is announced at that meeting.

Appendix 1.2

APPLICATION FOR THE DELISTING OF A SECURITY  
UPON AN ISSUERS REQUEST

1. Name of Issuer: \_\_\_\_\_
  
2. Name, Class and Nominal Value per Security of the Security for which Delisting is being sought: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Number of issued securities for which Delisting is being sought: \_\_\_\_\_
  
4. Date of Meeting of the Board of Directors or other equivalent Governing Body of the Issuer held in terms of Listing Rule 1.22.2: \_\_\_\_\_
  
5. Result of the Vote taken at the Meeting referred to in paragraph 4 above:  
\_\_\_\_\_
  
- (Please attach a certified true copy of the Minutes of the Meeting when the said vote was taken and the result of the said vote)
  
6. Date of circulation of Notice, Resolution and Explanatory Memorandum to the holders of the Security to be delisted in terms of Listing Rule 1.22:  
\_\_\_\_\_
  
7. Date of Meeting of the holders of the Security to be delisted in terms of Listing Rule 1.22:  
\_\_\_\_\_
  
8. Percentage amount of the Nominal Value of the Security to be delisted held by the holder/s represented at the meeting referred to in paragraph 7 above:  
\_\_\_\_\_
  
9. Name of the Chairman presiding at the Meeting referred to in paragraph 7 above:  
\_\_\_\_\_
  
10. Results of the poll taken at the Meeting referred to in paragraph 7 above in terms of percentage levels to the nearest three decimal places of the Nominal Value of the Issued Security held by security holders signifying :
  - (a) Approval of the Resolution: \_\_\_\_\_; and
  - (b) Disapproval of the Resolution: \_\_\_\_\_

(Please attach a certified true copy of the minutes of the Meeting when the said poll was taken and of the result of the said poll).

11. Date of Issue of the Circular referred to in Listing Rule 1.22:

\_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE \_\_\_\_\_

12. Date of this Application for delisting: \_\_\_\_\_

\_\_\_\_\_  
For Office Use :

Date and time of delivery of this Application for Delisting:

.....

### Appendix 1.3

#### Admissibility to Listing Fees

In accordance with Listing Rule 1.2 of the new Listing Rules which became effective on 1 January 2004, every Application for Admissibility to Listing must be accompanied by an initial (processing) non-refundable fee in accordance with the following scales.

A: Fees applicable to the Admissibility to Listing of Equities on both the Official and the Second Tier Markets

Market Capitalisation	Initial Fee
On the first Lm5,000,000	Increment per million Lm500 – Minimum Lm1,000
On the next Lm5,000,000	Increment per million Lm1000
On the next Lm10,000,000	Increment per million Lm800
On the excess	Increment per million Lm700
	Maximum Lm25,000

B: Fees applicable to the Admissibility to Listing of Fixed Income Securities

Market Capitalisation	Initial Fees
On the first Lm5,000,000	Increment per million Lm500 – Minimum Lm1,000
On the next Lm5,000,000	Increment per million Lm1000
On the next Lm10,000,000	Increment per million Lm800
On the excess	Increment per million Lm700
	Maximum Lm25,000

C: Fees applicable to the Admissibility to listing of Collective Investment Schemes

The Scheme	Initial Fees
The Scheme	Lm500

Note: If the CIS has a Primary Listing on an Overseas Exchange, the Initial Fees due shall be equivalent to 50%

These fees are effective from 1 January 2004

## CHAPTER 2

### Sponsors and Their Responsibilities

This Chapter supplies information as it relates to Sponsors, and the Sponsor's responsibilities to the Issuer and the Listing Authority (LA) during the listing process.

### *Introduction and General Information*

- 2.1 An Applicant other than a Public Sector Issuer or an Issuer issuing Specialist Securities seeking authorisation for Admissibility to Listing must appoint a Sponsor to conduct the application process on its behalf. An Applicant shall inform the Listing Authority of such appointment when:
- 2.1.1 it prepares any application for Admissibility to listing which requires the production of a Prospectus; or
  - 2.1.2 in relation to any matter a Sponsor is required to report to the Listing Authority.
- 2.2 Sponsors must comply with all Listing Rules applicable to them.
- 2.3 An Issuer must comply with the provisions of this chapter at all times.
- 2.4 Once a Security is authorised as Admissible to Listing and remains on a Recognised List, the Issuer shall be responsible for ensuring compliance with the continuing obligations of these Listing Rules.
- 2.5 The Issuer must ensure that, up to the time of listing, all communications and/or meetings with the Listing Authority are made through its Sponsor (see Listing Rule 2.1).

### *Responsibilities of a Sponsor*

- 2.6 The responsibilities of a Sponsor are owed solely to the Listing Authority. The Sponsor must ensure and shall confirm in writing to the Listing Authority, in such form as the Listing Authority may prescribe from time to time, that:
- 2.6.1 the Applicant has satisfied all relevant conditions for Admissibility to Listing;
  - 2.6.2 the Directors of the Issuer have received advice and guidance from the Sponsor or other appropriate professional advisors as to the nature of their responsibilities and obligations to ensure compliance by the Issuer with the Listing Rules;
  - 2.6.3 all documentation has been submitted to the Listing Authority in a timely manner. Subsequent versions of any documents submitted to the Listing Authority must show clearly the tracked changes and all deletions must be notified;
  - 2.6.4 all matters known to it which should be taken into account by the Listing Authority in considering the particular application have been disclosed in the Prospectus or otherwise in writing to the Listing Authority.

### *Qualifications and obligations of a Sponsor*

- 2.7 A Sponsor appointed under this Chapter must:
- 2.7.1 be licensed with a Category II licence in terms of the Investment Services Act;
  - 2.7.2 be independent of the Issuer;
  - 2.7.3 have adequate resources to fulfil the role expected of a Sponsor under these Listing Rules and be capable of giving the Applicant impartial advice before agreeing to accept the role;

- 2.7.4 be available to guide and provide advice to the Directors or equivalent governing body of the Issuer as to their responsibilities and obligations, including notifications, to ensure that they comply with these Listing Rules;
  - 2.7.5 advise the Listing Authority in writing, and copy the Issuer for which it was acting, if it resigns or if its appointment is terminated giving the reasons therefor;
  - 2.7.6 in the case of any application for Admissibility which requires the production of a Prospectus, prepare the Prospectus and ensure that all material statements therein have been verified and satisfy itself, to the best of its knowledge and belief, having made due and careful enquiry of the Issuer and its advisers, that the Issuer has satisfied all the listing requirements contained in these Listing Rules and all relevant legislation;
  - 2.7.7 provide to the Listing Authority any information or explanation known to it in such form and within such time limit as the Listing Authority may reasonably require for the purpose of verifying whether these Listing Rules are being and have been complied with by it or by an Issuer;
  - 2.7.8 confirm to the Listing Authority, at the time application is submitted for authorisation for admissibility to listing, the Sponsor's independence to the satisfaction of the Listing Authority (see Listing Rule 2.7.2); and
  - 2.7.9 sign the formal application for authorisation for Admissibility to Listing as set out in Appendix 5.3, and lodge it with the Listing Authority, together with supporting documentation, in accordance with these Listing Rules and deal with the Listing Authority on all matters arising in connection with the application.
- 2.8 Notwithstanding that the Issuer's Directors are responsible for the accuracy of the information set out in the Prospectus, the Listing Authority attaches particular importance to the Sponsor's role in satisfying itself, on the basis of all the matters referred to in Listing Rules 2.9 to 2.16 below, that the Issuer's Securities are suitable for authorisation for Admissibility to Listing.
- Directors*
- 2.9 Sponsors shall ensure that the necessary range of skills and experience is available amongst the members of the board of Directors or equivalent governing body of the Issuer.
  - 2.10 Prior to the endorsement of the Prospectus in accordance with Listing Rule 2.11 below by the Directors of the Applicant, the Sponsor to an application for authorisation for Admissibility to Listing shall satisfy itself that such Directors:
    - 2.10.1 can be relied upon to prepare and publish all information within their knowledge (or which it would be reasonable for them to obtain) that investors and their professional advisers would reasonably require and reasonably expect to find for the purpose of making an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Applicant and of the rights attaching to the Securities to which the Prospectus relate; and
    - 2.10.2 have had explained to them (by the Sponsor or other appropriate professional adviser) and appreciate the nature of the responsibilities and obligations they will be undertaking as Directors of a Company whose Securities are Admissible to Listing under these Listing Rules.
  - 2.11 The Prospectus must be signed by every Director of the Applicant confirming that such Prospectus include all such information within their knowledge (or which it would be reasonable for them to obtain), that investors and their professional advisers would reasonably require and reasonably expect to find for the purpose of making an informed assessment of the assets and liabilities, financial position, profits and losses and prospects

of the Applicant and of the rights attaching to the Securities to which the Prospectus relate.

*General*

- 2.12 If an Applicant discontinues the services of its Sponsor or if the Sponsor resigns, the Issuer shall immediately notify the Listing Authority in writing and, if in respect of a termination, it shall copy the Sponsor stating the reasons for such termination. The Applicant shall ensure that a new Sponsor is appointed immediately. The Listing Authority shall suspend the processing of the application for authorisation for admissibility to listing until a new Sponsor is so appointed.
- 2.13 In the case of a New Applicant, or where the Listing Authority so requires of a Listed Company, the Sponsor must obtain written confirmation from the Applicant or Listed Company that the Directors have established procedures which provide a reasonable basis for them to make proper judgements as to the financial position and prospects of the Applicant or Listed Company and, in each case, its Group, and be satisfied that this confirmation has been given after due and careful enquiry by the Listed Company or Applicant.
- 2.14 The Sponsor must report to the Listing Authority in writing that:
- 2.14.1 it has obtained written confirmation from the Issuer that the working capital available to the Group is sufficient for its present requirements, that is, for at least the next twelve (12) months from the date of publication of the relevant document; and
- 2.14.2 it is satisfied that this confirmation has been given after due and careful enquiry by the Issuer and that the persons or institutions providing finance have stated in writing that the relevant financing facilities exist.
- 2.15 The Sponsor must report, where applicable, that it has satisfied itself that any profit forecast or estimates have been made after due and careful enquiry by the Issuer.
- 2.16 Where an Issuer prepares the Prospectus the Sponsor must:
- 2.16.1 obtain written confirmation from the Issuer that the financial information published in that document (other than that contained in the comparative table, Auditors' report or, the published audited Annual Accounts) has been properly extracted from the Issuer's accounting records; and
- 2.16.2 be satisfied that this confirmation has been given after due and careful enquiry by the Issuer.
- 2.17 The Listing Authority shall report any breach of these Listing Rules by Sponsors to the Competent Authority appointed by the Minister in terms of article 2A of the Investment Services Act.

## CHAPTER 3

### Conditions for Admissibility

This Chapter specifies rules relating to the Conditions for suitability for admissibility to Listing of a security, and the Listing Authority's scope of discretion.

### *General*

- 3.1 The Listing Authority shall authorise Admissibility to Listing of a Security if it is of the opinion that the Prospectus satisfy all the requirements set out in these Listing Rules.
- 3.2 Suitability for listing depends on many factors. Applicants and their Sponsors should appreciate that compliance with the relevant requirements laid down in these Listing Rules may not of itself ensure an Issuer's Securities' Admissibility.
- 3.3 In addition, the Listing Authority may make Admissibility subject to any special condition which it considers appropriate in the interests of investors. The Issuer will be expressly informed in any such case and must comply with such condition(s) at all times.

### *Basic conditions to be fulfilled by an Applicant*

#### *Incorporation*

- 3.4 An Applicant must be duly incorporated or otherwise validly established according to the relevant laws of its place of incorporation or establishment, and its Memorandum and Articles of Association or equivalent document of constitution are required to conform with the provisions set out in Appendix 8.3 of these Listing Rules.

#### *Annual Accounts*

- 3.5 An Applicant must have published or filed audited Annual Accounts which:
- 3.5.1 cover three financial years preceding the application for Admissibility to Listing and the last year of audited information may not be older than 18 months from the date of the registration document;
  - 3.5.2 are Consolidated Accounts in respect of the Applicant and all its Subsidiary Undertakings, unless the Listing Authority otherwise agrees;
  - 3.5.3 conform with the CA and the International Financial Reporting Standards ;
  - 3.5.4 have been independently audited and reported on in accordance with the laws of Malta and with International Standards on Auditing formulated by the International Auditing Practices Committee of the International Federation of Accountants or any successor body;
  - 3.5.5 contain no qualification in the audit reports or where that was not the case, the nature of such qualifications or uncertainties is disclosed, together with such explanations by the Directors of the Applicant as appear relevant.
- 3.6 In relation to Listing Rule 3.5.1 above the Listing Authority may, on application, allow audited accounts covering a shorter period if the Listing Committee is satisfied that such allowance is desirable in the interests of the Applicant and of investors and investors will have the necessary information available to arrive at an informed judgement concerning the Applicant and the Securities for which Admissibility is sought.

- 3.7 The Applicant must have:

- 3.7.1 shareholders' funds less intangible assets of at least two hundred and fifty thousand Maltese Liri (Lm250,000); and
- 3.7.2 fully paid-up capital of at least one hundred thousand Maltese Liri (Lm100,000).

#### *Nature and Duration of Business Activities*

- 3.8 An Applicant must have a trading record in all the major sections of its business of at least three (3) Financial Years, for which audited Accounts are available and for which audited trading results support the expected market capitalisation. Its main activity must be an independent business which is supported by its historic revenue earning record and which gives it control over a majority of its assets for at least the period covered by such Accounts.

- 3.9 The Listing Authority may dispense with the requirements of Listing Rule 3.8 if the shareholders' funds, less intangible assets, of the Applicant amount to five million Maltese Liri (Lm5,000,000) subject in each case to the submission of updated audited Accounts, together with a five (5) year business plan of the Applicant.

*Continuing Obligations*

- 3.10 An Applicant must accept the continuing obligations which will apply following Admissibility. These obligations form the basis of the relationship between an Issuer and the Listing Authority, governing the disclosure of information necessary to protect investors and maintain an orderly market.
- 3.11 In order to maintain high standards of disclosure, the Listing Authority may require an Issuer to provide the Authority for publication further information not specified in these Listing Rules in such form and within such time limits as it considers appropriate. The Issuer must comply with such a request and, if it fails to do so, the Listing Authority has the right to publish the information after having heard the representation of the Issuer.

*Substantial Shareholder*

- 3.12 Where an Applicant has a relationship with a Substantial Shareholder which could result in a conflict of interest between its obligations towards that shareholder and its duties to the general body of shareholders, the Listing Authority could render the Applicant subject to conditions in the interest of the general body of shareholders of the Applicant.

*Management*

- 3.13 The Directors and officers of an Applicant that is a Company must collectively demonstrate appropriate expertise and experience for the management of the Group's businesses.
- 3.14 An Applicant that is a Company must ensure that each of its Directors is free of conflicts between duties to the Group and private interests and other duties, unless the Applicant can demonstrate that arrangements are in place to avoid detriment to its interests. Where there are potential conflicts the Listing Authority must be consulted at an early stage.

*Conditions relating to Securities*

*Validity*

- 3.15 The Securities for which authorisation for Admissibility to Listing is sought must:
- 3.15.1 be issued to conform with the law of the Applicant's place of incorporation;
  - 3.15.2 be duly authorised according to the requirements of the Applicant's Memorandum and Articles of Association or equivalent documents of constitution;
  - 3.15.3 be duly authorised by all necessary statutory and other authorisations for the creation and issue of such Securities in terms of any applicable system of law.
- 3.16 The Securities for which authorisation for Admissibility to listing is sought must be freely transferable.
- 3.16.1 The Listing Authority may treat Securities which are not fully paid up as freely transferable if arrangements have been made to ensure that the transferability of such Securities is not restricted and that dealing is made open and proper by providing the public with all appropriate information.
  - 3.16.2 The Listing Authority may, in the case of the authorisation for Admissibility to Listing of Securities which may be acquired only subject to approval, derogate from Listing Rule 3.16 only if the applicable approval procedure does not, in the opinion of the Listing Authority, disturb the market.

### *Market Capitalisation*

- 3.17 Except where Securities of the same Class are already Admissible to Listing, the expected aggregate market value of all Securities the subject of the application for Admissibility must not be less than five hundred thousand Maltese Liri (Lm500,000) for Shares not being Preference Shares, provided that this rule shall not apply in the case of a Tap Issue where the amount of the Debt Securities is not fixed.
- 3.18 The Listing Authority may admit Securities of lower value if satisfied that there will be an adequate market for the Securities concerned.

### *Continuity of Dealing*

- 3.19 The Securities for which Admissibility is sought must be expected to enjoy adequate continuity of dealing.

### *Shares in Public Hands*

- 3.20 The Applicant shall, together with its application for admissibility to listing, demonstrate to the satisfaction of the Listing Authority that:
- 3.20.1 at least twenty-five percent (25%) of the Class of Shares in respect of which application is made are in the hands of the public in one or more Recognised Jurisdictions; or
- 3.20.2 at least twenty-five percent (25%) of the Class of Shares in respect of which application is made shall be in the hands of the public in one or more Recognised Jurisdictions.

In this Listing Rule the term “public” shall include, without limitation, persons who are not related to, or dependants of, any of the Directors or Substantial Shareholders of the Applicant, any member of its Group, holders in employee share schemes or pension funds or persons with a right to nominate a person to the Board.

Exceptionally, a lower percentage may be accepted by the Listing Authority where the number of Shares of the same Class and the extent of their distribution to the public would enable the market to operate properly with a lower percentage.

### *Whole Class to be Admissible to Listing*

- 3.21 Where an application for authorisation for Admissibility to listing is made in respect of any particular Class of Security:
- 3.21.1 if none of the Securities of that Class are already authorised as Admissible to Listing, the application must relate to all Securities of that Class proposed to be authorised as Admissible to Listing issued or proposed to be issued;
- 3.21.2 if some of the Securities of that Class are already authorised as Admissible to Listing the application must relate to all further Securities of that Class so authorised or proposed to be authorised as Admissible to Listing issued or proposed to be issued.
- 3.21.3 Authorisation for Admissibility to Listing must be sought for all further issues of a Class of Securities already authorised for Admissibility to Listing not later than one (1) month after allotment.

### *Settlement*

- 3.22 Where an application for authorisation for Admissibility to listing in respect of Shares or a new Class of Securities is made by a Company incorporated in Malta the Shares or Securities forming the subject of the application must (save where the Listing Authority in exceptional circumstances otherwise agrees) be eligible for electronic settlement. For Oversea Companies seeking Primary Listings this requirement applies as modified by Listing Rule 13.6.1. Oversea Companies seeking a Secondary Listing are not required to comply with this condition (see Listing Rule 13.19).

*Warrants or Options to Subscribe, Convertible Securities, Certificates Representing Shares*

- 3.23 In the absence of exceptional circumstances, the issue of options or warrants to subscribe for Equity Shares must be limited to an amount equal to ten percent (10%) of the issued Equity Share Capital of the Issuer at the time the warrants or options are issued. Rights under employee share schemes will not be included for the purposes of this limit.
- 3.24 The conditions for Admissibility of options or warrants to subscribe for Securities (not being options or warrants accompanied by other Securities) are the same as would apply if the subject of the application for Admissibility had been the Securities to be subscribed unless the Listing Authority otherwise agrees.
- 3.25 Where an application for Admissibility is made for options or warrants to subscribe, the terms of issue must be such that the unit of dealing, where traded separately, is an option or warrant to subscribe for one Share. Where the terms of the subscription rights change (e.g. on a capitalisation issue) the Issuer must ensure that the quotation on any Recognised List continues to be based on the right to subscribe for one (1) Share.

*Convertible Securities*

- 3.26 Securities convertible or exchangeable into another Class of Securities or options or warrants to subscribe or purchase such other Class, may become authorised as Admissible to Listing only if that other Class of Securities is or will become at the same time a Class of Securities authorised as Admissible to Listing. However, the Listing Authority may grant an application for Admissibility in respect of such Securities, options or warrants in other circumstances if they are satisfied that holders have the necessary information available to form an opinion concerning the value of the underlying Securities to which such Securities, options or warrants relate.

*Certificates Representing Shares*

- 3.27 Where application for Admissibility is made in relation to Certificates Representing Shares, the Issuer of the Shares is the Issuer for the purposes of the Listing Rules, and the application will be dealt with as if it were an application for Admissibility of Shares.

*The Issuer of the Certificates and the Certificates*

- 3.28 The Issuer of the Certificates must fulfil the requirements of Listing Rule 3.4.
- 3.29 The Issuer of the Certificates must be a suitably authorised and regulated Financial Institution acceptable to the Listing Authority.
- 3.30 The Issuer of the Certificates must hold for the sole benefit of the Certificate holders and on their behalf (or under equivalent arrangements) the Shares to which the Certificates relate, all rights pertaining to the Shares 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 Certificates. Neither the Shares nor any such rights, money or benefits may be or may be liable to be treated as assets of the Issuer of the Certificates under the law (including insolvency law) of the place of its incorporation, place of incorporation of the Issuer of the Shares, place of issue of the Certificates or the place of administration of the arrangement under which the Shares are held.
- 3.31 To be authorised for Admissibility to Listing, the Certificates must fulfil the conditions set out in Listing Rules 3.15 to 3.21. For this purpose, in those Listing Rules, references to Shares should be taken as references to Certificates in respect of which application for authorisation for Admissibility to Listing is made.
- 3.32 The Certificates must not impose obligations on their Issuer other than to the extent necessary for the protection of Certificate-holders' rights to, and the transmission of entitlements of, the Shares.

*Preference Shares and Debt Securities*

- 3.33 An Applicant applying for authorisation for Admissibility to Listing of Preference Shares or Debt Securities must offer at least one million Maltese Liri (Lm1,000,000) of issued Preference Shares or Debt Securities (as appropriate) of the Class to be authorised as Admissible to Listing.

*Minor Issues*

- 3.34 An Issuer shall not issue any Equity Securities or other Securities with rights of conversion to equity if the nominal value of those Securities, when aggregated with the nominal value of any other Securities of the same Class which it has issued during the previous twelve months, exceeds ten percent of the nominal value of that same Class of Securities in issue at the commencement of that period of twelve (12) months except where the Securities are issued:

3.34.1 with the prior approval of the shareholders in general meeting voting on the precise terms and conditions of the issue; or

3.34.2 to ordinary shareholders pro-rata.

*Participation of Directors in an Issue*

- 3.35 Except in a case of a rights issue, no Director of an Issuer or his Connected Persons may participate directly or indirectly in an issue of Equity Securities or other Securities with rights of conversion to Equity Securities unless the Issuer's shareholders in general meeting have approved the specific allotment to be made. The notice convening the meeting shall state:

3.35.1 the number of Securities to be allotted;

3.35.2 the precise terms and conditions of the issue; and

3.35.3 that such Directors and their Connected Persons shall abstain from exercising any voting rights at the meeting.

CHAPTER 4  
Methods of Bringing Securities to Listing or Trading

*Methods open to Applicants with Equity Shares already authorised as Admissible to Listing*

- 4.1 Applicants with Equity Shares already authorised as Admissible to Listing may bring Securities (whether or not of a Class already authorised as Admissible to Listing) to listing by any one or a combination of the following methods:
- 4.1.1 an offer for sale (Listing Rule 4.4);
  - 4.1.2 an offer for subscription (Listing Rule 4.5);
  - 4.1.3 a private placement (Listing Rule 4.7);
  - 4.1.4 an intermediaries offer (Listing Rule 4.10)
  - 4.1.5 a rights issue (Listing Rule 4.12);
  - 4.1.6 an open offer (Listing Rule 4.20);
  - 4.1.7 an acquisition or merger issue (or vendor consideration issue) (Listing Rule 4.25);
  - 4.1.8 a vendor consideration placing (Listing Rule 4.26);
  - 4.1.9 a capitalisation issue (or bonus issue) in lieu of dividend or otherwise (Listing Rule 4.28);
  - 4.1.10 an issue for cash (Listing Rule 4.31);
  - 4.1.11 a conversion of Securities of one Class into Securities of another Class;
  - 4.1.12 an exercise of options or warrants to subscribe for Securities; or
  - 4.1.13 such other method as may be accepted by the Listing Authority either generally or in any particular case.

*Methods open to Applicants without Equity Shares already authorised as Admissible to Listing*

- 4.2 Applicants without Equity Shares already authorised as Admissible to Listing may bring Securities to listing by any one or a combination of the following methods:
- 4.2.1 an offer for sale; (Listing Rule 4.4)
  - 4.2.2 an offer for subscription; (Listing Rule 4.5)
  - 4.2.3 a private placement; (Listing Rule 4.7)
  - 4.2.4 such other method as may be accepted by the Listing Authority either generally or in any particular case.

In all cases the Securities in issue must be sufficiently widely held that their marketability when Admitted to listing can be assumed. In cases of doubt the Listing Authority must be consulted at an early stage.

- 4.3 Where an Applicant without Equity Shares listed gets Equity Shares authorised as Admissible to Listing:
- 4.3.1 no Shares may be placed with Connected Clients of the Sponsor or with persons connected with any other intermediary or advisor assisting with the offer, unless placed with a fund manager for the purpose of its business as such;
  - 4.3.2 the results of the offer (if any), including the basis of allotment where applicable, must be notified by the Sponsor to the Listing Authority before Admissibility is expected to become effective;
  - 4.3.3 if applicable, the Sponsor or any other intermediary assisting with the offer must make the notification described in Listing Rule 4.34; and

- 4.3.4 in all cases, a shareholder statement completed by the Sponsor in the form set out in Appendix 4.1 must be submitted to the Listing Authority before the consideration of the application for Admissibility.

*Offer for Sale or Subscription*

- 4.4 An offer for sale is an invitation to the public by, or on behalf of, a third party to purchase Securities of the Issuer already in issue or allotted (and may be in the form of an invitation to tender at or above a stated minimum price).
- 4.5 An offer for subscription is an invitation to the public by, or on behalf of, an Issuer to subscribe for Securities of the Issuer not yet in issue or allotted (and may be in the form of an invitation to tender at or above a stated minimum price).
- 4.6 In an offer for sale or subscription the Issuer must ensure that letters of allotment or acceptance are all issued simultaneously and numbered serially (and, where appropriate, split and certified by the Issuer's registrars). Where the Securities may be held in uncertificated form, the Issuer must ensure that there is equality of treatment between those who elect to hold the Securities in certificated form and those who elect to hold them in uncertificated form. Letters of regret must be posted at the same time or not later than three (3) Business Days thereafter. If a letter of regret is not posted simultaneously with the letters of allotment or acceptance, the Issuer must insert a notice to this effect in a national newspaper, to appear on the morning following posting of the letters of allotment or acceptance.

*Private Placing*

- 4.7 A private placing is an offer of Securities already in issue but not authorised as Admissible to Listing or not yet in issue, to specified persons or clients of the Sponsor or any other intermediaries assisting in the private placing, which does not involve a Public Offer or an offer to existing holders of the Issuer's Securities generally.

*Private Placing of Equity Securities of a Class already Admissible to listing*

- 4.8 The Listing Authority shall not authorise Admissibility to listing of Securities by way of a placing where the Securities are Equity Securities and are of a Class already Admissible to Listing if the placing price is to be at a discount of more than ten percent (10%) to the middle market price of those Securities at the time of the placing, unless the Listing Authority is satisfied that the Issuer is in severe financial difficulties or that there are other exceptional circumstances.
- 4.9 For a placing of Equity Securities of a Class already authorised as Admissible to Listing a pricing statement completed by the Sponsor in the appropriate form issued by the Listing Authority (see Appendix 4.2) must be submitted to the Listing Authority before the consideration of the application for Admissibility.

*An Intermediaries Offer*

- 4.10 An intermediaries offer is a marketing of Securities already or not yet in issue, by means of an offer by, or on behalf of, the Issuer to intermediaries for them to allocate to their own clients.
- 4.11 For an intermediaries offer the Listing Authority may require a list of the names of the intermediaries to whom Securities were allocated and of the names and addresses of the clients of each intermediary to whom Securities were in turn allocated.

*Rights Issue*

- 4.12 A rights issue is an offer to existing holders of Securities to subscribe or purchase further Securities in proportion to their holdings made by means of the issue of a renounceable letter (or other negotiable document) which may be traded (as "nil paid" rights) for a period before payment for the Securities is due.
- 4.13 In a placing of rights arising from the issue before the official start of dealings, the following conditions must be satisfied:

- 4.13.1 the placing must relate to at least twenty five percent (25%) of the maximum number of Securities offered, or such lesser amount as may be agreed by the Listing Authority if it is satisfied that a requirement of at least twenty five percent (25%) would be detrimental to the success of the issue;
  - 4.13.2 the placees must be committed to take up whatever is placed with them;
  - 4.13.3 the price paid by the placees must not exceed the price at which the Securities the subject of the rights issue are offered by more than one half (½) of the calculated premium over that offer price (that premium being the difference between the offer price and the theoretical ex-rights price);
  - 4.13.4 the Securities the subject of the rights issue must be of the same Class as Securities already listed;
  - 4.13.5 there must be no minimum holding of Securities before which a shareholder may participate in the rights issue;
  - 4.13.6 the Issuer may not, once the basis of entitlements under the rights issue is declared, make any subsequent alterations to such entitlements.
- 4.14 In a rights issue the Listing Authority may grant authorisation for Admissibility to Listing for Securities at the same time as the Securities are authorised as Admissible in “nil paid” form. Upon the Securities being paid up and the allotment becoming unconditional in all respects, authorisation for Admissibility to Listing will continue without any need for further application for Admissibility of fully paid Securities.
- 4.15 If existing holders do not take up their rights to subscribe in a rights issue:
- 4.15.1 the Securities to which the offer relates must be offered for subscription or purchase on terms that any premium obtained over the subscription or purchase price (net of expenses) is to be for the account of such holders, save that if the proceeds for an existing holder do not exceed two Maltese Liri (Lm2), the proceeds may be retained for the Issuer’s benefit;
  - 4.15.2 the Securities may be allotted or sold to underwriters, if on the expiry of the subscription period no premium (net of expenses) has been obtained; and
  - 4.15.3 no applications in excess of shareholders’ rights shall be without the prior permission of the Listing Authority. A Director of the Issuer will not, save in exceptional circumstances, be permitted to subscribe for or purchase excess Securities without those Securities being offered to other existing holders on the same terms.
- 4.16 An Issuer intending to make a rights issue whether for cash or by way of bonus should promptly notify the Listing Authority accordingly. No date should be fixed for closing of the offer until the issue has been authorised by the Listing Authority. Intention for these purposes shall be evidenced by a decision of the board of Directors of the Issuer or equivalent governing body of the Issuer. In addition, the following must be notified to the Listing Authority without delay:
- 4.16.1 the issue price and principal terms of the issue;
  - 4.16.2 the results of the issue and, if any rights not taken up are sold, details of the sale, including the date and price per share; and
  - 4.16.3 if relevant, the number or amount of any Securities issued pursuant to any excess applications together with the basis of any acceptance of those applications.
- 4.17 In the case of an application for authorisation for Admissibility to Listing for Securities offered by way of rights to holders of a Security already authorised as Admissible to Listing, the Prospectus or Circular must state the relevant requirements set out in Chapter 6.

4.18 The Listing Authority will not authorise any rights issue in which the rights cannot be transferred in part or in whole in favour of a third party at the option of the entitled shareholder.

4.19 In all rights issues, the underwriting agreement between the Issuer and its underwriters must be lodged with the Listing Authority.

*Open Offer*

4.20 An open offer is an invitation to existing holders of Securities to subscribe or purchase Securities in proportion to their holdings, which is not made by means of a renounceable letter (or other negotiable document).

4.21 The following rules apply to an open offer:

4.21.1 it must be made using assignable or transferable application forms, with splitting facilities;

4.21.2 it may be made in conjunction with other methods of issue (for example, a conditional placing); and

4.21.3 a Director of the Issuer will not, save in exceptional circumstances and with the prior authorisation of the Listing Authority, be permitted to subscribe for or purchase excess Securities without those Securities being offered to other existing holders on the same terms.

*Timetable for an Open Offer*

4.22 The timetable for an open offer must be approved by the Recognised Investment Exchange on which the Issuer's Securities are listed and traded.

*Communication of information on an Open Offer*

4.23 The following requirements relate to communication of information on an open offer:

4.23.1 if the offer is subject to the approval of shareholders in general meeting the notification must state that this is the case;

4.23.2 the Circular dealing with the offer must not contain any statement which might be taken to imply that the offer gives the same entitlements as a rights issue; and

4.23.3 the Prospectus/Circular must state the relevant requirements set out in Chapter 6.

4.24 An open offer may not be made where the Securities are Equity Securities and are of a Class already Admissible to Listing if the price is to be at a discount of more than ten percent (10%) to the middle market price of those Securities at the time of announcing the terms of the open offer, unless the Listing Authority is satisfied that the Issuer is in severe financial difficulties or that there are other exceptional circumstances. A pricing statement must be completed in accordance with Listing Rule 4.9.

*Acquisition or Merger Issue*

4.25 An acquisition or merger issue (or vendor consideration issue) is an issue of Securities in consideration for an acquisition of assets, or an issue of Securities on an acquisition of, or merger with, another Company as consideration for the Securities of that other Company.

*Vendor Consideration Placing*

4.26 A vendor consideration placing is an offer, by or on behalf of vendors, of Securities that have been allotted as consideration for an acquisition.

4.27 In a vendor consideration placing:

4.27.1 all vendors must have an equal opportunity of participating in the placing;

4.27.2 where the Securities to be placed are Equity Securities of a Class already Admissible to Listing the placing price must not be at a discount of more than

ten percent (10%) to the middle market price of those Securities at the time of the placing, unless the Listing Authority permits otherwise and a pricing statement must be completed in accordance with Listing Rule 4.9; and

- 4.27.3 if the Securities being placed are Equity Shares of a Class not already authorised for Admissibility to Listing, the requirements of Listing Rules 4.2 and 4.3 apply.

*Capitalisation Issue*

- 4.28 A capitalisation issue (or bonus issue) in lieu of dividend or otherwise is an issue to existing holders of Securities, in proportion to their holdings, of further Shares credited as fully paid out of the Issuer's reserves.
- 4.29 In a capitalisation issue (other than one in lieu of dividend) if a shareholder's entitlement includes a fraction of a Security, that fraction must be sold for the benefit of the holder save that if its value (net of expenses) does not exceed two Maltese Liri (Lm2) it may be sold for the Issuer's benefit. Sales of fractions may be made before authorisation for Admissibility to Listing is granted.
- 4.30 Where the Securities for which authorisation for Admissibility to Listing is sought are allotted by way of capitalisation of reserves or undistributed profits to the holders of a Security already authorised as Admissible to Listing, the Circular must state the relevant requirements set out in Chapter 11.

*Issue for Cash and other Methods*

- 4.31 Issues for cash of Equity Securities must, in the absence of exceptional circumstances, be offered in the first place to the existing holders of Equity Shares in proportion to their holdings in accordance with Article 88(1) of the CA unless the shareholders have approved other specific proposals by extraordinary resolution. Such approval may take the form of either general non-application of the statutory pre-emption requirements not more than fifteen (15) months prior to the issue, or prior approval for a specific issue. Holders of other Equity Securities must be permitted to participate if the rights attached thereto so require.
- 4.32 Where such an issue is to persons who are specifically approved by shareholders, it will not be regarded as a placing if the subscribers are small in number and are named in the Circular or notice convening the general meeting.
- 4.33 Securities of a Class already authorised as Admissible to Listing may be granted authorisation for Admissibility to Listing if they arise from an issue for cash, an exchange for, or a conversion of Securities from another Class of Securities or an exercise of options or warrants to subscribe Securities (including options under an employee share scheme).

*New Applicants and Disclosure of Advisers' Interests*

- 4.34 If following an offer for sale, offer for subscription or placing by a New Applicant any of the New Applicant's advisers or any other intermediary involved in the issue becomes interested in three percent (3%) or more of any Class of Equity Shares being offered, the interest must be notified to the relative Recognised Investment Exchange before the listing of the Securities is expected to become effective. For this purpose, an adviser or other intermediary is interested in any Equity Shares in the Group of Companies to which it belongs but is not interested in any Securities held on behalf of bona fide clients by any Company in the Group of Companies to which it belongs. In assessing the percentage size of the interest, the Equity Shares being offered are to be treated as having already been issued.

### *Employee Share Schemes*

- 4.35 Listing Rules 4.37 to 4.43 apply, with appropriate modifications, to all schemes involving the issue of Securities by Issuers to, or for the benefit of employees (“employee share scheme”). They apply also to similar schemes of all subsidiaries of Listed Companies.
- 4.36 The Listing Authority must be consulted on an application of the provisions of Listing Rules 4.37 to 4.43 to employee share schemes intended to apply to employees.
- 4.37 The employee share scheme, which must be approved by shareholders in general meeting, must contain provisions relating to:
- 4.37.1 the persons to whom or for the benefit of whom Securities may be issued under the employee share scheme (“Participants”);
  - 4.37.2 the total amount of the Securities subject to the employee share scheme which must be stated together with the percentage of the issued Shares that it represents at the time;
  - 4.37.3 a fixed maximum entitlement for any one Participant;
  - 4.37.4 the amount, if any, payable on application or acceptance and the basis for determining the subscription or option price, the period in or after which payments or calls may be paid or called; and
  - 4.37.5 the voting, dividend, transfer and other rights, including those arising on a liquidation of the Issuer, attaching to the Securities and to any options, if appropriate. These rights must be drawn to the attention of Participants on their joining the employee share scheme.
- 4.38 The employee share scheme or corresponding document, if not circulated to the shareholders, must be available for inspection for at least fourteen (14) days at the Issuer’s registered address or such other places as the Listing Authority may agree.
- 4.39 The terms of the resolution must approve a specific Scheme and refer either to the employee share scheme itself, if circulated to the shareholders, or to a summary of its principal terms included in the Circular which must contain all the provisions set out in Listing Rule 4.37 above.
- 4.40 Unless the Securities subject to the employee share scheme are identical with a Class of Securities already Admissible to Listing they must be separately designated.
- 4.41 An employee share scheme may provide for adjustment of the subscription or option price or the number or amount of Securities subject to options already granted and to the employee share scheme, in the event of a capitalisation issue, a rights issue, a sub-division or consolidation of Shares or reduction of capital. Such adjustments should give a Participant the same proportion of Equity Shares as that to which he was previously entitled. The issue of Securities as consideration for an acquisition will not be regarded as a circumstance requiring such adjustment.
- 4.42 Adjustments, other than those made on a capitalisation issue, must be confirmed to the Directors of the Issuer in writing by the Issuer’s Auditors to be in their opinion fair and reasonable.
- 4.43 The employee share scheme must provide, or the Circular must state, that the provisions relating to the matters contained in Listing Rules 4.37, 4.40, 4.41 and 4.42 above cannot be altered to the advantage of Participants without the prior approval of shareholders in general meeting of the Issuer.

APPENDIX 4.1  
(Listing Rule 4.3.1)  
SHAREHOLDER STATEMENT

For all Applicants without equity shares listed applying for authorisation for Admissibility to listing equity shares.

1. Name of Applicant \_\_\_\_\_
2. Description of security \_\_\_\_\_
3. Total number of securities to be admitted \_\_\_\_\_
4. Estimated opening price \_\_\_\_\_
5. Name of Sponsor \_\_\_\_\_
6. Name(s) of financial intermediaries assisting with the marketing (if any) \_\_\_\_\_

7. Summary of shareholdings

	Number of securities	Number of holders	Percentage of issued equity share capital
Shares in public hands:			
(i) Sponsor	_____	_____	_____
(ii) Name(s) of financial intermediaries assisting with the marketing (if any)	_____	_____	_____
(iii) Employees *	_____	_____	_____
(iv) Other public *	_____	_____	_____
Sub total	_____	_____	_____
Shares not in public hands:*			
	_____	_____	_____
* see Listing Rule 3.20			
TOTAL	=====	=====	100% =====

Signature of partner/Director or duly authorised Officer

\_\_\_\_\_

For and on behalf of (name of Sponsor)

\_\_\_\_\_

Date \_\_\_\_\_

APPENDIX 4.2  
(Listing Rule 4.9)  
PRICING STATEMENT

For companies placing Equity Securities of a Class already listed.

1. Name of issuer: \_\_\_\_\_
2. Description of security: \_\_\_\_\_
3. Total number of securities being placed: \_\_\_\_\_
4. Net price to the Issuer or vendor: \_\_\_\_\_
5. Estimated opening price: \_\_\_\_\_
6. Name of Sponsor: \_\_\_\_\_
7. Name(s) of financial intermediaries assisting with the placing: \_\_\_\_\_
8. Name(s) of underwriters: \_\_\_\_\_
9. Placing of further equity shares for cash  
Market price when placing arranged \_\_\_\_\_  
Date when placing arranged \_\_\_\_\_
10. Vendor consideration Placing  
Price at which allotted to vendor \_\_\_\_\_  
Price at which placed with clients \_\_\_\_\_  
Market price when placing arranged \_\_\_\_\_  
Date when placing arranged \_\_\_\_\_

Signature of partner/Director or duly authorised officer: \_\_\_\_\_

For and on behalf of (name of Sponsor): \_\_\_\_\_

Date \_\_\_\_\_

CHAPTER 5  
PROSPECTUS

This chapter gives detailed information as to what is required to be submitted with the Prospectus.

### *Requirements for Prospectus*

- 5.1 When an Issuer applies for Admissibility to Listing of Securities, a Prospectus prepared in accordance with these Listing Rules must be submitted to the Listing Authority for Approval.
- 5.2 Securities shall be admitted to trading on a Regulated Market operating in Malta only upon the publication of the Prospectus.
- 5.3 The essential purpose of Prospectus is to convey factual information about a business in words and figures, as a formal basis on which to obtain certain information about the Issuer and its proposed activities.
- 5.4 Without prejudice to Listing Rule 5.18, the Prospectus shall contain all information which, according to the particular nature of the Issuer and of the Securities being considered for admissibility to listing is necessary to enable investors and their Investment Advisers to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Issuer and of any guarantor, and of the rights attaching to such Securities and the Prospectus must be suitably signed as referred to in Listing Rule 2.11. This information shall be presented in an easily analysable and comprehensible form.
- 5.5 Prospectuses relating to Securities being considered for Admissibility to Listing must not be published unless they are formally approved by the Listing Authority in their form in accordance with these Listing Rules.

### *Responsibility*

- 5.6 The Prospectus shall include the following statement:

“This document includes information given in compliance with the Listing Rules of the Listing Authority for the purpose of giving information with regard to the Issuer. All of the Directors whose names appear on page [ ], accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors who have taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.”
- 5.7 Where relevant, the following statement shall also be included:

“Application has been made to the [insert name/s of the relevant Recognised Investment Exchange/s] for the Issuer’s [insert reference to the relative securities] to be listed and for dealings to commence on the said exchange(s) once the securities are authorised as Admissible to Listing by the Listing Authority.”
- 5.8 The above statement can be modified in such other form as may be permitted by the Listing Authority.

### *Submission of Documents*

- 5.9 The Applicant or Issuer must submit to the Listing Authority the following documents;
  - 5.9.1 Prospectus
  - 5.9.2 application forms to subscribe for Securities where relevant;
  - 5.9.3 formal notices (see Listing Rule 5.27);
  - 5.9.4 the letter referred to in Listing Rule 5.17 (the non applicable letter);

- 5.9.5 the letter referred to in Listing Rule 5.21 (omission of information);
  - 5.9.6 the letter referred to in Listing Rule 5.21 (omission of material contract from display);
  - 5.9.7 the letter referred to in Listing Rule 13.23.2 (confirmation by an Oversea Company of compliance with Overseas requirements - New Applicant);
  - 5.9.8 the letter regarding earnings forecasts from an Oversea Company(see Listing Rule 13.21);
  - 5.9.9 any documents or letters of compliance required to be submitted under Chapters 10 (Documents not requiring prior authorisation) and 11 (Circulars);
  - 5.9.10 the Memorandum and Articles of Association of the Issuer, highlighting any proposed amendments as part of the issue;
  - 5.9.11 a letter referred to in Listing Rule 2.15 (Sponsor's earnings forecast letter);
  - 5.9.12 the Sponsor's confirmation of independence (see Listing Rule 2.7.8);
  - 5.9.13 Appropriate corporate authorities sanctioning the application for Admissibility to Listing (see Listing Rule 1.8).
- 5.10 Where, for any reason acceptable to the Listing Authority, one or more of the above documents cannot be produced, a statement to this effect should be submitted to the Listing Authority in lieu of that document.
- 5.11 Where, for any reason, any of the above documents is not submitted and/or is not to the satisfaction of the Listing Authority, such document may be requested or rejected by the Listing Authority, as the case may be.
- 5.12 Where an Issuer already has Securities which have been granted Admissibility, the Listing Authority may exempt the Issuer from such documents as referred to in Listing Rule 5.9 which it already has in its possession or which the Listing Authority deems superfluous.
- Supplements to the Prospectus*
- 5.13 Every significant new factor, material mistake or inaccuracy relating to the information included in the Prospectus which is capable of affecting the assessment of the Securities and which arises or is noted between the time when the Prospectus is approved and the time when trading on a Regulated Market begins, shall be mentioned in a supplement to the Prospectus.
- 5.14 A supplement to the Prospectus must:
- 5.14.1 give details of the change or new matter;
  - 5.14.2 contain the statement required by Listing Rule 5.6;
  - 5.14.3 contain a statement that, save as disclosed, there has been no significant change and no significant new matter has arisen since publication of the previous Prospectus; and
  - 5.14.4 contain a statement that a copy of the supplement to the Prospectus has been delivered to the Listing Authority.
- 5.15 Such a supplement shall be approved in the same way in a maximum of seven working days and published in accordance with at least the same arrangements as were applied when the original Prospectus was published. The summary, and any

translations thereof, shall also be supplemented, if necessary to take into account the new information included in the supplement.

- 5.16 Investors who have already agreed to purchase or subscribe for the Securities before the supplement is published shall have the right to withdraw their acceptances before the expiration of the third working day after the publication.

*Omission of Information*

- 5.17 If any information required by these Listing Rules is not applicable and no equivalent information is available, it need not be included in a Prospectus provided that the Listing Authority is informed in writing by the Issuer.

- 5.18 The Listing Authority may authorise the omission of information from the Prospectus which is applicable and required by the Listing Rules if it considers that:

5.18.1 the information is of minor importance only and is not such as will influence assessment of the assets and liabilities, financial position, profits and losses and prospects of the Issuer, or Guarantor, if any; or

5.18.2 disclosure would be contrary to the public interest; or

5.18.3 disclosure would be seriously detrimental to the Issuer and omission is not likely to mislead investors with regard to facts and circumstances, knowledge of which is essential for the assessment of the Issuer or Guarantor, if any and of the rights attached to the Securities in question.

- 5.19 Without prejudice to the adequate information of investors, where, exceptionally, certain information required by Chapter 6 to be included in a Prospectus is inappropriate to the issuer's sphere of activity or to the legal form of the Issuer or to the Securities to which the Prospectus relates, the Prospectus shall contain information equivalent to the required information.

- 5.20 The Listing Authority may also authorise the omission of information which would otherwise be required in order to make the assessment referred to in Listing Rule 5.4 in the circumstances referred to in Listing Rule 5.18.

- 5.21 Requests to the Listing Authority to authorise any omission of information must:

5.21.1 be in writing from the Issuer;

5.21.2 identify the information concerned and the reasons for the omission; and

5.21.3 state why in the opinion of the Issuer one or more of the grounds in Listing Rule 5.18 applies.

*Omission of Material Contract from Display*

- 5.22 The Listing Authority may allow all or part of a material contract to be withheld from public inspection. The request must:

5.22.1 be in writing from the Issuer;

5.22.2 state why in the opinion of the Issuer one or more of the grounds in Listing Rule 5.18 applies;

5.22.3 enclose a copy of the contract in question or, if the contract is not reduced to writing, a memorandum giving full particulars of its terms; and

5.22.4 include confirmation by the Issuer that the contract is a material

contract not in the ordinary course of business

*Exemption from publishing a Prospectus*

- 5.23 The obligation to publish a Prospectus shall not apply, where:
- 5.23.1 shares representing, over a period of 12 months, less than 10 per cent of the number of shares of the same Class already admitted to trading on the same regulated market;
  - 5.23.2 shares issued in substitution for shares of the same Class already admitted to trading on the same regulated market, if the issuing of such Securities does not involve any increase in the issued capital;
  - 5.23.3 Securities offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded by the Listing Authority as being equivalent to that of the Prospectus;
  - 5.23.4 Securities offered, allotted or to be allotted in connection with a merger, provided that a document is available containing information which is regarded by the Listing Authority as being equivalent to that of the Prospectus;
  - 5.23.5 shares offered, allotted or to be allotted free of charge to existing shareholders, and dividends paid out in the form of shares of the same Class as the shares in respect of which such dividends are paid, provided that the said shares are of the same Class as the shares already admitted to trading on the same Regulated Market and that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;
  - 5.23.6 Securities offered, allotted or to be allotted to existing or former Directors or employees by their employer or an affiliated undertaking, provided that the said securities are of the same Class as the securities already admitted to trading on the same Regulated Market and that a document is made available containing information on the number and nature of the Securities and the reasons for and detail of the offer;
  - 5.23.7 shares resulting from the conversion or exchange of other Securities or from the exercise of the rights conferred by other Securities, provided that the said shares are of the same Class as the shares already admitted to trading on the same regulated market.
  - 5.23.8 Securities already admitted to trading on another regulated market, on the following conditions:
    - 5.23.8.1 that these Securities, or Securities of the same Class, have been admitted to trading on that other Regulated Market for more than 18 months;
    - 5.23.8.2 that, for Securities first admitted to trading on a Regulated Market after 31<sup>st</sup> December 2003, the admission to trading on that other Regulated Market was associated with an approved Prospectus made available to the public in conformity with Chapter 7;
    - 5.23.8.3 that, except where Listing Rule 5.23.8.2 applies, for Securities first admitted to listing after 30 June 1983, listing particulars were approved in accordance with

- the requirements of Directive 80/390/EEC or CARD Directive;
- 5.23.8.4 that the ongoing obligations for trading on that other Regulated Market have been fulfilled;
- 5.23.8.5 that the person seeking the admissibility to listing in Malta under this exemption makes a summary document available to the public in English ;
- 5.23.8.6 that the summary document referred to in Listing Rule 5.23.8.5 is made available to the public;
- 5.23.8.7 that the contents of the summary document complies with Chapter 6 where applicable. Furthermore the document shall state where the most recent Prospectus can be obtained and where the financial information published by the Issuer pursuant to his ongoing disclosure obligations is available.

*Equivalent Offering Document*

- 5.24 In the case of the states and their regional or local authorities, an Equivalent Offering Document in terms of Chapter 16 shall be published instead of a Prospectus.
- 5.25 Each copy of the Equivalent Offering Document shall contain an application form which may be used to apply for the Securities to be offered.

*Certificates Representing Shares*

- 5.26 In the case of Certificates Representing Shares, the Issuer of the Shares will be treated as the Issuer for the purpose of the Listing Rules. Consequently the information required as regards the Shares is the same as that which would be required in the case of an application authorising those Shares for Admissibility to Listing, with additional requirements in respect of the Issuer of the Certificates and the Certificates themselves.

*Formal Notice*

- 5.27 A formal notice made available to the public, prior to the publication of a prospectus, shall at least provide the following information:
  - 5.27.1 the name and country of incorporation of the Issuer and, if so desired, a brief statement of the nature of the Issuer's business;
  - 5.27.2 the amount and title of the Securities in respect of which authorisation for Admissibility to Listing is sought;
  - 5.27.3 if applicable, the name and country of incorporation of a guarantor of the principal or interest on such Securities;
  - 5.27.4 a statement that a Prospectus has been published and the addresses and the times at which copies are available to the public;
  - 5.27.5 if applicable, in case of an offer by a New Applicant of Equity Securities where part of the Securities are made available directly to the general public by means of an offer for sale or subscription, a statement that a proportion (to be indicated) of the Securities is so available and how applications should be made;

- 5.27.6 the date of the notice;
  - 5.27.7 in the case of Securities which are not Equity Securities and where there is a facility to issue further tranches of these Securities, the total amount of the Securities which could be issued under such an arrangement; and
  - 5.27.8 the name of the Sponsor to the application for authorisation for Admissibility to Listing.
- 5.28 *Intentionally left blank*
- 5.29 The Listing Authority would expect the annual information update to refer or contain at least information that is made available to the public in terms of;
- 5.29.1 the CA or, for an overseas company, the companies legislation of the place where it is incorporated, relating to the regulation of securities, issuers and securities markets; and
  - 5.29.2 Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards
  - 5.29.3 laws and rules of other Member States or EEA States and third countries that relate to the regulation of securities, issuers of securities and securities markets.
- 5.30 The document shall be filed with the Listing Authority after the publication of the financial statement. Where the document refers to information, it shall be stated where the information can be obtained.
- Incorporation of information by reference*
- 5.31 The Listing Authority shall allow information to be incorporated in the Prospectus by reference to one or more previously or simultaneously published documents that have been approved by it.
- 5.31.1 This information shall be the latest information available to the issuer.
  - 5.31.2 When information is incorporated by reference, a cross-reference list must be provided in order to enable investors to identify easily specific items of information.
  - 5.31.3 The summary shall not incorporate information by reference.

APPENDIX 5.3

(Listing Rules 2.7.9, 7.2.1)

APPLICATION FOR AUTHORISATION FOR ADMISSIBILITY TO LISTING  
(SHARES AND DEBT SECURITIES)

This form of application for Admissibility of securities to Listing should be suitably adapted for an Issuer which is not a public limited company. Please note that Admissibility to Listing will be a pre-requisite to Admission to Trading on a Recognised Investment Exchange (RIE). A separate application form must be submitted to the RIE for admission of the securities to listing and trading.

To: Listing Authority  
MFSA  
Attard, MALTA

Date: \_\_\_\_\_ 20 \_\_

Details of securities to be listed

\_\_\_\_\_ [insert name of issuer] (“the Issuer”) hereby applies for the securities detailed below to be Admissible to Listing subject to the Listing Rules of Malta.

Share capital

Authorised	Denomination	Issued and paid up (inclusive of present issue)
	in	
	in	

(Please include in brackets those shares listed under block listing procedures but not yet allotted)

Debt securities

Nominal value	Redemption date	Coupon
---------------	-----------------	--------

Please specify where the Issuer is listed and the nature of the listing

Primary

Secondary

Please specify on which RIE the Issuer has applied to have its securities traded
Amounts and descriptions of securities for which application is now being made (include distinctive numbers if any)

Type of issue for which application is being made

**Confirmation**

We acknowledge our obligations under the Listing Rules and the legal implications of Admissibility to Listing under the Financial Markets Act, Chapter 345 of the Laws of Malta. Accordingly we confirm that:

- (a) all the conditions for listing in the Listing Rules which are required to be fulfilled prior to application have been fulfilled in relation to the Issuer and the securities for the admission of which application is now made;
- (b) all information required to be included in the Prospectus has been included therein, or, if the final version has not yet been submitted (or approved), will be included therein before it is so submitted; and
- (c) all the documents and information required to be included in the application have been or will be supplied in accordance with the Listing Rules and all other requirements of the Listing Authority in respect of the application have been or will be complied with.

We undertake to comply with the Listing Rules of the Listing Authority as they may be applicable to the Issuer from time to time.

We undertake to lodge with you the declaration required pursuant to Appendix 5.4 of the Listing Rules prior to admission of the relevant securities to listing.

Signed : \_\_\_\_\_

Director or Secretary or other duly authorised Officer for and on behalf of :

Name of Issuer: \_\_\_\_\_

Name of contact at Issuer regarding the Application :

Telephone number:

We, the undersigned, confirm that we have satisfied ourselves that the Applicant has fulfilled all the criteria and procedures necessary for filing the application and has provided all the relevant documents to obtain authorisation for admissibility to listing.

Signed: \_\_\_\_\_ (Sponsor)

Name of contact at Sponsor regarding the Application :

Sponsor:

Address:

Telephone number:

APPENDIX 5.4

(See Appendix 5.3)DECLARATION BY ISSUER

This form of declaration may be amended to meet individual cases. Paragraph 7 and/or paragraph 8 may be deleted where appropriate.

To: Listing Authority  
MFSA  
Attard, MALTA

Date:.....20 ....

I, ..... a Director/the secretary of ..... [insert name of Company or issuer] (“the issuer”), declare as follows:

1. that all documents required by the Companies Act, Chapter 386 of the Laws of Malta to be filed with the Registrar of Companies and that all documents required by the Listing Rules to be lodged with the Listing Authority in connection with the issue/offer/placing/introduction on ..... 20 ..... of the following securities of the issuer, namely ..... [insert details] have been duly filed and lodged, and that to the best of my knowledge, information and belief (having taken reasonable care to ensure that such is the case), compliance has been made with all other legal requirements in connection with such issue/offer/placing/introduction;
2. that all applicable conditions for listing set out in the Listing Rules have been fulfilled in relation to the Issuer and the securities of the Issuer referred to above;
3. that ..... shares of ..... [insert number and Class]) and/or ..... nominal of ..... [insert designation of debt securities] have been subscribed/purchased for cash and fully allotted/transferred to the subscribers/purchasers;
4. that all money due to the Issuer in respect of the issue/offer/placing has been received by it;
5. that ..... shares of ..... [insert number and Class] and/or ..... nominal of ..... [insert designation of debt securities] have been issued credited as fully paid by way of conversion/exchange/consideration for property acquired/other consideration not being cash and have been duly allotted/transferred to the persons entitled thereto;
6. that the definitive documents of title have been/are ready to be delivered;
7. that completion has taken place of the purchase by the Issuer of all property stated in the listing particulars, Prospectus, Equivalent Offering Document or Circular to members dated ..... 20 ..... as having been purchased or agreed to be purchased by it and the purchase consideration for all such property has been duly satisfied;
8. that the trust deed relating to the said debt securities has been completed and executed and a copy has been lodged with the Listing Authority and that particulars thereof, if so required by law, have been delivered to the Registrar of Companies;
9. that all shares/debt securities of each Class referred to above are in all respects

identical\*;

10. that no alterations have been made to the Prospectus or Equivalent Offering Document approved for publication by the Listing Authority other than in relation to the pricing of the issue or takeover offer, number of securities, figures depending on such information, and correction of errors; and
11. that there are no other facts bearing on the Issuer's application for listing of such securities which, in my opinion, should be disclosed to the Listing Authority.

Signed .....

Director or Secretary or  
other duly authorised officer,  
for and on behalf of

.....

Name of Issuer

Note:

\* Identical means in this context:

- (a) the securities are of the same nominal value with the same amount called up or paid up;
- (b) they are entitled to dividend / interest at the same rate and for the same period, so that at the next ensuing distribution, the dividend / interest payable per unit will amount to exactly the same sum (gross and net); and
- (c) they carry the same rights as to unrestricted transfer, attendance and voting at meetings and are pari passu in all other respects.

## CHAPTER 6

### Contents of a Prospectus

This Chapter sets out items of information that may be required to be included in the Prospectus. The requirements vary according to the nature and circumstances of the Issuer and the type of Security involved.

*Implementing measures*

- 6.1 For the purposes of this Chapter, the Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements shall apply.

*Contents of a prospectus*

- 6.2 The Prospectus shall contain information concerning the Issuer and the securities being considered for admissibility to listing. It shall also include a summary. The summary shall, in a brief manner and in non-technical language, convey the essential characteristics and risks associated with the issuer, any guarantor and the securities, in the language in which the Prospectus was originally drawn up. The summary shall also contain a warning that:

- 6.2.1 it should be read as an introduction to the Prospectus;
- 6.2.2 any decision to invest in the securities should be based on consideration of the Prospectus as a whole by the investor;
- 6.2.3 where a claim relating to the information contained in a Prospectus is brought before a court, the plaintiff investor might, if the Prospectus is not drawn in the English Language, have to bear the costs of translating the Prospectus before the legal proceedings are initiated; and
- 6.2.4 civil liability attaches to those persons who have tabled the summary including any translation thereof, and applied for its notification, but only if the summary is misleading, inaccurate or inconsistent when read together with the other parts of the Prospectus.

Provided that where the Prospectus relates to the admissibility to listing of non-Equity Securities having a denomination of at least Lm 21,465 per unit there shall be no requirement to provide a summary except when a translation of the summary is requested.

*Non-applicability of a Prospectus*

- 6.3 The requirement to draw up a Prospectus in accordance with this Chapter shall not apply to:
- 6.3.1 Units issued by collective investment undertakings other than the closed-end type;
- 6.3.2 non-Equity Securities issued by a Member State or an EEA State or by one of a Member State's or an EEA State's regional or local authorities, by public international bodies of which one or more Member States or EEA States are members, by the European Central Bank or by the central banks of the Member States or EEA States;
- 6.3.3 shares in the capital of central banks of the Member States or EEA States;
- 6.3.4 Securities unconditionally and irrevocably guaranteed by a Member State or EEA State or by one of a Member State or EEA State's regional or local authorities;

- 6.3.5 Securities issued by associations with legal status or non-profit making bodies, recognized by a Member State or EEA State, with a view to their obtaining the means necessary to achieve their non-profit making objectives;
- 6.3.6 non-Equity Securities issued in a continuous or repeated manner by Credit Institutions provided that these securities:
  - 6.3.6.1 are not subordinated, convertible or exchangeable;
  - 6.3.6.2 do not give a right to subscribe to or acquire other types of Securities and that they are not linked to a derivative instrument;
  - 6.3.6.3 materialise reception of repayable deposits;
  - 6.3.6.4 are covered by a deposit guarantee scheme under Directive 94/19/EC of the European Parliament and of the Council on deposit-guarantee schemes
- 6.3.7 non-fungible shares of capital whose main purpose is to provide the holder with a right to occupy an apartment, or other form of immovable property or part thereof and where the shares cannot be sold on without this right being given up;

Provided that an Issuer or a person asking for admissibility to listing in terms of Listing Rule 6.3.2 and Listing Rule 6.3.4, may draw up a Prospectus in terms of this Chapter.

*Prospectuses consisting of separate documents*

- 6.4 Subject to Listing Rule 6.9, the Issuer or person seeking admissibility to listing, may draw up the Prospectus as a single document or separated documents.
  - 6.4.1 A Prospectus composed of separate documents shall divide the required information into a registration document, a securities note and a summary note.
  - 6.4.2 The registration document shall contain the information relating to the issuer.
  - 6.4.3 The securities note shall contain the information concerning the securities.
- 6.5 The registration document accompanied by the securities note, updated if applicable in accordance with Listing Rule 6.6, and the summary note shall be considered to constitute a valid Prospectus.
- 6.6 An Issuer which already has a registration document approved by the Listing Authority shall be required to draw up only the securities note and the summary note.
- 6.7 The securities note shall provide information that would normally be provided in the registration document if there has been a material change or recent development which could affect investors' assessments since the latest updated registration document or any supplement as provided for in Listing Rule 5.13 was approved. The securities and summary notes shall be subject to a separate approval.

- 6.8 Where an Issuer has only filed a registration document without approval, the entire documentation, including updated information, shall be subject to approval.

*Base Prospectus*

- 6.9 A Base Prospectus containing all relevant information concerning the Issuer and the securities may, at the choice of the Issuer or person seeking admissibility to listing, be used for the following types of securities:
- 6.9.1 Non-equity securities, including warrants in any form, issued under an Offering Programme;
  - 6.9.2 Non-Equity Securities issued in a continuous or repeated manner by credit institutions,
    - 6.9.2.1 where the sums deriving from the issue of the said securities, are placed in assets which provide sufficient coverage for the liability deriving from securities until their maturity date;
    - 6.9.2.2 where, in the event of the insolvency of the related credit institution, the said sums are intended, as a priority, to repay the capital and interest falling due, without prejudice to the Legal Notice Credit Institutions(reorganization and winding up) Regulation, 2004

The information given in the Base Prospectus shall be supplemented, if necessary, in accordance with Listing Rule 5.13, with updated information on the Issuer and on the securities.

*Uses of Languages*

- 6.10 When an admission to trading is made in one or more Member States or EEA States excluding Malta, the Prospectus shall be drawn up either in a language accepted by the regulatory authorities of those Member States or EEA States or in a language customary in the sphere of international finance, at the choice of the Issuer:
- Provided that for the purpose of scrutiny by the Listing Authority, the Prospectus shall be drawn up in Maltese or English or in a language customary in the sphere of international finance, at the choice of the Issuer.
- 6.11 Where an admission to trading is sought in more than one Member States or EEA States including Malta, the Prospectus shall be drawn up in English or Maltese and shall also be made available either in a language accepted by the regulatory authorities of each Host Member State or EEA State or in a language customary in the sphere of international finance, at the choice of Issuer.
- 6.12 Where admission to trading on a Regulated Market of Non-equity Securities whose denomination per unit amounts to at least Lm 21,465 is sought in one or more Member States or EEA States, the Prospectus shall be drawn up either in a language accepted by the regulatory authorities of the home and host Member States or EEA States or in a language customary in the sphere of international finance, at the choice of the Issuer or person asking for admission to trading. Member States or EEA States may choose to require in their national legislation that a summary be drawn up in their official language.

## Appendix 6.1

### PROSPECTUS

*(The following is an indicative list of information which requires consideration for inclusion in a Prospectus. This List does not replace the requirements contemplated in the Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements.)*

#### 1. Summary

The summary shall briefly provide the most important information included in the prospectus, covering at least the following items:

- (i) identity of Directors, senior management, advisers and Auditors;
- (ii) offer statistics and expected timetable;
- (iii) key information concerning selected financial data; capitalisation and indebtedness; reasons for the offer and use of proceeds; risk factors;
- (iv) information concerning the Issuer
  - history and development of the issuer
  - business overview;
- (v) operating and financial review and prospects -
  - research and development, patents and licences, etc.
  - trends;
- (vi) Directors, senior management and employees;
- (vii) major shareholders and related-party transactions;
- (viii) financial information -
  - consolidated statement and other financial information
  - significant changes;
- (ix) details of the admission to trading
  - admission to trading
  - plan for distribution
  - markets
  - selling shareholders
  - dilution (Equity Securities only)
  - expenses of the issue;
- (x) additional information -
  - share capital
  - memorandum and articles of association

- documents on display.

## **2. Identity of Directors, senior management, advisers and Auditors**

Information shall be given regarding names, functions and other information necessary to identify the persons responsible for drawing up the Prospectus and those responsible for auditing the financial statements.

## **3. Offer statistics and expected timetable**

The following key information shall be provided regarding the conduct of any admission to trading and the identification of important dates relating to that offer:

- (i) offer statistics;
- (ii) method and expected timetable.

## **4. Key information**

Summarised key information shall be provided about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's Group structure or accounting policies, the selected financial data must also be restated. Information shall be given on the following:

- (i) selected financial data;
- (ii) capitalisation and indebtedness;
- (iii) reasons for the offer and use of proceeds;
- (iv) risk factors.

## **5. Information on the company**

Information shall be provided about the company's business operations, the products it makes or the services it provides, and the factors which affect the business. It is also intended to provide information regarding the adequacy and suitability of the company's properties, plant and equipment, as well as its plans for future capacity increases or decreases. Information shall be given on:

- (i) history and development of the company;
- (ii) business overview;
- (iii) organisational structure;
- (iv) property, plant and equipment.

## **6. Operating and financial review and prospects**

The management shall provide an explanation of factors that have affected the company's financial condition and results of operations for the historical periods covered by the financial statements and management's assessment of factors and trends which are expected to have a material effect on the company's financial condition and results of operations in future periods. Information shall be given on:

- (i) operating results;
- (ii) liquidity and capital resources;
- (iii) research and development, patents and licences, etc.;
- (iv) trends.

## **7. Directors, senior management and employees**

Information on the following shall be provided concerning the company's Directors and managers that will allow investors to assess their experience, qualifications and levels of remuneration, as well as their relationship with the company:

- (i) Directors and senior management;
- (ii) remuneration;
- (iii) board practices;
- (iv) employees;
- (v) share ownership.

## **8. Major shareholders and related-party transactions**

Information shall be provided regarding the major shareholders and others that may control or have an influence on the Company as well as information regarding transactions the Company has entered into with persons affiliated with the Company and whether the terms of such transactions are fair to the company, as follows:

- (i) major shareholders;
- (ii) related-party transactions;
- (iii) interests of experts and advisers.

## **9. Financial Information**

Information on the following shall be provided specifying which financial statements must be included in the document, as well as the periods to be covered, the age of the financial statements and other information of a financial nature:

- (i) consolidated statements and other financial information;
- (ii) significant changes.

The accounting and auditing principles that will be accepted for use in preparation and audit of the financial statements will be determined in accordance with international accounting and auditing standards.

## **10. Details of the admission to trading**

The following information shall be provided regarding the offer, the plan for distribution of the securities and related matters:

- (i) Admission to trading;
- (ii) plan for distribution;
- (iii) markets;
- (iv) holders of securities who are selling;
- (v) dilution (for Equity Securities only);
- (vi) expenses of the issue.

## **11. Additional information**

Information concerning the following that is not covered elsewhere in the Prospectus shall be provided:

- (i) share capital;
- (ii) memorandum and articles of association;
- (iii) material contracts;
- (iv) exchange controls;
- (v) taxation;

- (vi) dividends and paying agents;
- (vii) statement by experts;
- (viii) documents on display;
- (ix) subsidiary information.

## **REGISTRATION DOCUMENT**

The registration document shall contain the information laid down in the following sub-paragraphs.

### **1. Identity of Directors, senior management, advisers and Auditors**

Information shall be given regarding names, functions and other information necessary to identify the persons responsible for drawing up the Prospectus and those responsible for auditing the financial statements.

### **2. Key information about the issuer**

Key information shall be provided about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's Group structure or in accounting policies, the selected financial data must also be restated. Information shall be given on the following:

- (i) selected financial data;
- (ii) capitalisation and indebtedness;
- (iii) risk factors.

### **3. Information on the company**

Information shall be provided about the company's business operations, the products it makes or the services it provides and the factors which affect the business. It is also intended to provide information regarding the adequacy and suitability of the company's properties, plants and equipment, as well as its plans for future capacity increases or decreases. Information shall be given on:

- (i) history and development of the company;
- (ii) business overview;
- (iii) organisational structure;

(iv) property, plants and equipment.

#### **4. Operating and financial review and prospects**

The management shall provide an explanation of factors that have affected the company's financial condition and results of operations for the historical periods covered by the financial statements, and management's assessment of factors and trends which are expected to have a material effect on the company's financial condition and results of operations in future periods. Information shall be given on:

- (i) operating results;
- (ii) liquidity and capital resources;
- (iii) research and development, patents and licences, etc.;
- (iv) trends.

#### **5. Directors, senior management and employees**

Information on the following shall be provided concerning the company's Directors and managers that will allow investors to assess their experience, qualifications and levels of remuneration, as well as their relationship with the company:

- (i) Directors and senior management;
- (ii) remuneration;
- (iii) board practices;
- (iv) employees;
- (v) share ownership.

#### **6. Major shareholders and related-party transactions**

Information shall be provided regarding the major shareholders and others that may control or have an influence on the Company as well as information regarding transactions the Company has entered into with persons affiliated with the Company and whether the terms of such transactions are fair to the company, as follows:

- (i) major shareholders;
- (ii) related-party transactions;
- (iii) interests of experts and advisers.

## **7. Financial information**

Information on the following shall be provided specifying which financial statements must be included in the document, as well as the periods to be covered, the age of the financial statements and other information of a financial nature:

- (i) consolidated statements and other financial information;
- (ii) significant changes.

The accounting and auditing principles that will be accepted for use in preparation and audit of the financial statements will be determined in accordance with international accounting and auditing standards.

## **8. Additional information**

Information concerning the following that is not covered elsewhere in the Prospectus shall be provided:

- (i) share capital;
- (ii) memorandum and articles of association;
- (iii) material contracts;
- (iv) statement by experts;
- (v) documents on display;
- (vi) subsidiary information.

## **SECURITIES NOTE**

The securities note shall contain the information laid down in the following subparagraphs.

### **1. Identity of Directors, senior management, advisers and Auditors**

Information shall be given regarding names, functions and other information necessary to identify the persons responsible for drawing up the Prospectus and those responsible for auditing the financial statements.

### **2. Offer statistics and expected timetable**

The following key information shall be provided regarding the conduct of any admission to trading and the identification of important dates relating to that admission to trading:

- (i) offer statistics;
- (ii) method and expected timetable.

### **3. Key information about the issuer**

Summarised key information shall be provided about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's Group structure or accounting policies, the selected financial data must also be restated. Information shall be given on the following:

- (i) capitalisation and indebtedness;
- (ii) reasons for the offer and use of proceeds;
- (iii) risk factors.

### **4. Interests of experts**

Information shall be provided regarding transactions the Company has entered into with experts or advisers employed on a contingent basis.

### **5. Details of the offer**

The following information shall be provided regarding the admission to trading, the plan for distribution of the securities and related matters:

- (i) admission to trading;
- (ii) plan for distribution;
- (iii) markets;
- (iv) selling securities holders;
- (v) dilution (for Equity Securities only);
- (vi) expenses of the issue.

### **6. Additional information**

Information concerning the following that is not covered elsewhere in the Prospectus shall be provided:

- (i) exchange controls;

- (ii) taxation;
- (iii) dividends and paying agents;
- (iv) statement by experts;
- (v) documents on display.

### **SUMMARY NOTE**

The summary note shall provide in a few pages the most important information included in the prospectus, covering at least the items laid down in the following:

- (i) identity of Directors, senior management, advisers and Auditors
- (ii) offer statistics and expected timetable
- (iii) key information concerning selected financial data; capitalisation and indebtedness; reasons for the offer and use of proceeds; risk factors
- (iv) information concerning the issuer
  - history and development of the issuer
  - business overview
- (v) operating and financial review and prospects
  - research and development, patents and licences, etc.
  - trends
- (vi) Directors, senior management and employees
- (vii) major shareholders and related-party transactions
- (viii) financial information
  - consolidated statements and other financial information
  - significant changes
- (ix) details on the offer
  - admission to trading
  - plan for distribution
  - markets
  - selling shareholders
  - dilution (for Equity Securities only)
  - expenses of the issue
- (x) additional information
  - share capital
  - memorandum and articles of incorporation
  - documents available for inspection

## CHAPTER 7

### Authorisation for Admissibility to Listing of Securities, Approval, Publication and Circulation of Prospectus

This chapter describes the procedure for determination of the granting of authorisation to listing, as well as the procedures for applying and issuing notifications to the public.

*General*

- 7.1 The granting of authorisation by the Listing Authority for Admissibility to Listing of any Securities becomes effective when the Sponsor has been formally notified. In the case of Public/State Sector Issuers issuing Debt Securities(see Chapter 16), when a Sponsor is not required to be appointed, the granting of authorisation by the Listing Authority for Admissibility to Listing will become effective when the Applicant has been formally notified.

*Application Procedure*

- 7.2 The Sponsor must:
- 7.2.1 file with the Listing Authority an application form for authorisation for Admissibility to Listing (see Appendix 5.3) together with supporting documents as outlined in this Chapter of the Listing Rules; and
  - 7.2.2 have satisfied himself that the Applicant has fulfilled all the criteria and procedures necessary for filing the application and has provided all the relevant documents to obtain authorisation for Admissibility to Listing. The Sponsor must make a statement to this effect on the application form.
  - 7.2.3 The application form must be signed by a duly authorised Officer and the Sponsor and must be accompanied by the appropriate fee.
- 7.3 The Listing Authority shall not approve a Prospectus unless it is satisfied that:
- 7.3.1 Malta is the Home Member State in relation to the Issuer of the Securities to which it relates;
  - 7.3.2 the Prospectus has been drawn up in accordance with the provisions of the Listing Rules.
- 7.4 The Listing Authority shall notify the Applicant of its decision to approve or refuse a Prospectus:
- 7.4.1 within ten (10) working days of the submission of the draft Prospectus. The time shall be extended to 20 working days if the offer involves Securities issued by an Issuer which does not have any Securities admitted to trading on a Regulated Market and who has not previously offered Securities to the public.
  - 7.4.2 If the Listing Authority finds, on reasonable grounds, that the documents submitted to it are incomplete or that supplementary information is needed, the time limits referred to in Listing Rule 7.4.1 above shall apply only from the date on which such information is provided by the Applicant.

If the Listing Authority fails to give a decision on the Prospectus within the time limits laid down in Listing Rule 7.4.1, this shall not be deemed to constitute approval of the application. The Listing Authority shall notify the Applicant if the documents are incomplete within 10 working days of the submission of the application.

7.5 All documents forwarded to the Listing Authority by an Issuer shall become and remain the property of the Listing Authority which may, in its absolute discretion after having heard the Issuer, copy any or all of such documents and forward such copies to any Recognised Investment Exchange, the public, the media or any other interested party where it is necessary to safeguard the interest of the general public.

*Transfer by Listing Authority of application for Approval*

7.6 The Listing Authority may transfer an application for the approval of a Prospectus or a supplementary Prospectus to the regulatory authority of another Member State or EEA State, subject to the prior agreement of that authority.

7.6.1 This transfer shall be notified to the Applicant within three working days beginning with the first working day after the date of the decision taken by the Listing Authority.

7.6.2 On making such transfer, the Listing Authority ceases to undertake any approval or administrative procedures relating to Prospectuses.

*Transfer to Listing Authority of application for Approval*

7.7 Where the Listing Authority agrees to the transfer to it of an application for the approval of a Prospectus made to the regulatory authority of another Member State or EEA State-

7.7.1 Malta is to be treated for the purposes of these Listing Rules as the Home Member State in relation to the Issuer of the Securities to which the Prospectus relates; and

7.7.2 the time-limits referred to in Listing Rule 7.4 apply as if the date of the transfer were the date on which the application was received by the Listing Authority.

*Prior Approval*

7.8 Prospectus and supplements to the Prospectus must not be published, before they have been formally approved by the Listing Authority.

7.9 No Prospectus shall be made available to the public unless it has been duly approved by the Listing Authority.

*Publication*

7.10 Once approved, the Prospectus shall be filed with the Listing Authority and shall be made available to the public by the Applicant at the latest six (6) working days before the Securities involved are admitted to trading. In addition, in the case of an initial Public Offer of a Class of shares not already admitted to trading on a Regulated Market that is seeking admissibility to listing for the first time, the Prospectus shall be available at least six (6) working days before the offer opens.

7.11 Any Prospectus approved by the Listing Authority should be registered with the Registrar.

7.12 A note stating that the Prospectus has been published and is available at the Issuer's registered office will be inserted on a website maintained by the Listing Authority.

7.13 Where a Prospectus relating to any Securities is required under Listing Rule 5.1, the offeror of those Securities shall be responsible for the publication of the Prospectus.

- 7.14 The Listing Authority shall publish on its website over a period of 12 months, at its choice, all the Prospectuses approved in accordance with Chapter 7.
- 7.15 In the case of a Prospectus comprising several documents and/or incorporating by reference, the documents and information making up the Prospectus may be published and circulated separately provided that the said documents are made available to the public, free of charge. Each document shall indicate where the other constituent documents of the full Prospectus may be obtained.
- 7.16 The text and the format of the Prospectus, and/or the supplements to the Prospectus, made available to the public, shall at all times be identical to the original version approved by the Listing Authority.
- 7.17 Where the Prospectus is made available by publication in electronic form, a hard copy shall nevertheless be delivered to the investor, upon his request and free of charge, by the issuer, the person asking for admissibility to listing or the financial intermediaries placing or selling the securities.

*Documents available for Inspection*

- 7.18 The latest published consolidated audited Annual Accounts must also be made available for inspection with copies of the Prospectus at the places and times referred to in Listing Rule 7.10 in the case of:
- 7.18.1 a rights issue or open offer of Shares or convertible Debt Securities by an Issuer whose Shares are already listed; and
- 7.18.2 an issue of Debt Securities (other than convertible) by a listed Issuer.’

*Advertisements*

- 7.19 Any advertisement issued for the purpose of announcing an offer where a Prospectus is required by the Listing Rules, shall seek the Listing Authority’s authorisation prior to its’ publication and shall contain:
- 7.19.1 a statement that a Prospectus has been or will be published; and
- 7.19.2 the addresses and times at which copies of the Prospectus are or will be available to the public;
- 7.19.3 Advertisements shall be clearly recognisable as such. The information contained in an advertisement shall not be inaccurate, or misleading. This information shall also be consistent with the information contained in the Prospectus, if already published, or with the information required to be in the Prospectus, if the Prospectus is published afterwards;
- 7.19.4 In any case, all information concerning the admission to trading on a Regulated Market disclosed in an oral or written form, even if not for advertising purposes, shall be consistent with that contained in the Prospectus.

*Documents to be lodged with an application for authorisation for Admissibility to Listing of Equity Securities*

- 7.20 The following documents must be lodged with the Listing Authority in support of an application for Admissibility of Securities to listing submitted by a New Applicant:
- 7.20.1 a copy of any application form to purchase or subscribe for Securities;

- 7.20.2 1 (one) certified copy each of the Memorandum and Articles of Association and a certificate of good standing issued by the Registry of Companies in relation to the Issuer or any other corresponding document, and all amendments thereto to date;
- 7.20.3 one (1) copy each of the Issuer's audited Annual Accounts for each of the last three (3) Financial Years prepared on the basis described in these Listing Rules. Where there are Subsidiary or Associated Undertakings of the Issuer, the same documents must be lodged in respect of each such Subsidiary or Associated Undertaking and in addition where such Undertakings are legally obliged to submit audited Consolidated Accounts, for all such Undertakings;
- 7.20.4 one (1) copy of an application for Admission to Listing or Trading in the appropriate form issued by the relevant Recognised Investment Exchange signed by a duly authorised Officer of the Issuer;
- 7.20.5 one (1) copy of the Prospectus conforming with the requirements for the contents of such documents as outlined in these Listing Rules, which must be dated and signed and endorsed (as required by Listing Rule 2.11 by every person who is named therein as a Director or at the discretion of the Listing Authority by the Manager of the Issuer or by his agent or attorney authorised in writing or at the discretion of the Listing Authority by the Manager. Where any document referred to above is signed by an agent or attorney a certified copy of the authority of any such agent or attorney must be annexed;
- 7.20.6 a letter from an authorised representative of the relevant Recognised Investment Exchange confirming that any deferred settlement arrangements applying to the Class of Securities the subject of the application for authorisation for Admissibility to Listing have been formally agreed with the Recognised Investment Exchange on which the Securities are to be Admitted to Listing and Trading;
- 7.20.7 Where, for any reason acceptable to the Listing Authority, one or more of the above documents cannot be produced, a statement to this effect must be submitted together with the reasons therefor.

*Documents to be lodged with an Application for the Authorisation for Admissibility to Listing of Debt Securities*

- 7.21 The documents which must be lodged in support of an application for authorisation for Admissibility to Listing of Debt Securities shall be similar to those required in support of an application for Equity Securities as outlined in Listing Rule 7.20, and shall also include the following additional information:
  - 7.21.1 a statement from the Issuer in writing of the full title of the issue;
  - 7.21.2 a certified copy of the document constituting the Debt Securities including all relevant details;
  - 7.21.3 the final and earlier repayment date, the date from which interest becomes payable and the due dates for interest, a statement of legislation under which the Debt Securities have been created and particulars of the security (if any) for the debt created by the Debt Securities;
  - 7.21.4 particulars of the profits cover for interest and of the net tangible assets and the interest rate, if not already indicated above; and

where, for any reason, one or more of the documents mentioned in this Listing Rule cannot be produced a statement to this effect has to be submitted together with the reasons therefor.

*Documents to be lodged with an Application for Authorisation for Admissibility to Listing of Preference Shares*

- 7.22 The documents which must be lodged in support of an application for authorisation for Admissibility to Listing of preference Shares shall be similar to those required in support of an application for Equity Securities as outlined in Listing Rule 7.20, except that in addition particulars of the profits cover for dividend and of the net tangible assets and the dividend rate, if not already indicated above shall also be provided; and a document should also be lodged giving full details of the issue.

*Documents to be lodged with an Application for Authorisation for Admissibility to Listing for Issuers already having Securities authorised as Admissible to Listing*

- 7.23 A similar procedure to that outlined in Listing Rules 7.20 and 7.21 must be followed in respect of Issuers applying for further Securities to be authorised as Admissible to Listing. However, the Listing Authority may exempt an Applicant from submitting certain documents where it already has the information in its possession or where the Listing Authority deems the documents or information to be superfluous.

*Additional Documents*

- 7.24 The Listing Authority may, at any time, require the Issuer to produce to the Listing Authority a copy of any of the following:

- 7.24.1 any agreement to acquire any assets, business or Shares in consideration for or in relation to which the Issuer's Securities are being issued;
- 7.24.2 the audited Annual Accounts of the Issuer and of any guarantor, for each of the periods which form part of the Issuer's financial record contained in the Prospectus;
- 7.24.3 any interim financial statements made up since the date to which the last audited Annual Accounts were made up and prior to the date of authorisation for Admissibility to listing;
- 7.24.4 a copy of any temporary and definitive document of title;
- 7.24.5 in the case of an application in respect of Securities issued pursuant to an employee share scheme, a copy of the scheme document;
- 7.24.6 where Prospectus or another document is published in connection with any scheme requiring court approval, a copy of any court order and of the certificate of registration issued by the competent authority;
- 7.24.7 any other document which the Listing Authority deems useful, necessary or beneficial in order for it to decide upon the authorisation of Admissibility to Listing and the Issuer must retain copies of such documentation for not less than seven (7) years so that it can comply with any such request from the Listing Authority.

*Validity of a Prospectus, Base Prospectus and registration document*

- 7.25 A Prospectus shall be valid for 12 months after its publication provided that the Prospectus is completed by the supplements required pursuant to Listing Rule 5.13.

- 7.26 In the case of an Offering Programme, the Base Prospectus, previously filed, shall be valid for a period of up to 12 months.
- 7.27 In the case of non-Equity Securities referred to in Listing Rule 6.9.2, the Prospectus shall be valid until no more of the Securities concerned are issued in a continuous or repeated manner.
- 7.28 A registration document, as referred to in Listing Rule 6.4, previously filed, shall be valid for a period of up to 12 months provided that it has been updated in accordance with Listing Rule 5.27.

*Exercise of Passport Rights*

- 7.29 Where Malta is the Home Member State and an admission to trading is provided for in one or more Member States or EEA States, other than Malta, the Prospectus approved by the Listing Authority and any supplements thereto shall be valid in any number of host Member States or EEA States, provided that the regulatory authority of each Host Member State or EEA State is notified in accordance with Listing Rule 7.30.
- 7.30 The Listing Authority shall provide the regulatory authority of the Host Member State or EEA State, at the request of the Issuer or the person responsible for drawing up the Prospectus and within three working days following that request or, if the request is submitted together with the draft Prospectus, within one working day after the approval of the Prospectus, with a certificate of approval and a copy of the Prospectus as approved. If applicable, this notification shall be accompanied by a translation of the summary of the Prospectus produced under the responsibility of the Issuer or person responsible for drawing up the Prospectus. The same procedure shall be followed for any supplement to the Prospectus.
- 7.31 A Prospectus in relation to an admission to trading which has been approved by the regulatory authority of another Member State, other than Malta, or an EEA State is not deemed to be an approved Prospectus unless that authority has provided the Listing Authority with a certificate of approval and a copy of the Prospectus as approved; together with, where requested by the Listing Authority, a translation into English or Maltese of the summary of the Prospectus.
- 7.32 For the purposes of this listing rule, the certificate of approval shall consist of a statement –
- 7.32.1 that the Prospectus has been drawn up in accordance with the Prospectus Directive;
  - 7.32.2 that the Prospectus has been approved in accordance with the Prospectus Directive, by the Listing Authority or the regulatory authority of the Member State or EEA state, as the case may be, providing the certificate; and where applicable
  - 7.32.3 of the reasons as to why the Listing Authority or the regulatory authority providing the certificate, authorised, in accordance with the Prospectus Directive, the omission from the Prospectus of information which would otherwise have been included.

## CHAPTER 8

### Continuing Obligations

This chapter deals with the Issuers continuing obligations and one of its objectives is to implement the relevant provisions of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market. These requirements do not exclude the ongoing obligations. These requirements do not exclude the ongoing obligations required in other chapters of these Listing Rules.

### *Introduction*

- 8.1 This Chapter establishes requirements in relation to the disclosure of ongoing information about Issuers whose securities are already admitted to trading on a Regulated Market situated or operating within a Member State.
- 8.2 The provisions of this Chapter shall not apply to Units issued by collective investment undertakings other than the closed-end type, or to Units acquired or disposed of in such collective investment undertakings.
- 8.3 Once a Security is authorised as Admissible to listing, the Issuer shall be responsible for ensuring compliance with the continuing obligations of these Listing Rules at all times.
- 8.4 The Issuer shall comply with the continuing obligations to provide information and if it fails to do so, the Listing Authority may itself publish any relevant information it may have in its possession after having heard the representation of the Issuer.
- 8.5 Where Malta is the home Member State, the Listing Authority may subject Issuers to obligations more stringent than those provided for hereafter or to additional obligations, provided that they apply generally to all Issuers or to all Issuers of a given Class.

### *Company Announcements*

- 8.6 The object of a Company Announcement is to bring useful and relevant facts to the attention of the market. Accordingly, Issuers shall be responsible to ensure that a Company Announcement is precise, clear and truthful, and does not contain promotional, ambiguous, irrelevant or confusing material.
- 8.7 An Issuer or a person who has applied for admission to trading on a Regulated Market without the Issuer's consent, where applicable, shall make a Company Announcement in the English or Maltese language without delay through the Recognised Investment Exchange with regards to the following:
  - 8.7.1 price-sensitive facts which arise in its sphere of activity and which are not public knowledge;
  - 8.7.2 any information concerning the Issuer or any of its Subsidiaries necessary to avoid the establishment of a false market in its Securities;
  - 8.7.3 the date fixed for any board meeting of the Issuer at which the declaration or recommendation or payment of a dividend on Securities authorised as Admissible to Listing is expected to be decided, or at which any Announcement of the profits or losses in respect of any year, half-year or other period is to be approved for publication;
  - 8.7.4 any decision by the board of Directors of the Issuer to declare any dividend or other distribution on Securities Admissible to Listing or not to declare any dividend or interest payment on Securities authorised as Admissible to Listing or relating to profits;
  - 8.7.5 any change in the Officers of the Issuer (see Listing Rules 8.18 to 8.21);
  - 8.7.6 the filing of a winding-up application;
  - 8.7.7 any resolution for the merger or amalgamation of the Issuer and any agreement entered into in connection with any acquisition or realisation of assets or any transaction outside the ordinary course of business of the Issuer and/or its Subsidiaries which is likely to materially affect the price of its Securities;

- 8.7.8 the information contained in the notification submitted by the Shareholder in terms of Listing Rule 8.117;
- 8.7.9 the total number of voting rights and capital at the end of each calendar month during which an increase or decrease of such total number has occurred;
- 8.7.10 the proportion of the Issuer's holding in its own Equity Securities, following an acquisition or sale of its own Equity Securities in terms of Listing Rule 12.12. Such Company Announcement shall be made by not later than four trading days following the acquisition or sale;
- 8.7.11 any material change to its capital structure including the structure of its Debt Securities admitted to listing, except that notification of a new issue may be delayed while an offer or underwriting is in progress;
- 8.7.12 Debt Securities authorised as Admissible to Listing:
  - 8.7.12.1 any new issues of Debt Securities;
  - 8.7.12.2 any guarantee or security thereof; and
  - 8.7.12.3 a statement, where applicable, indicating where the audited Annual Accounts of any guarantor in line with the requirements of Listing Rule 9.36 are available to the public.

Without prejudice to the Prevention of Market Abuse Act, Listing Rules 8.7.12.1, 8.7.12.2 and 8.7.12.3 shall not apply to a public international body of which at least one Member State is member.
- 8.7.13 any change in the rights;
  - 8.7.13.1 attaching to the various Classes of shares, including changes in the rights attaching to derivative securities issued by the Issuer itself and giving access to the shares of that Issuer;
  - 8.7.13.2 of holders of securities other than shares, including changes in the terms and conditions of these securities which could indirectly affect those rights, resulting in particular, from a change in loan terms or in interest rates.
- 8.7.14 the effect, if any, of any issue of further Securities on the terms of the exercise of rights under options, warrants and convertible Securities;
- 8.7.15 the results of any new issue or Public Offer of Securities. Where the Shares are subject to an underwriting arrangement the Issuer may at its discretion, delay notifying the Listing Authority until the obligations by the underwriter to take or procure others to take Securities are finally determined or lapse. In the case of an issue or offer of Shares which is not underwritten, notification of the result must be made as soon as it is known;
- 8.7.16 any sale of Shares in another Company resulting in a Company ceasing to be a Subsidiary and any acquisition of Shares of an unquoted Company;
- 8.7.17 all resolutions put to a general meeting of an Issuer which are not Ordinary Business and immediately after such meeting whether or not the resolutions were carried;
- 8.7.18 any change of address of the registered office of the Issuer;

- 8.7.19 any proposed changes to the Memorandum and Articles of Association of the Issuer which in any event must comply with the requirements of this Chapter;
  - 8.7.20 the matters referred to in Listing Rule 1.21 (Discontinuation of Listing);
  - 8.7.21 the matters referred to in Listing Rules 9.35 (preliminary results), 9.40.6 (profit forecast) and 9.42 (half-yearly reports);
  - 8.7.22 where a valuation has been conducted on the fixed assets of the Issuer and/or its Subsidiaries including a copy of the valuation reports or a statement indicating where such report has been made to the public;
  - 8.7.23 a statement indicating where the audited Annual Accounts required in terms of Listing Rule 9.36 have been made available to the public.
- 8.8 The requirements of Listing Rules 8.7 are in addition to any specific requirements regarding Company Announcements contained in these Listing Rules.
- 8.9 Information that is required to be the subject of a Company Announcement must not be given to anyone else before it has been so announced in accordance with Listing Rule 8.7.
- 8.10 An Issuer must take all reasonable care to ensure that any statement or forecast or any other information provided in a Company Announcement is not misleading, false or deceptive and does not omit anything likely to affect the import of such statement, forecast or other information.
- 8.11 Where securities are admitted to trading on a Regulated Market in Malta and Malta is the only host Member or EEA State, an Issuer or a person who has applied for admission to trading on a Regulated Market without the Issuer's consent is obliged to make a Company Announcement in terms of Listing Rules 8.7.8, 8.7.9, 8.7.10 8.7.12 and 8.7.13, and makes such information available to the Officially Appointed Mechanism'
- Dispensation*
- 8.12 If the Issuer considers that announcements and/or disclosure to the public of information required by these Listing Rules might prejudice the Issuer's legitimate interests, the Issuer must seek a dispensation from the relevant requirement by written notice to the Listing Authority to that effect.
- Disclosure in the Annual Report*
- 8.13 The provisions of Listing Rules 8.14 and 8.15 shall apply to accounting periods commencing on or after 20 May 2006.
- 8.14 An Issuer shall include in the Company's Annual Report the following:
- 8.14.1 the structure of their Capital, including securities which are not admitted to trading on a Regulated Market in a Member State, where appropriate with an indication of the different Classes of shares and, for each Class of shares, the rights and obligations attaching to it and the percentage of total share capital that it represents;
  - 8.14.2 any restrictions on the transfer of securities, such as limitations on the holding of securities or the need to obtain the approval of the Company or other holders of securities;

- 8.14.3 any direct and indirect shareholdings (including indirect shareholdings through pyramid structures and cross-shareholdings) in excess of 5% of the share Capital;
  - 8.14.4 the holders of any securities with special control rights and a description of those rights;
  - 8.14.5 the system of control of any employee share scheme where the control rights are not exercised directly by the employees;
  - 8.14.6 any restriction on voting rights, such as limitations of the voting rights of holders of a given percentage or number of votes, deadlines for exercising voting rights, or systems whereby, with the company's cooperation, the financial rights attaching to securities are separated from the holding of securities;
  - 8.14.7 any agreements between shareholders which are known to the Company and may result in restrictions on the transfer of securities and/or voting rights;
  - 8.14.8 the rules governing the appointment and replacement of Board members and the amendment of the Articles of Association;
  - 8.14.9 the powers the Board members, and in particular the power to issue or buy back shares;
  - 8.14.10 any significant agreement to which the Company is a party and which take effect, alter or terminate upon a change of control of the Company following a take overbid, and the effects thereof, except where their nature is such that their disclosure would be seriously prejudicial to the Company (this exception shall not apply where the Company is specifically obliged to disclose such information on the basis of other legal requirements);
  - 8.14.11 any agreements between the Company and its Board Members or employees providing for compensation if they resign or are made redundant without valid reason or if their employment ceases because of a takeover bid.
- 8.15 Board Members shall present an explanatory report to the Annual General Meeting of shareholders on the matters referred to above.
- Directors and Senior Officers*
- 8.16 A Company Announcement made in terms of 8.7.5 shall contain the following information in respect of any new Director appointed to its board of Directors, or any Senior Officer, unless such details have already been disclosed in Prospectus or other Circular published by the Issuer:
- 8.16.1 the full name (and if relevant, any former name or names), residential address and function in the Issuer and an indication of the principal activities performed by them outside the Issuer where these are significant with respect to the Issuer;
  - 8.16.2 details of all Directorships held by such Director or Senior Officer in any other Listed Company at any time in the previous five (5) years, indicating whether or not the individual is still a Director;

- 8.16.3 any convictions of such persons in relation to criminal offences punishable by imprisonment or details of any pending criminal proceedings against such persons for such offences;
- 8.16.4 details of any bankruptcies or individual voluntary arrangements of such person;
- 8.16.5 details of any creditors' voluntary winding-up, winding-up by the court or reconstruction of any Company where such person was a partner or Director with an executive function at the time of or within the twelve (12) months preceding such events;
- 8.16.6 details of any dissolution of any partnerships for reasons of bankruptcy or the existence of grounds of sufficient gravity to warrant dissolution where such person was a partner at the time of or within the twelve (12) months preceding such events;
- 8.16.7 details of any public criticisms of such person by statutory or regulatory authorities (including designated professional bodies) which have not been subsequently withdrawn by the relevant authority or body and whether such person has ever been disqualified by a court from acting as a Director of a Company or from acting in the management or conduct of the affairs of any Company; and
- 8.16.8 whether such person was the subject of any order, judgement or ruling of any court of competent jurisdiction, tribunal or any other regulatory authority in Malta or overseas, permanently or temporarily prohibiting him from acting as an Investment Adviser, dealer in Securities, Director or employee of a Financial Institution and from engaging in any type of business practice or activity; or

if there is no such information to be disclosed regarding Listing Rules 8.16.3 to 8.16.8, an appropriate negative statement to that effect.

- 8.17 The Company Announcement required under Listing Rule 8.7.5 must be made immediately after the Issuer becomes aware of the appointment of the relevant Director or Senior Officer.
- 8.18 The Company Announcement required by Listing Rule 8.7.5 must state the effective date of the change if it is not with immediate effect. If the effective date is not yet known or has not yet been determined, the notification should state this fact. The Issuer must subsequently announce that information when the effective date has been decided.
- 8.19 In the case of an appointment, the Issuer's notification must:
  - 8.19.1 state whether the position is executive or non-executive; and
  - 8.19.2 state the nature of any specific function or responsibility of the position.

*Rights of Holders of Securities*

- 8.20 An Issuer having Equity Shares authorised as Admissible to Listing must ensure equality of treatment for all holders of such Equity Shares who are in the same position.
- 8.21 A Company having Debt Securities authorised as Admissible to Listing must ensure equality of treatment for all holders of such Securities of the same Class in respect of all rights attaching to such Securities.

- 8.22 An Issuer must obtain the consent of the holders of its Equity Shares before any major Subsidiary Undertaking of the Issuer makes any issue for cash of Equity Securities so as materially to dilute the Issuer's percentage interest in Equity Shares or Equity Securities of that Subsidiary Undertaking. For the purposes of this Listing Rule, a Subsidiary Undertaking which represents twenty-five percent (25%) or more of the aggregate of the Share capital and reserves or profits (after deducting all charges except taxation and excluding extraordinary items) of a Group will be regarded as a major Subsidiary Undertaking.
- 8.23 Shareholders shall not be prevented from exercising their rights by proxy, subject to the law of the country in which the Issuer is incorporated.
- Information requirements for Issuers whose shares are admitted to trading on a Regulated Market*
- 8.24 An Issuer shall ensure that all the facilities and information necessary to enable holders of shares to exercise their rights are available in Malta, where Malta is the Home Member State and that the integrity of data is preserved.
- 8.25 The Issuer shall;
- 8.25.1 provide information on the place, time and agenda of meetings, the total number of shares and voting rights and the rights of holders entitled to participate in meetings;
- 8.25.2 make available a proxy form in terms of Listing Rules 10.16 and 10.17, on paper or, where applicable, by electronic means, to each person entitled to vote at a shareholders' meeting, together with the notice concerning the meeting or, on request, after an Announcement of the meeting;
- 8.25.3 at the request of a shareholder, designate as its agent a financial or credit institution through which such shareholder may exercise his financial rights; and
- 8.25.4 publish notices or distribute Circulars concerning the allocation and payment of dividends and the Issuer of new shares, including information on any arrangements for allotment, subscription, cancellation or conversion.
- 8.26 If a Circular is issued to the holders of any particular Class of Security, the Issuer must issue a copy or summary of that Circular to all other holders of its Securities which are authorised as Admissible to Listing unless the contents of that Circular are irrelevant to them.
- 8.27 Where available, airmail or an equivalent service that is no slower must be used when sending documents to holders of Securities authorised as Admissible to Listing residing outside Malta.
- 8.28 All communications to holders of Securities authorised as Admissible to Listing must be made by means of the postal services and airmail services in the case of shareholders residing outside Malta, to the registered address of each holder registered as such on the date when such notice is communicated. Notwithstanding the foregoing, the Issuer's obligation of circulating any information to shareholders other than Annual Accounts shall be duly satisfied if the Issuer sends a notice to the registered address of each Shareholder by means of the postal service advising that such information has been posted on a website designated therein and that such document is available in printed format upon written request made by any shareholder.

- 8.29 Notwithstanding the provisions of Listing Rule 8.28, the Issuer shall use Electronic means to circulate information other than Annual Accounts, provided such a decision is taken in a general meeting and meets at least the following conditions:
- 8.29.1 the use of Electronic means shall in no way depend upon the location of the seat or residence of the Shareholder or, in the cases referred to in Listing Rule 8.116, of the natural or legal persons;
  - 8.29.2 identification arrangements shall be put in place so that the shareholders, or the natural or legal persons entitled to exercise or to direct the exercise of voting rights, are effectively informed;
  - 8.29.3 shareholders, or in the cases referred to in Listing Rule 8.116, the natural or legal persons entitled to acquire, dispose of or exercise voting rights, shall be contacted in writing to request their consent for the use of Electronic means for conveying information and, if they do not object within a reasonable period of time, their consent shall be deemed to be given. They shall be able to request, at any time in the future, that information be conveyed in writing; and
  - 8.29.4 any apportionment of the costs entailed in the conveyance of such information by Electronic means shall be determined by the Issuer in compliance with the principle of equal treatment.

*Information requirements & venue for Issuers whose Debt Securities are admitted to trading on a Regulated Market*

- 8.30 An Issuer of Debt Securities shall ensure that all the facilities and information necessary to enable Debt Securities holders to exercise their rights are publicly available in Malta, when Malta is the Home Member State and the integrity of data is preserved.
- 8.31 Debt Securities holders shall not be prevented from exercising their rights by proxy, subject to the law of country in which the Issuer is incorporated.
- 8.32 The Issuer shall, where applicable -
- 8.32.1 publish notices or distribute Circulars concerning the place, time and agenda of meetings of Debt Securities holders, the payment of interest, the exercise of any conversion, exchange, subscription or cancellation rights, and repayment, as well as the right of those holders to participate therein;
  - 8.32.2 make available a proxy form in terms of Listing Rules 10.16 and 10.17 on paper or by electronic means, to each person entitled to vote at a meeting of Debt Securities holders, together with the notice concerning the meeting or, on request, after an Announcement of the meeting; and
  - 8.32.3 at the request of any holder of Debt Securities, designate as its agent a financial or credit institution through which the Debt Securities holder may exercise his financial rights.
- 8.33 If only holders of Debt Securities whose denomination per unit amounts to at least Lm 21,465 or, in the case of Debt Securities denominated in currency other than Lm whose denomination per unit is, at the date of the issue, equivalent to at least Lm 21,465, are to be invited to a meeting, the Issuer may choose as venue any Member or EEA State, provide that all the facilities and information necessary to enable such holders to exercise their rights are made available in that Member or EEA State.

- 8.34 For the purposes of conveying information to Debt Securities holders, the Issuer shall use electronic means, provided such a decision is taken in a general meeting and meets at least the following conditions:
- 8.34.1 the use of Electronic means shall in no way depend upon the location of the seat or residence of the debt security holder or of a proxy representing that holder;
  - 8.34.2 identification arrangements shall be put in place so that Debt Securities holders are effectively informed;
  - 8.34.3 Debt Securities holders shall be contacted in writing to request their consent for the use of Electronic means for conveying information and if they do not object within a reasonable period of time, not exceeding fourteen (14) days, their consent shall be deemed to be given. They shall be able to request, at any time in the future, that information be conveyed in writing; and
  - 8.34.4 any apportionment of the costs entailed in the conveyance of information by Electronic means shall be determined by the Issuer in compliance with the principle of equal treatment.
- 8.35 The provisions of Listing Rules 8.7.12, 8.32, 8.33 and 8.34 shall not apply to securities admitted to trading on a Regulated Market issued by Member or EEA States or their regional or local authorities.

*Corporate Governance*

- 8.36 An Issuer whose Securities are listed should endeavour to adopt the Principles outlined in Appendix 8.1. The Principles are not applicable to Collective Investment Schemes.
- 8.37 Issuers shall be required to include in their annual report a statement of compliance providing an explanation of the extent to which they have adopted the Principles.
- 8.38 Issuers shall include in their annual report the effective measures that they have taken to ensure compliance throughout the accounting period with the Principles.
- 8.39 The Issuer's Auditors are to include a report in the annual report on the statement of compliance and the report to shareholders made by Issuer and the board of Directors of the Issuer respectively.

*Interests of Directors and Connected Persons*

- 8.40 Copies of each Director's service contract must be made available for inspection by any person:
- 8.40.1 at the place of the annual general meeting for at least fifteen (15) minutes prior to and during the meeting; and
  - 8.40.2 at the registered office of the Issuer, or in the case of an Oversea Company, at the offices of any Paying Agent in Malta during Normal Business Hours.
- 8.41 Where one (1) Director's service contract covers both Directors and executive Officers, the Issuer must make available for inspection in accordance with Listing Rule 8.40 a memorandum of the terms of the contract which relate to the Directors only.
- 8.42 Directors' service contracts available for inspection must disclose or have attached to them the following information;

- 8.42.1 the name of the contracting parties;
  - 8.42.2 the date of the contract, the unexpired term and details of any notice periods;
  - 8.42.3 full particulars of the Directors' emoluments, including salary and all other benefits;
  - 8.42.4 any commission or profit sharing arrangements;
  - 8.42.5 any provision for compensation payable upon early termination of the contract; and
  - 8.42.6 details of any other arrangements which are necessary to enable investors to estimate the possible liability of the Issuer upon early termination of the contract.
- 8.43 An Issuer not subject to the CA must notify to the Listing Authority equivalent information to that required under Listing Rule 8.42 so far as such information is known to the Issuer. Any notification under this Listing Rule must be made without delay following the Issuer becoming aware of the relevant information.
- 8.44 An Issuer must require each of its Directors to disclose to it all information which the Issuer needs in order to comply with Listing Rule 8.42 or 8.43 (so far as that information is known to the Director or could with reasonable diligence be ascertained by the Director), as soon as possible and not later than the fifth Business Day following the day on which the existence of the interest to which the information relates comes to the Director's knowledge. An Issuer must require each of its Directors at such times as it deems necessary or desirable to confirm that he has made all due enquiry of his Connected Persons.
- Transactions by Directors and Officers of Issuers*
- 8.45 Subject to Listing Rule 8.46 below, an Issuer must require:
- 8.45.1 its Directors; and
  - 8.45.2 any employee of the Issuer or Director or employee of a Subsidiary Undertaking or Parent Undertaking of the Issuer who, because of his office or employment in the Issuer or Subsidiary Undertaking or Parent Undertaking, is likely to be in possession of unpublished price-sensitive information in relation to the Issuer ("Senior Officer")
- to comply with an internal code of dealing which must be no less exacting than those of Listing Rules 8.46 to 8.55 below and must take all proper and reasonable steps to ensure such compliance.
- 8.46 Listing Rule 8.45 does not apply if such dealings are entered into by such persons:
- 8.46.1 in the ordinary course of business by a Securities dealing business; or
  - 8.46.2 on behalf of third parties by the Issuer or any other member of its Group.
- 8.47 Issuers may impose more rigorous restrictions upon dealings by Directors and Senior Officers if they so wish.
- 8.48 A Director or senior Officer shall not deal directly or indirectly in any of the Securities of the Issuer of which he is a Director or Senior Officer:
- 8.48.1 at any time when he is in possession of unpublished price-sensitive information in relation to those Securities;

- 8.48.2 prior to the Announcement of matters of an exceptional nature involving unpublished price-sensitive information in relation to the market price of the Securities of the Issuer;
  - 8.48.3 on considerations of a short-term nature;
  - 8.48.4 without giving advance written notice to the Chairman, or one or more other Directors designated for this purpose. In his own case, the Chairman, or such other designated Director, shall not deal without giving advance notice to the board of Directors of such Company or any other designated Director as appropriate;
  - 8.48.5 during such other period as may be established by the Listing Authority from time to time.
- 8.49 The same restrictions apply to dealings by a Director or Senior Officer in the Securities of any other Listed Company when by virtue of his position as a Director or senior Officer of the Issuer, he is in possession of unpublished price-sensitive information in relation to those Securities.
- 8.50 During the period of two (2) months immediately preceding the preliminary notification of the Issuer's annual results and of the notification of the half-yearly results or during a period of one (1) month if the Issuer reports the results on a quarterly basis (except in the final quarter of a Financial Year when the relevant period shall be two (2) months), a Director or Senior Officer shall not purchase any Securities of the Issuer nor shall he sell any such Securities unless the circumstances are exceptional, for example where a pressing financial commitment has to be met and this with the prior written approval of the Listing Authority.
- 8.51 If the approval of the Listing Authority to deal in exceptional circumstances has been granted, the Issuer must notify the Listing Authority of such deals immediately after these have been concluded.
- 8.52 The restrictions on dealings contained in this Chapter shall be regarded as equally applicable to any dealings by any Connected Person or any investment manager acting on behalf of a Director or Senior Officer or on behalf of any Connected Person where either he or any Connected Person has funds under management with that investment manager, whether or not discretionary. It is the duty of the Director or Senior Officer (as far as is consistent with his duties of confidentiality to his Company) to seek to prohibit any such dealing by any Connected Person at a time when he himself is not free to deal.
- 8.53 Where a Director or senior Officer is a sole trustee (other than a bare trustee), the provisions of Listing Rules 8.45 to 8.54 will apply, as if he were dealing on his own account. Where a Director or Senior Officer is a co-trustee (other than a bare trustee), he must advise his co-trustees of the name of the Issuer of which he is a Director or Senior Officer. If the Director is not a beneficiary, a dealing in his Issuer's Securities undertaken by that trust will not be regarded as a dealing by the Director or Senior Officer for the purposes of this Listing Rule, where the decision to deal is taken by the other trustees acting independently of the Director or Senior Officer or by investment managers on behalf of the trustees. The other trustees or the investment managers will be assumed to have acted independently of the Director for this purpose where they:
- 8.53.1 have taken the decision to deal without consultation with, or other involvement of, the Director or Senior Officer concerned; or
  - 8.53.2 if they have delegated the decision making to a committee of which the Director or Senior Officer is not a member.

- 8.54 Any employee of the Issuer or Director or employee of a Subsidiary Undertaking or Parent Undertaking of the Issuer or any other person occupying a position of trust who, because of his office or employment in the Listed Company or Subsidiary Undertaking or Parent Undertaking, is in possession of unpublished price-sensitive information in relation to the Issuer shall comply with the terms of Listing Rule 8.48 as though they were Directors of the Issuer.
- 8.55 No dealings in any Securities may be effected by or on behalf of an Issuer or any other member of its Group at a time when, under the provisions of this Chapter, a Director of the Issuer would be prohibited from dealing in its Securities, unless such dealings are entered into:
- 8.55.1 in the ordinary course of business by a Securities dealing business; or
- 8.55.2 on behalf of third parties by the Issuer or any other member of its Group.
- Audit Committee*
- 8.56 The Issuer shall establish and maintain an Audit Committee of at least three (3) members, the majority of whom shall be non-executive Directors. The Committee shall be chaired by a non-executive Director.
- 8.57 The Issuer shall determine the terms of reference, life span, composition, role and function of such committee and shall establish, maintain and develop appropriate reporting procedures.
- 8.58 The Audit Committee's primary purpose is to protect the interests of the company's shareholders and assist the Directors in conducting their role effectively so that the company's decision-making capability and the accuracy of its reporting and financial results are maintained at a high level at all times.
- 8.59 The Issuer shall ensure that the Audit Committee establishes internal procedures and shall monitor these on a regular basis.
- 8.60 The Audit Committee shall establish and maintain access between the internal and external Auditors of the Company and shall ensure that this is open and constructive.
- 8.61 The Audit Committee shall meet, at least, six times a year preferably every two (2) months. The head of Internal Audit should attend the meetings of this Committee.
- 8.62 The main role and responsibilities of the audit committee shall be:
- 8.62.1 to review procedures and assess the effectiveness of the internal control systems, including financial reporting;
- 8.62.2 to assist the Board of Directors in monitoring the integrity of the financial statements, the internal control structures, the financial reporting processes and financial policies of the company;
- 8.62.3 to maintain communications on such matters between the Board, management, the independent Auditors and the internal Auditors;
- 8.62.4 to review the company's internal financial control system and, unless addressed by a separate risk committee or the Board itself, risk management systems;
- 8.62.5 to monitor and review the effectiveness of the company's internal audit function on a regular basis;

- 8.62.6 to make recommendations to the Board in relation to the appointment of the external Auditor and to approve the remuneration and terms of engagement of the external Auditor following appointment by the shareholders in general meeting;
  - 8.62.7 to monitor and review the external Auditor's independence, objectivity and effectiveness; and
  - 8.62.8 to develop and implement policy on the engagement of the external Auditor to supply non-audit services.
- 8.63 When the Audit Committee's monitoring and review activities reveal cause for concern or scope for improvement, it shall make recommendations to the Board on action needed to address the issue or make improvements. The Board shall satisfy itself that any issues raised by the Audit Committee and the external Auditor and communicated to the Board have been adequately addressed.
- 8.64 The Issuer shall inform the Listing Authority how the Audit Committee is constituted, who the members are and its terms of reference. The Issuer shall inform the Listing Authority, without delay, of any changes to the above.

*Transactions with Related Parties*

*General*

- 8.65 These provisions shall apply so as to ensure that the Issuer draws attention to the possibility that its financial position and profit or loss may be affected or have been affected by the existence of related parties and by transactions and outstanding balances with such parties.
- 8.66 In considering each possible related party relationship, attention should be directed to the substance of the relationship and not merely the legal form.
- 8.67 The following are not necessarily related parties:
- 8.67.1 two entities simply because they have a Director or other member of key management personnel in common;
  - 8.67.2 two venturers simply because they share joint control over a joint venture;
  - 8.67.3 providers of finance, trade unions, public utilities, and government departments and agencies; simply by virtue of their normal dealings with an entity;
  - 8.67.4 a customer, supplier, franchisor, distributor or general agent with whom an entity transacts a significant volume of business, merely by virtue of the resulting economic dependence; and
  - 8.67.5 where the consideration or value of the related party transaction is in the aggregate Lm 20,000 or less the Issuer is exempt from the Company Announcement, Circular and shareholder's approval requirements contained in this Chapter.

*Where the Audit Committee is not acceptable to the Listing Authority*

- 8.68 When an Issuer (or any of its Subsidiary Undertakings) proposes to enter into a transaction with a Related Party and either the Audit Committee is not considered by the Listing Authority as independent or is not providing sufficient guarantees/safeguards which protect the rights of the shareholders, then the Issuer shall:

- 8.68.1 make a Company Announcement which shall contain:
    - 8.68.1.1 the nature and details of the transaction;
    - 8.68.1.2 the name of the Related Party concerned; and
    - 8.68.1.3 details of the nature and extent of the interest of the Related Party in the transaction;
  - 8.68.2 send a Circular to its shareholders containing the information required by Listing Rule 8.69; and
  - 8.68.3 obtain the approval of its shareholders either prior to the transaction being entered into or, if it is expressed to be conditional on such approval, prior to completion of the transaction and, where applicable, ensure that the Related Party itself abstains from voting on the relevant resolution.
- 8.69 Where a meeting of the shareholders has been called to approve a transaction in terms of Listing Rule 8.68.3 and, after the date of the notice of meeting but prior to the meeting itself, a party to that transaction has become a Related Party;
- 8.69.1 the Issuer shall ensure that the Related Party concerned abstains from voting on the relevant resolution; and
  - 8.69.2 a further Circular is dispatched, for receipt by shareholders prior to the meeting, containing the details of the transaction which were not contained in the original Circular accompanying the notice of meeting.
- 8.70 The variation or novation of an existing agreement between the Issuer (or any of its Subsidiary Undertakings) and a Related Party will be subject to the provisions of Listing Rule 8.68 whether or not, at the time the original agreement was entered into, that party was a Related Party.
- Exemptions*
- 8.71 Where the Issuer (or any of its Subsidiary Undertakings) proposes to enter into a transaction with a Related Party it need not be subject to prior approval of the Issuer's shareholders in general meeting and it need not send a Circular to its shareholders if:
- 8.71.1 the Issuer maintains an independent Audit Committee in terms of Listing Rules;
  - 8.71.2 it is an Oversea Company with a Secondary Listing;
  - 8.71.3 the transaction is an issue of new Securities either:
    - 8.71.3.1 for cash by the Issuer (or any of its Subsidiary Undertakings) pursuant to an opportunity which (so far as is practicable) is made available to all holders of the Issuer's Securities (or to all holders of a relevant Class of its Securities) on the same terms; or
    - 8.71.3.2 made pursuant to the exercise of conversion or subscription rights attaching to a Class of Securities Admissible to Listing or previously approved by the Issuer's shareholders in general meeting;
  - 8.71.4 the transaction:
    - 8.71.4.1 involves the receipt of any asset (including cash or Securities of the Issuer or any of its Subsidiary Undertakings) by a

Director of the Issuer, its Parent Undertaking or any of its Subsidiary Undertakings; or

8.71.4.2 is a grant of an option or other right to a Director of the Issuer, its Parent Undertaking, or any of its Subsidiary Undertakings to acquire (whether or not for consideration) any asset (including cash or new or existing Securities of the Issuer or any of its Subsidiary Undertakings);

in accordance with the terms of either an employee share scheme or a long-term incentive scheme;

8.71.5 the transaction is a grant of credit (including the lending of money or the guaranteeing of a loan) to the Related Party or, on an unsecured basis, by the Related Party:

8.71.5.1 upon normal commercial terms; or

8.71.5.2 in amount and on terms no more favourable than those offered to employees of the Group generally;

8.71.6 the transaction is the grant of an indemnity to a Director of the Issuer (or any of its Subsidiary Undertakings) to the extent not prohibited by Article 148 of the CA, or the maintenance of a contract of insurance to the extent contemplated by that article (whether for a Director of the Issuer or for a Director of any of its Subsidiary Undertakings);

8.71.7 the transaction is an underwriting by the Related Party of all or part of an issue of Securities by the Issuer (or any of its Subsidiary Undertakings) and the consideration to be paid by the Issuer (or any of its Subsidiary Undertakings) in respect of such underwriting is no more than the usual commercial underwriting consideration and is the same as that to be paid to the other underwriters (if any);

8.71.8 the terms and circumstances of the investment or provision of finance by the Issuer, or any of its Subsidiary Undertakings are, in the opinion of an independent adviser acceptable to the Listing Authority, no less favourable than those applicable to the investment or provision of finance by the Related Party;

*Provisions where an Audit Committee exists*

8.72 These provisions shall apply where the Listing Authority deems that the Issuer has created and maintains an independent Audit Committee which provides sufficient guarantees/safeguards which protect the rights of the shareholders in transactions with a Related Party.

8.73 When an Issuer (or any of its Subsidiary Undertakings) proposes to enter into a transaction with a Related Party it shall before entering into such transaction refer the proposed transaction to the Audit Committee for scrutiny and approval.

8.74 The Audit Committee shall give due consideration to:

8.74.1 the materiality of the transaction in the context of the Issuer's business;

8.74.2 whether the transaction is in the ordinary course of the Issuer's business or the business of its subsidiary undertaking, as applicable; and

8.74.3 whether the transaction gives rise to preferential treatment to the Related Party

8.75 Should the Audit Committee, after considering the proposed Related Party Transactions as laid down in Listing Rule 8.74, deem that the proposed transaction will have a material effect on the Issuer's financial position and profit or loss; the Issuer shall cause a Company Announcement to be published.

8.76 A Company Announcement as required by the preceding rule shall contain:

8.76.1 the nature and details of the transaction;

8.76.2 the name of the Related Party concerned; and

8.76.3 details of the nature and extent of the interest of the Related Party in the transaction.

*Reporting requirement*

8.77 The Issuer shall disclose all Related Party transactions *ex post facto* in the Annual Financial Statements.

*Related Party Circular*

8.78 A Circular relating to a transaction with a Related Party must comply with the general requirements relating to Circulars set out in Chapter 11 (Shareholder Circulars) and must also include:

8.78.1 in the case of a transaction where the Related Party is a Director, or an associate of a Director, of the Issuer (or its Parent Undertaking or any of its Subsidiary Undertakings or related Subsidiary Undertakings) the information specified by the following Listing Rules in respect of that Director:

8.78.1.1 a statement showing the interest of each Director of the Issuer or a Connected Person of such Director in the Share Capital of the Issuer or any member of the Group distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement;

8.78.1.2 all relevant particulars regarding the nature and extent of any interests of Directors of the Issuer in transactions which are or were unusual in their nature or conditions or significant to the business of the Group, and which were effected by the Group during the current or immediately preceding Financial Year or during an earlier Financial Year and remain in any respect outstanding or unperformed or an appropriate negative statement;

8.78.1.3 the total of any outstanding loans granted by any member of the Group to the Directors of the Issuer and also any guarantees provided by any member of the Group for their benefit.

8.78.2 full particulars of the transaction, including the name of the Related Party concerned and of the nature and extent of the interest of such party in the transaction;

8.78.3 in the case of an acquisition or disposal of an asset, which also falls within Listing Rule 8.95 and for which appropriate financial information is not available, an independent valuation;

8.78.4 a statement by the Directors (other than any Director who is a Related Party, or who is a Director of a Related Party, in respect of the transaction) that the transaction is fair and reasonable so far as the

shareholders of the Issuer are concerned and that the Directors have been so advised by an independent adviser acceptable to the Listing Authority;

- 8.78.5 where applicable, a statement that the Related Party will abstain from voting at the meeting;
- 8.78.6 if the transaction also falls within Listing Rule 8.95, the information required to be included in that Circular (see Listing Rule 8.107);
- 8.78.7 details of any other transactions entered into by the Issuer (or any of its Subsidiary Undertakings) with the same Related Party which have not been approved by the shareholders of the Issuer.

*Miscellaneous*

- 8.79 When further Securities are allotted of the same Class as Securities already authorised as Admissible to Listing, application for authorisation for Admissibility to Listing for such further Securities must be made not more than one (1) year after allotment or when they become freely transferable.
- 8.80 An Issuer must inform the Listing Authority in writing without delay if it becomes aware that the proportion of any Class of Equity Shares authorised as Admissible to Listing in the hands of the public has fallen below twenty-five percent (25%) of the total issued Share capital of that Class or, where applicable, such lower percentage as the Listing Authority may have agreed.
- 8.81 An Issuer with a Substantial Shareholder must be capable at all times of carrying on its business independently of such Substantial Shareholder and all transactions and relationships between the Issuer and any Substantial Shareholder must be at arm's length and on a normal, commercial basis.
- 8.82 An Issuer must inform the Listing Authority without delay if it has been informed by a Recognised Investment Exchange that listing of any of its Securities authorised as Admissible to Listing will be cancelled or suspended.
- 8.83 Issuers without Equity Securities authorised as Admissible to Listing need not comply with Listing Rule 8.92 to 8.107 (acquisitions and realisations).
- 8.84 Issuers which have only Debt Securities authorised as Admissible to Listing must comply with Chapters 8 and 9 but need not comply with the following Listing Rules of those Chapters:

Listing Rule

8.7.4	Board Decisions
8.7.8	Notification of major holdings
8.7.9	Total number of voting rights
8.7.10	Proportion of the Issuer's holding in own equity
8.18-8.19	Information on Directors and Senior Officers
8.20	Equality of Treatment
8.40	Directors' Service Contracts
8.65-8.78	Related Parties Transactions
9.35	Preliminary Statement of Annual Results
9.40.9	Annual Accounts - Waiver of Emoluments
9.40.10	Annual Accounts - Waiver of Dividends
9.40.18	Annual Accounts Related Party Transactions

- 8.85 Issuers which have only fixed income Shares which are Admissible to Listing must comply with Chapters 8 and 9 but need not comply with the following Listing Rules of those Chapters:

Listing Rule

8.18-8.21	Information on Directors and Senior Officers
8.40	Directors' Service Contracts
8.65-8.78	Transactions with Related Parties
9.40.9	Annual Accounts - Waiver of Emoluments
9.40.10	Annual Accounts - Waiver of Dividends

In the case of Certificates Representing Shares, the Issuer of the Shares must fulfil the continuing obligations set out in this Chapter.

- 8.86 In addition, any change of the Issuer of the Certificates must be submitted to the Listing Authority. The replacement Issuer appointed must satisfy the applicable conditions for Admissibility set out in Chapter 3 of these Listing Rules.

- 8.87 Where Malta is the home Member State, the Issuer or any person having requested, without the Issuer's consent the admission of its securities to trading on a regulated market, shall supply the Listing Authority with an original and an electronic copy of:

- 8.87.1 all periodicals, special report and Circulars released or issued by the Issuer for the information of holders of any of the Issuer's Securities;
- 8.87.2 the Company Announcements issued in terms of Listing Rules 8.7.9, 8.7.10 and 8.7.13;
- 8.87.3 the published audited Annual Financial Report (see Listing Rules 9.36 to 9.40) of the Issuer and all documents required by law to be annexed thereto, as soon these have been made available to the public;
- 8.87.4 the published Half-yearly Financial Report (see Listing Rule 9.42) of the Issuer;
- 8.87.5 the interim Directors statement (see Listing Rule 9.51)

*Memorandum and Articles of Association*

- 8.88 The Articles of Association of all Issuers seeking authorisation for Admissibility to listing must conform with the provisions set out in Appendix 8.3 and obtain the prior authorisation by the Listing Authority. Only in very exceptional circumstances will the Listing Authority grant exemption from compliance with any of the provisions.

- 8.89 An Issuer shall not amend its Memorandum and Articles of Association unless prior written authorisation has been sought and obtained from the Listing Authority.

- 8.90 The Issuer shall communicate the draft amendments to its Memorandum and Articles of Association to the Regulated Market to which its securities have been admitted to trading.

- 8.91 If authorisation for the amendment to the Memorandum and Articles of Association is granted by the Listing Authority, the Issuer must send a Circular to its shareholders which shall:

- 8.91.1 include an explanation of the effect of the proposed amendments;
- 8.91.2 include either the full terms of the proposed amendments, or a statement that the full terms will be available for inspection;

- 8.91.2.1 from the date of dispatch of the Circular until the close of the relevant general meeting at the registered or head office of the Issuer or such other place in Malta as the Listing Authority may determine; and
- 8.91.2.2 at the place of the general meeting for at least fifteen (15) minutes prior to and during the meeting; and
- 8.91.2.3 comply with the relevant requirements of Listing Rule 11.1 (contents of all Circulars).

*Acquisitions and Realisations*

- 8.92 In order to classify acquisitions and realisations the following criteria will be used:
- 8.92.1 the value of the assets acquired or disposed of, compared with the assets of the acquiring or disposing Company;
  - 8.92.2 net profits, after deducting all charges except taxation and excluding extraordinary items, attributable to the assets acquired or disposed of compared with the net profits of the acquiring or disposing Company;
  - 8.92.3 the aggregate value of the consideration given or received, compared with the assets market capitalisation of the acquiring or disposing Company;
  - 8.92.4 Equity Share Capital issued by the Issuer as consideration for the acquisition, compared with the Equity Share Capital already in issue of the Issuer.
- 8.93 Where Share capital of an unlisted Company is being acquired by an Issuer on a basis which would not result in the former becoming a Subsidiary, or where assets not representing a business are being acquired, the Listing Authority should be consulted concerning the requirement to report on profits and losses.
- 8.94 If any of the tests in Listing Rule 8.92 amount to five percent (5%) or more, a Company Announcement is required without delay after the terms of the transaction are agreed.
- 8.95 If any of the tests in Listing Rule 8.92 amount to thirty-five percent (35%) or more, a Circular to shareholders is required in addition to a Company Announcement.
- 8.96 If any of the tests in Listing Rule 8.92 amount to one hundred percent (100%) or more (reverse takeover), advance consultation with the Listing Authority is required. In these cases it will normally be necessary to publish a Circular to be sent to shareholders in addition to a Company Announcement and be subject to prior approval of the Issuer's shareholders in general meeting.
- 8.97 Solely for the purpose of determining the classification of a transaction, involving any acquisition or disposal of Equity Share Capital, the value of such capital is to be assessed by reference to the book value of the net assets excluding goodwill and other intangibles and after deducting loan capital and amounts set aside for future taxation, represented by such capital. In any acquisition or disposal of assets other than Equity Share Capital, the value of such assets is to be assessed by reference to the consideration.
- 8.98 Where the consideration is in the form of Equity Share Capital, the Listing Authority may determine the value of the consideration by reference either to the market value of such Equity Share Capital or the book value of the net assets represented by such Equity Share Capital as defined above.

- 8.99 “The assets of the acquiring or disposing company” means in relation to an acquisition of assets other than an interest in an Undertaking the consideration or, if greater, the book value of the net assets as defined above and in relation to a disposal of assets other than an interest in an Undertaking means the book value of such assets. In all cases the figures used for Companies will be taken from the latest published Consolidated Accounts adjusted to take account of subsequent transactions in the manner described in Listing Rule 8.102 below.
- 8.100 The requirements outlined above cover transactions where the consideration is satisfied by cash, Shares or other Securities or some other asset, or a combination of these. The Listing Authority may be prepared to vary the required information in marginal transactions.
- 8.101 In deciding whether a Circular should be sent to shareholders, the Listing Authority may aggregate acquisitions or realisations that have taken place since either the publication of the last Accounts, or the issue of the last Circular, whichever is the later during the twelve (12) months prior to the date of the latest transaction. Such aggregated transactions may then be treated as if they were one transaction if they were all completed within a short period of time, and the total of transactions not falling within Listing Rule 8.96 is in excess of one hundred percent (100%) as defined above. For these purposes, the value of transactions in respect of which adequate information has already been issued to shareholders will be included in the net tangible assets or profits of the acquiring or disposing Company for comparison with the transaction or transactions under consideration. In case of doubt as to aggregation, the Listing Authority should be consulted at an early stage.
- 8.102 Without prejudice to the generality of Listing Rule 8.101 transactions will normally only be aggregated in accordance with that provision if they:
- 8.102.1 are entered into by the Issuer with the same party or with parties connected with another;
  - 8.102.2 involve the acquisition or disposal of Securities or an interest in one particular Company; or
  - 8.102.3 together lead to substantial involvement in a business activity which did not previously form a part of the Company’s principal activities.
- 8.103 If, under Listing Rule 8.101 aggregation results in a class test in excess of one hundred percent (100%), which would require Shareholder approval, then that approval is required only for the latest transaction.
- 8.104 Notwithstanding Listing Rule 8.101 where acquisitions are entered into since either the publication of the last Accounts or the issue of the last Circular, whichever is the later which cumulatively exceed one hundred percent (100%) in any of the percentage ratios, the provisions outlined in Listing Rule 8.96 (class test in excess of one hundred percent (100%)) may apply.
- 8.105 If, at any time subsequent to any Company Announcements made pursuant to Listing Rule 8.94 to 8.96 the Issuer has become aware that there has been a significant change affecting any matter contained in the Announcement such changes shall be identified by the Issuer by means of another Company Announcement.
- 8.106 In Listing Rules 8.105, “significant” means significant for the purpose of making an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Issuer and the rights attaching to any Securities forming part of the consideration. It will include a change in the terms of the transaction

such that the percentage ratios are affected and the transaction reclassified into a higher category.

8.107 The Circular referred to in Listing Rules 8.95 and 8.96 must comply with the general requirements relating to Circulars set out in Chapter 11 (Shareholder Circulars) of these Listing Rules and must be submitted to the Listing Authority for authorisation prior to its publication. It must also comply with the following requirements and include the following information:

8.107.1 the information given in the Company Announcement ;

8.107.2 the information required by Appendix 8.2;

8.107.3 in the case of an acquisition of an interest in an Undertaking which will result in consolidation of the net assets of that Undertaking or a disposal of an interest in an Undertaking which will result in the net assets no longer being consolidated, the information required by Listing Rules 9.11 to 9.13;

8.107.4 in the case of a transaction not falling within 8.107.3 above, the financial information requested by the Listing Authority (see Listing Rule 9.8) together with confirmation that the Directors consider that the value to the Issuer justifies the price paid or received by it;

8.107.5 a declaration by its Directors in the following form (with appropriate modifications):

“All the Directors of the Company, whose names appear on page [ ], accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors who have taken all reasonable care to ensure that such is the case the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.”;

8.107.6 a statement of the effect of the acquisition or disposal on the earnings or assets and liabilities of the Group;

8.107.7 where a statement or report attributed to a person as an Expert is included in a Circular which does not comprise Prospectus, a statement that it is included, in the form and context in which it is included, with the consent of that person.

*Transactions Involving Substantial Shareholdings*

8.108 This Listing Rule shall regulate the activities of an Issuer whenever it is advised or otherwise becomes aware of an impending share negotiation or transaction involving a Substantial Shareholding.

Substantial Shareholding shall for the purposes of this Rule mean the entitlement to exercise or control the exercise of ten percent (10%) or more of the votes able to be cast at general meetings or the entitlement to appoint a majority of Directors on the board of Directors of an Issuer.

8.108.1 All parties to an offer for an acquisition or disposal of a Substantial Shareholding in an Issuer as well as the Issuer must use every endeavour to prevent the creation of a false market in the securities of the Issuer. All parties involved in an offer for an acquisition or disposal of a Substantial Shareholding in an Issuer and the Issuer must take care that statements are not made which may mislead shareholders or the market.

- 8.108.2 Without prejudice to Listing Rule 8.7, an Issuer must promptly make a Company Announcement:
- 8.108.2.1 when the board of Directors of the Issuer is advised or otherwise becomes aware that a purchaser is being sought for a Substantial Shareholding in the Issuer;
  - 8.108.2.2 when the Issuer is the subject of rumour and speculation;
  - 8.108.2.3 when the board of Directors of the Issuer is advised or otherwise becomes aware of a firm intention to acquire or dispose of a Substantial Shareholding in the Issuer;
  - 8.108.2.4 when the board of Directors of the Issuer is advised or otherwise becomes aware that an offer has been made to acquire or dispose of a Substantial Shareholding in the Issuer.
- 8.108.3 Without prejudice to any applicable privacy or secrecy obligations in terms of law, an Issuer may furnish in confidence to a bona fide offeror and the corresponding bona fide transferor such information including unpublished price-sensitive information as may be necessary to enable the bona fide offeror, the bona fide transferor and their advisers to make, confirm, withdraw or modify the offer, provided that such disclosure of information may only be furnished subject to the following conditions:
- 8.108.3.1 the express consent of the Company in general meeting by an ordinary resolution of the Company unless the memorandum or articles of the Company require an extraordinary resolution, to make such disclosure of information to bona fide offerors. Such consent may, but need not, be limited to a specific prospective offeror(s);
  - 8.108.3.2 the signing of a confidentiality agreement signed by the prospective transferor and the prospective offeror(s) to prevent the disclosure and use of the information furnished, other than for the purpose of the acquisition of the Substantial Shareholding in the Issuer;
  - 8.108.3.3 an undertaking from the prospective offeror(s) whereby they bind themselves not to deal in the Issuer's shares or any derivative instrument relating thereto, whether directly or indirectly, for a period of one year following completion of the transaction or termination thereof or discontinuance or withdrawal, other than to complete the transaction that prompted the disclosure of information hereunder;
  - 8.108.3.4 an undertaking from the prospective transferor that it acknowledges that the information received from the Issuer cannot be used or communicated other than for the purposes of a transaction in the shares that are the subject of the offer, whether wholly or in part, whether with the prospective offeror(s) or otherwise, and that it cannot deal in other shares of the Issuer for a period of one year following completion of the transaction or termination thereof or discontinuance or withdrawal.

- 8.108.4 When the transaction that prompted the furnishing of information in confidence is completed the Issuer shall make a Company Announcement disclosing the outcome of negotiations relating to the acquisition or disposal of a Substantial Shareholding in the Issuer, including the price at which the Substantial Shareholding was acquired or disposed of.
- 8.108.5 When the transaction that prompted the furnishing of information in confidence is not completed and the Issuer is advised or otherwise becomes aware of such non completion, the Issuer shall make a Company Announcement disclosing the outcome of negotiations.
- 8.108.6 In the event that the transaction that prompted the furnishing of information in confidence is completed, a purchaser which has had access to information in confidence in terms of this Listing Rule shall be prohibited from acquiring further securities in the Issuer or from disposing of securities in the Issuer, whether directly or indirectly for a period of one year from the date of acquisition.
- 8.108.7 In the event that the transaction that prompted the furnishing of information in confidence is not completed, a bona fide offeror which has had access to information in confidence in terms of this Listing Rule shall be prohibited from acquiring securities in the Issuer, whether directly or indirectly, for a period of one year following termination thereof or discontinuance or withdrawal, other than to complete the transaction that prompted the disclosure of information hereunder.
- 8.108.8 Regardless of the outcome of the transaction, the purchaser or the bona fide offeror, as the case may be, shall, immediately following completion of the transaction or termination thereof or discontinuance or withdrawal, notify the Issuer to that effect and return all the information furnished by the Issuer and shall take prompt action to cancel, delete or destroy such information furnished by the Issuer that cannot be returned.

*Notification of the acquisition or disposal of major holdings to which voting rights are attached.*

- 8.109 Where the Home Member State is Malta and as soon as a shareholder acquires 5% or more of the Issuer's shares to which voting rights are attached, the Issuer shall immediately inform the shareholder of his obligation to notify the Issuer and the Listing Authority of any changes in major holdings in terms of Listing Rules 8.110 to 8.128.
- 8.110 Any Shareholder who acquires or disposes shares to which voting rights are attached and where the Home Member State is Malta, shall notify the Issuer and the Listing Authority of the proportion of voting rights of the Issuer held by such Shareholder as a result of the acquisition or disposal where that proportion reaches, exceeds or falls below the thresholds of 5%, 10%, 15% 20%, 25%, 30%, 50%, 75% and 90%.
- 8.111 The voting rights shall be calculated on the basis of all the shares to which voting rights are attached even if the exercise thereof is suspended.
- 8.112 This information shall also be given in respect of all the shares which are in the same Class and to which voting rights are attached.

- 8.113 The Issuer and the Listing Authority shall also be notified in terms of Listing Rule 8.110 when the proportion reaches, exceeds or falls below the thresholds specified in the same Listing Rule, as a result of events changing the breakdown of voting rights.
- 8.114 The threshold referred to in Listing Rule 8.110 shall be calculated on the basis of the information made available to the public by the Issuer at the end of each calendar month, of the total number of voting rights and capital, during which an increase or decrease of such total number has occurred.
- 8.115 Where the Issuer is incorporated in a third country, the notification shall be made for equivalent events.
- 8.116 The notification requirement defined in Listing Rule 8.110 shall also apply to a natural or legal person who;
- 8.116.1 is entitled to acquire, to dispose of, or to exercise voting rights in any of the following cases or a combination of them:
- 8.116.1.1 voting rights held by a third party with whom that person or entity has concluded an agreement, which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the Issuer in question;
- 8.116.1.2 voting rights held by a third party under an agreement concluded with that person or entity providing for the temporary transfer for consideration of the voting rights in question;
- 8.116.1.3 voting rights attaching to shares which are lodged as collateral with that person or entity, provided the person or entity controls the voting rights and declares its intention of exercising them;
- 8.116.1.4 voting rights attaching to shares in which that person or entity has the right of usufruct;
- 8.116.1.5 voting rights which are held, or may be exercised within the meaning of Listing Rule 8.116.1.1 to 8.116.1.4 above, by an undertaking controlled by that person or entity;
- 8.116.1.6 voting rights attaching to shares deposited with that person or entity which the person or entity can exercise at its discretion in the absence of specific instructions from the shareholders;
- 8.116.1.7 voting rights held by a third party in its own name on behalf of that person or entity;
- 8.116.1.8 voting rights which that person or entity may exercise as a proxy where the person or entity can exercise the voting rights at its discretion in the absence of specific instructions from the shareholders.
- 8.116.2 holds directly or indirectly, financial instruments that result in an entitlement to acquire, on such holder's own initiative alone, under a formal agreement, shares already issued and to which voting rights are

attached, of an Issuer whose shares are admitted to trading on a regulated market.

- 8.117 The notification required under Listing Rule 8.110 and 8.116 shall include the following information:
- 8.117.1 the resulting shareholding position in terms of voting rights;
  - 8.117.2 the chain of Controlled Undertakings through which voting rights are effectively held, if applicable;
  - 8.117.3 the date on which the threshold was reached or crossed;
  - 8.117.4 the identity of the shareholder, even if that Shareholder is not entitled to exercise voting rights under the conditions laid down in Listing Rule 8.116, and of the natural person or legal entity entitled to exercise voting rights on behalf of that shareholder.
- 8.118 The notification to the Issuer shall be effected as soon as possible, but not later than four trading days following the date on which the shareholder, or the natural or legal person representing the shareholder:
- 8.118.1 learns of the acquisition or disposal or of the possibility of exercising voting rights, or on which, having regard to the circumstances, should have learned of it, regardless of the date on which the acquisition, disposal or possibility of exercising voting rights takes effect; or
  - 8.118.2 is informed about the events changing the breakdown of voting rights.
- 8.119 Notwithstanding Listing Rule 8.118, a Shareholder shall notify the Issuer by not later than 1 May 2007, of the proportion of voting rights and capital it holds in accordance with Listing Rule 8.110 and 8.116 with Issuers at that date, unless it has already made a notification containing equivalent information.
- 8.120 An undertaking shall be exempted from notifying the Issuer of any changes in its holding as required under Listing Rule 8.110 if the notification is made by the Parent Undertaking or, where the Parent Undertaking is itself a Controlled Undertaking, by its own parent undertaking.
- 8.121 The Parent Undertaking of a management Company shall not be required to aggregate its holdings with the holdings managed by the management Company under the conditions laid down in Directive 85/611/EEC, provided such management Company exercises its voting rights independently from the parent undertaking.
- 8.122 Where the parent undertaking, or another Controlled Undertaking of the parent undertaking, has invested in holdings managed by such management Company and the management Company has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another Controlled Undertaking of the parent undertaking, the holdings of the Parent Undertaking shall be aggregated with its holdings through the management company.
- 8.123 The Parent Undertaking of an investment firm authorised under Directive 2004/39/EC shall not be required to aggregate its holdings with the holdings which such investment firm manages on a client-by-client basis within the meaning of Art 4(1), point 9, of Directive 2004/39/EC provided that:
- 8.123.1 the investment firm is authorised to provide such portfolio management under point 4 of Section A of Annex I to Directive 2004/39/EC;

- 8.123.2 it may only exercise the voting rights attached to such shares under instructions given in writing or by Electronic means or it ensures that individual portfolio management services are conducted independently of any other services under conditions equivalent to those provided for under Directive 85/611/EEC by putting into place appropriate mechanisms; and
- 8.123.3 the investment firm exercises its voting rights independently from the parent undertaking.
- 8.124 Where the parent undertaking, or another Controlled Undertaking of the parent undertaking, has invested in holdings managed by such investment firm and the investment firm has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another Controlled Undertaking of the parent undertaking, the holdings of the Parent Undertaking shall be aggregated with its holdings through the investment firm.
- 8.125 Upon receipt of the notification in terms of Listing Rule 8.110 but no later than three trading days thereafter, the Issuer shall make the notification available to the public and shall make a Company Announcement including all the information contained in the notification.
- 8.126 Notwithstanding Listing Rule 8.125 an Issuer shall disclose the information received in accordance with Listing Rule 8.119 by not later than 1 June 2007.
- 8.127 Listing Rule 8.110 shall not apply to:
- 8.127.1 shares acquired for the sole purpose of clearing and settling within the usual short settlement cycle, or to Custodians holding shares in their Custodian capacity provided such Custodians can only exercise the voting rights attached to such shares under instructions given in writing or by electronic means.
- 8.127.2 acquisitions or disposal of a major holding reaching or crossing the 5% threshold by a Market Maker acting in its capacity of a market maker, provided that the Market Maker is authorised by its Home Member State and it neither intervenes in the management of the Issuer concerned nor exerts any influence on the Issuer to buy such shares or back the share price.
- 8.127.3 shares provided to or by the members of the European System of Central Banks in carrying out their functions as monetary authorities, including shares provided to or by members of the European System of Central Banks under a pledge or repurchase or similar agreement for liquidity granted for monetary policy purposes or within a payment system.
- Provided that the above shall apply with regards to transactions lasting for a short period and the voting rights attaching to such shares are not exercised.
- 8.128 Where Malta is the home Member State, voting rights held in the trading book, as defined in Article 2(6) of Council Directive 93/6/EEC, of a credit institution or investment firm shall not be counted for the purposes of Listing Rule 8.110 provided that:
- 8.128.1 the voting rights held in the trading book do not exceed 5%; and

8.128.2 the credit institution or investment firm ensures that the voting rights attaching to shares held in the trading book are not exercised nor otherwise used to intervene in the management of the Issuer.

8.129 Where an Issuer is admitted to trading in Malta but its registered office is not in a Member or EEA State, the Listing Authority may exempt that Issuer from the requirements of the following Listing Rules:

*Listing Rules*

9.36-9.40 Audited Annual Accounts

9.42-9.49 Half-yearly report

9.51-9.53 Interim Directors statement

8.7.8 Notification of major holdings

8.7.9 Total number of voting rights

8.7.10 Proportion of the Issuer's holding in own equity

8.24-8.35 Information requirements

Provided that the Listing Authority considers that the Issuer is subject to equivalent legal requirements.

8.130 The Issuer, as referred to in Listing Rule 8.129, shall file the equivalent information subject to the provisions of Chapters 8 and 9.

8.131 The Issuer shall be exempted from preparing its Annual Financial Report and half-yearly financial report in accordance with Listing Rules 9.36 and 9.42 respectively, prior to the Financial Year starting on or after 1 January 2007, as long as such Issuer prepares its Annual Financial Report and half-yearly financial report in accordance with internationally accepted standards referred to in Article 9 of Regulation (EC) No 1606/2002.

8.132 The Listing Authority shall require that information disclosed in a non Member or EEA State, which may be of importance for the public in the Member or EEA State is disclosed in terms of Listing Rules 8.134 to 8.141 and 8.7.

8.133 Undertakings whose registered office is not in a Member or EEA State which would have required an authorization in accordance with Article 5(1) of Directive 85/611/EEC or, with regard to portfolio management under point 4 of section A of Annex I to Directive 2004/39/EC if it had its registered office or, only in the case of an investment firm, its head office within the Community, shall also be exempted from aggregating holdings with the holdings of its Parent Undertaking under the requirements laid down in Listing Rules 8.121 to 8.124 provided that they comply with equivalent conditions of independence as management companies or investment firms.

*Uses of Languages*

8.134 When Malta is the Home Member State and securities are admitted to trading only in Malta, Regulated Information shall be disclosed in the English or Maltese language.

8.135 When Malta is the Home Member State and securities are admitted to trading in Malta and in one or more host Member or EEA State, the Regulated Information shall be disclosed:

8.135.1 in the English or in the Maltese language; and

- 8.135.2 depending on the choice of the Issuer, either in a language accepted by the regulatory authorities of those host Member or EEA States or in a language customary in the sphere of international finance.
- 8.136 When securities are admitted to trading in Malta as the host Member State, the Regulated Information shall be disclosed either in English or Maltese or in a language customary in the sphere of international finance.
- 8.137 When Malta is the Home Member State and securities are admitted to trading on a Regulated Market in one or more host Member or EEA States excluding Malta, the Regulated Information shall be disclosed either in English or Maltese or in a language customary in the sphere of international finance, depending on the choice of the Issuer.
- 8.138 Where securities are admitted to trading on a Regulated Market without the Issuer's consent, the obligation under Listing Rules 8.134 to 8.137 shall be incumbent not upon the Issuer, but upon the person who, without the Issuer's consent, has requested such admission.
- 8.139 Shareholders and the natural or legal persons referred to in Listing Rules 8.110 and 8.116 shall notify information to an Issuer in a language customary in the sphere of international finance. In this case, the Issuer is not required to provide the Listing Authority with a translation of such notification.
- 8.140 Where securities whose denomination per unit amounts to at least Lm 21,465 or, in the case of Debt Securities denominated in a currency other than Lm equivalent to at least Lm 21,465 at the date of the issue, are admitted to trading on a Regulated Market in one or more Member or EEA States, Regulated Information shall be disclosed to the public either in English or Maltese language or in a language customary in the sphere of international finance, at the choice of the Issuer or of the person who, without the Issuer's consent, has requested such admission.
- 8.141 If an action concerning the content of Regulated Information is brought before a court or tribunal in Malta, responsibility for the payment of costs incurred in the translation of that information for the purposes of the proceedings shall be decided in accordance with the Maltese law.

### *Amalgamations*

#### *General*

- 8.142 Companies other than Oversea Companies are bound to adhere to the provisions in Title II Part VIII of the CA entitled, Amalgamation of Companies.
- 8.143 Where the Directors of an Issuer are having discussions with a Company, person or Group which may lead to an offer being made it is important that everyone concerned maintains secrecy in order to avoid disturbances in the price level of the Issuer's Shares.
- 8.144 Where an Issuer receives a notice of intention to make an amalgamation offer, the Directors shall advise each Recognised Investment Exchange on which the Issuer's Securities are Admitted to Trading or Listing and the Listing Authority of such notice.
- 8.145 An offeree Company shall send to all holders of other Classes of Shares and convertible notes in the Issuer, whether or not such Securities are covered by the amalgamation offer, a copy of all documents which it is required by law to send to the holders of the Shares subject to the amalgamation offer.

- 8.146 Where an offeror extends the time for acceptance of an amalgamation offer, he shall simultaneously announce the percentage of Shares subject to the amalgamation for which he has received acceptances.
- 8.147 If an Issuer has amalgamated or, in the opinion of the Listing Authority, formed an association with an unlisted Company, person or group, and as a result the unlisted Company, person or Group has thereby acquired control of the Issuer, the Issuer shall immediately lodge with the Listing Authority all information and documents which are then currently required from any Issuer seeking authorisation for Admissibility.
- 8.148 Where an amalgamation offer is made for the acquisition of not less than ninety percent (90%) of an Issuer's Securities authorised as Admissible to Listing, upon the Announcement by the offeror that acceptances have been received from the holders of the said ninety percent (90%) of the Issuer's Securities, Admissibility of all such Securities shall be cancelled.
- 8.149 Where an unlisted Company, person or Group submits an amalgamation offer for the acquisition of an Issuer's Securities, upon the Announcement by the offeror that he has obtained sufficient acceptances and that he holds directly or indirectly more than fifty percent (50%) of the offeree Company's Securities, the offeror shall disclose immediately to the Listing Authority, his plans and intentions in regard to the offeree Company and any other information that the Listing Authority considers necessary.
- 8.150 Where an offeror is a Listed Company but not an Oversea Company the requirements of these Listing Rules relating to amalgamations should be complied with.
- Offer Documents*
- 8.151 In addition to complying with Title II, Part VIII of the CA entitled Amalgamation of Companies, all offer documents in connection with amalgamations must contain the following particulars:
- 8.151.1 the date of the document, the name and address of the offeror and if appropriate of the person or Company making the offer on behalf of the offeror;
- 8.151.2 precise particulars of the Securities for which the offer is made, whether they will be transferred cum or ex any dividend or interest payment, the total consideration payable for the purchase, the period within which and the method by which any cash consideration will be paid, how any Securities issued will rank for dividends or interest, capital and redemption and when and how the document of title will be issued and how any such offer may be accepted and within what period;
- 8.151.3 a statement of all conditions attached to acceptances and in particular whether the offer is conditional upon acceptances being received in respect of a minimum number of Securities and, if that is so, that minimum number and the last date on which the offer can be made unconditional. No offer may be conditional upon the payment of compensation for loss of office; if any such payment is proposed, full particulars must be given. A partial offer must be on a pro rata basis and the reason for the failure to make a full offer given;
- 8.151.4 a statement as to whether the offeror or its Directors or any person acting in concert has any beneficial interest - whether direct or indirect

- in any of the Securities for which the offer is made, giving full particulars. If there is no such interest, a statement should be made to this effect. Details, including dates and costs, must be given of any transactions in the Securities for which the offer is made, entered into by any of these persons during the period commencing twelve (12) months prior to the Announcement of the offer and ending with the latest practicable date prior to the posting of the offer documents, or an appropriate negative statement made;
- 8.151.5 a statement as to whether or not any Securities acquired in pursuance of the offer will be transferred to any other person, together with the names of the parties to any such agreement and particulars of all Securities in the offeree Company held by such person, or a statement that no such Securities are held;
- 8.151.6 a statement as to whether or not any agreement or arrangement exists between the offeror and any of the Directors of the offeree Company having any connection with or dependence upon the offer, and full particulars of any such agreement or arrangement;
- 8.151.7 the market quotation, if any, for any Securities to be offered in exchange and in addition for the Securities to be acquired, which quotations in the case of quoted Securities should be taken from a Recognised List;
- 8.151.8 the intentions of the offeror regarding its policy :
  - 8.151.8.1 for the continuance of the business of the offeree Company explaining any major changes intended to be introduced in the business, including the redeployment of fixed assets of the offeree and setting out the long term commercial justification for the proposed offer; and
  - 8.151.8.2 for the continued employment of the existing employees of the offeree Company, setting out the extent of any steps to be taken towards terminating such employment;
- 8.151.9 particulars of all documents required to be lodged for valid acceptance. If the offer lapses all such documents must be returned within fourteen days of the closing date of the offer;
- 8.151.10 if the offer is for cash and is made on behalf of the offeror, a statement in the offer document as to what steps have been taken to ensure that the offer will be implemented if all the offerees accept;
- 8.151.11 if the offer is for the exchange of Securities the offer document must state the nature and particulars of the offeror Company's business, its net profit before and after tax and rate percent of dividends on the Securities offered and the total amount absorbed thereby for the past three (3) years, whether any financial advantage is expected to accrue to an acceptor, whether the issue of the new Securities requires the passing of a resolution, the first dividend in which they will participate and particulars of all material changes in the offeror Company since the date of its last published Accounts together with a statement of the assets and liabilities stated in those Accounts. If the new Securities are not to be identical in all respects with an existing Security Admissible to Listing, all points of difference, full particulars of the voting rights attaching thereto and whether application for authorisation for

Admissibility to Listing has been or will be made to the Listing Authority must be stated;

- 8.152.12 if the offer contains no recommendation by the offeree Company's Directors the offer document must state particulars of any known material change in the offeree Company's financial position since the publication of the last balance sheet;
- 8.152.13 if the total Emoluments receivable by the Directors of the offeror will be varied in consequence of the acquisition, full particulars of the variation; if there is no variation a statement to that effect;
- 8.152.14 if the offer document or any Circular sent out in connection therewith, whether by or on behalf of the offeror Company or the offeree Company, includes expressly or by implication a recommendation by a financial adviser or other Expert for or against acceptance of the offer, the Listing Authority may require the document, unless issued by the Expert in question, to include a statement that the Expert has given and not withdrawn his written consent to the issue of the document and the inclusion therein of his recommendation in the form and context in which it is included;
- 8.152.15 if the offer is recommended by the offeree's Directors the offer documents must state the offeree Directors' recommendations regarding acceptance, the number, description and amount of Securities held by or on behalf of the Directors of the offeree Company in it and in the offeror Company and their intentions in regard to such holdings as regards acceptance and otherwise as may be relevant. Full particulars of any material change in the financial position or prospects of the offeree Company since the date of the last Accounts must be stated;
- 8.151.16 every offer document shall contain as a heading the words:  
"Should you require any advice in relation to this offer you should consult your stockbroker, bank manager or other licensed professional adviser";
- 8.151.17 the Memorandum and Articles of Association, the Accounts for the last three (3) complete Financial Years of the offeror, any professional valuation of assets referred to in the offer document and all material contracts must be made available for inspection at the Listing Authority during the duration of the offer.

## APPENDIX 8.1

### THE CODE OF PRINCIPLES OF GOOD CORPORATE GOVERNANCE

#### OBJECTIVES

These principles are designed to enhance the legal, institutional and regulatory framework for good governance in the Maltese corporate sector. They thus complement the current provisions already in force in the Companies Act. Hence, Malta provides a comprehensive corporate governance framework based on the guidelines provided by the Organization for Economic Cooperation and Development.

These principles are targeting companies whose securities are admitted to listing on a Recognized Investment Exchange but are not applicable to Collective Investment Schemes. Companies are urged to adopt these principles so as to provide proper incentives for the Board and management to pursue objectives that are in the interests of the Company and its shareholders. The principles should facilitate effective monitoring thereby encouraging firms to use resources more efficiently.

The adoption of these principles is expected:

- § to provide more transparent governance structures and improved relations within the market which should enhance market integrity and confidence;
- § to ensure proper transparency and disclosure of all dealings or transactions involving the Board, any Director, senior managers or Officers in a position of trust or other related party; and
- § to protect shareholders from the potential abuse of those entrusted with the direction and management of the Company by the setting up of structures that improve accountability to them.

In an increasingly globalized world economy where competition is intense, the adoption of good corporate governance principles can make an actual difference to how companies are viewed both domestically and within the international scenario.

#### THE BOARD

**PRINCIPLE ONE:** Every Listed Company should be headed by an effective board, which should lead and control the company.

- 1.1 The board should be composed of persons who are fit and proper to direct the business of the company. The concept of fit and proper requires Directors to be honest, competent and solvent persons.
- 1.2 Directors are stewards of a company's assets and their behaviour should be focused on adding value to those assets by working with management to build a successful Company and enhance Shareholder value.

- 1.3 The shareholders, as the owners of the company, have the jurisdiction and discretion to appoint or remove Directors on the board. The process of appointment should be transparent and conducted at properly constituted general meetings where the views of the minority can be expressed.
- 1.4 All Directors are required to provide leadership, integrity and judgment in directing the company.
- 1.5 All Directors should:
  - 1.5.1 exercise prudent and effective controls which enables risk to be assessed and managed in order to achieve continued prosperity of the company;
  - 1.5.2 be accountable for all actions or non-actions arising from discussion and actions taken by them or their delegates;
  - 1.5.3 determine the company`s strategic aims and the organizational structure;
  - 1.5.4 regularly review management performance and ensure that the Company has the appropriate mix of financial and human resources to meet its objectives and improve the economic and commercial prosperity of the company;
  - 1.5.5 set the company`s values and standards in order to enhance and safeguard the interests of shareholders and third parties;
  - 1.5.6 act with integrity and due diligence while discharging their duties as Directors and in particular in the decision and policy-making process of the company, which should be reflected in all company`s dealings and at every level of the organization;
  - 1.5.7 exercise accountability to shareholders and be responsible to relevant stakeholders.
- 1.6 Leadership can only come about if the Directors, individually and collectively, are of the appropriate calibre, with the necessary skills and experience to contribute effectively to the decision making process.
- 1.7 Directors therefore should:
  - 1.7.1 acquire a broad knowledge of the business of the company;
  - 1.7.2 be aware of and be conversant with the statutory and regulatory requirements connected to the business of the Company;
  - 1.7.3 allocate sufficient time to perform their responsibilities; and

1.7.4 regularly attend meetings of the board..

- 1.8 In cases when a Director is unable to agree with a decision of the board because a proposed course of action is not deemed to be consonant with his statutory or fiduciary duties and responsibilities and all reasonable steps have been taken to resolve the issue, the Director may feel that resignation may be a better alternative to submission. In such instances, the shareholders are entitled to an honest account of any such disagreements between Directors.

## CHAIRMAN AND CHIEF EXECUTIVE

**PRINCIPLE 2:** There should be a clear division of responsibilities at the head of the Company between the running of the board and the executive responsibility for the running of the company's business. No one individual or small group of individuals should have unfettered powers of decision.

- 2.1 The Chairman has a pivotal role to play in helping the board achieve its full potential. He should allow every Director to play a full and constructive role in the affairs of the company. The separation of the roles of the Chairman and Chief Executive avoids concentration of authority and power in one individual and differentiates leadership of the board from the running of the business.
- 2.2 It is desirable that as a matter of best practice the position of the Chairman and that of the Chief Executive should be occupied by separate individuals. Where the Chairman and the Chief Executive Officer are not different individuals, the Company should provide an explanation to the market and to its shareholders through a Company Announcement for the decision to combine the two roles.
- 2.3 The Chairman is responsible to:
- 2.3.1 lead the board and set its agenda;
  - 2.3.2 ensure that the Directors of the Board receive precise, timely and objective information so that they can take sound decisions and effectively monitor the performance of the company;
  - 2.3.3 ensure effective communication with shareholders;
  - 2.3.4 encourage active engagement by all members of the board for discussion of complex or contentious issues.

## NON-EXECUTIVE DIRECTORS

**PRINCIPLE 3:** The board should be composed of executive and a number of non-executive Directors (including independent non-executives).

- 3.1 The board should ensure that it is composed of members who, as a whole, have the required diversity of knowledge, judgment and experience to properly complete their tasks.
- 3.2 It is desirable that Listed Companies should have a minimum number of non-executive Directors sitting on the board in order to ensure a balance such that no individual or small group of individuals can dominate the board's decision making. The exact composition and balance on a board will depend on the circumstances and business of each enterprise but it is recommended that at least one third of board members are non-executive and the majority of these should be independent.
- 3.3 The Company should appoint non-executive Directors of sufficient calibre whose independence and standing would offer a balance to a possible concentration of authority and power of the Chairman. Where the roles of the Chairman and Chief Executive Officer are combined, it is important that the non-executive Directors are able to bring an independent judgment to bear on the various issues brought before the company.
- 3.4 Non-executive Directors should be free from any business or other relationship which could interfere materially with the exercise of their independent and impartial judgment.
- 3.5 A Director is considered to be independent when he is free from any business, family or other relationship - with the company, its controlling Shareholder or the management of either - that creates a conflict of interest such as to jeopardize exercise of his free judgment.
- 3.6 Each Director should apply to his duties the necessary time and attention, and should undertake to limit the number of any Directorships held in other companies to such an extent that the proper performance of his duties is assured.
- 3.7 Non-executive Directors are expected to take an active role in:
- 3.7.1 constructively challenging and help developing proposals on strategy;
  - 3.7.2 monitoring the reporting of performance;
  - 3.7.3 scrutinizing the performance of management in meeting agreed goals and objectives; and
  - 3.7.4 satisfying themselves on the integrity and financial information and that financial controls and risk management systems are well established.

## THE RESPONSIBILITIES OF THE BOARD

**PRINCIPLE 4:** The board has the first level responsibility of executing the four basic roles of corporate governance namely; accountability, monitoring, strategy formulation and policy development.

- 4.1 The board should regularly review and evaluate corporate strategy, major operational and financial plans, risk policy, performance objectives and monitor implementation and corporate performance within the parameters of all relevant laws, regulations and codes of best business practice.
- 4.2 The board should clearly define its level of power and ensure that it is known by all Directors and the senior management of the company. Delegation of authority to management should also be clear and unequivocal. Independently of any powers and functions that the Directors may from time to time validly delegate to management, it remains a fundamental responsibility of Directors to monitor effectively the implementation of strategy and policy by management.
- 4.3 The board should apply high ethical standards and take into account the interests of stakeholders. Its members should act:
  - 4.3.1 responsibly for exercising independent objective judgment with the highest degree of integrity; and
  - 4.3.2 on a fully informed basis in good faith with due diligence, and in the best interests of the Company and the shareholders.
- 4.4 The board should:
  - 4.4.1 define in clear and concise terms, the company`s strategy, policies, management performance criteria and business policies which can be measured in a precise and tangible manner;
  - 4.4.2 establish a clear internal and external reporting system so that the board has continuous access to accurate, relevant and timely information such that the board can discharge its duties, exercise objective judgment on corporate affairs and take pertinent decisions to ensure that an informed assessment can be made of all issues facing the board. In terms of Listing Rules 8.56 – 8.64 the board is required to establish an Audit Committee to review and assess the effectiveness of the internal control systems, including financial reporting;
  - 4.4.3 continuously assess and monitor the company`s present and future operations opportunities, threats and risks in the external environment and current and future strengths and weaknesses;

- 4.4.4 recognise and support enterprise and innovation within the management of the company. The board should examine how best to motivate Company management;
  - 4.4.5 seek to establish an effective decision-making process in order to develop the Company`s business efficiently;
  - 4.4.6 evaluate the management`s implementation of corporate strategy and financial objectives. The strategy, processes and policies adopted for implementation should be regularly reviewed by the board using key performance indicators so that corrective measures can be taken to address any deficiencies and ensure the future sustainability of the enterprise;
  - 4.4.7 ensure that the Company has appropriate policies and procedures in place to assure that the Company and its employees maintain the highest standards of corporate conduct, including compliance with applicable laws, regulations, business and ethical standards;
  - 4.4.8 recognise that the company`s success depends upon its relationship with all groups of its stakeholders, including employees, suppliers, customers and the wider community in which the Company operates. The board should maintain an effective dialogue with such groups in the best interests of the Company and monitor the application by management of its policies;
  - 4.4.9 strike a balance between enterprise and control in the company; and
  - 4.4.10 develop a succession policy for the future composition of the board of Directors and particularly the executive component thereof, for which the Chairman should hold key responsibility.
- 4.5 Upon being appointed to the board and throughout the term of their appointment, Directors should ensure that they have sufficient and adequate information about the company, its affairs and their fiduciary duties, responsibilities and liabilities. It is desirable that periodic information sessions are organized to ensure that Directors are familiar with, inter alia;
- 4.5.1 their statutory and fiduciary duties;
  - 4.5.2 the company`s operations and prospects;
  - 4.5.3 the skills and competence of senior management;
  - 4.5.4 the general business environment; and
  - 4.5.5 the board`s expectations.

- 4.6 The board must understand and fully appreciate the business risk issues and key performance indicators affecting the ability of the Company to achieve its objectives.
- 4.7 The board should assess regularly any circumstances, whether actual or potential, that could expose the Company or its Directors to risk, and take appropriate action.
- 4.8 The business risk and key performance indicators should be benchmarked against industry norms so that the company's performance can be effectively evaluated.
- 4.9 The board shall require management to constantly monitor performance and report, at least quarterly, fully and accurately on the key performance indicators to its satisfaction.
- 4.10 The board shall ensure that the financial statements of the Company and the annual audit thereof have been completed within the stipulated time periods.

## BOARD MEETINGS

**PRINCIPLE 5:** The board should meet sufficiently regularly to discharge its duties effectively. Ample opportunity must be given to all board members during meetings to convey their opinions and discuss issues set on the board agenda so that they honour their responsibilities at all times.

- 5.1 The board should set procedures to determine the frequency, purpose, conduct and duration of meetings and meet regularly, at least once every quarter, in line with the nature and demands of the company's business.
- 5.2 The Chairman is primarily responsible for the efficient working of the board. He must ensure that all relevant issues are on the agenda supported by all available information.
- 5.3 The board agenda should strike a balance between long-term strategic and shorter-term performance issues.
- 5.4 The attendance of board members should be reported to shareholders at Annual General Meetings.
- 5.5 Notice of the dates of the forthcoming meetings together with the supporting material should be circulated well in advance to the Directors so that they have ample opportunity to appropriately consider the information prior to the next scheduled board meeting. Advance notice should be given of ad hoc meetings of the board to allow all Directors sufficient time to re-arrange their commitments in order to be able to participate.
- 5.6 Conduct of board by the Chairman meetings should facilitate and encourage the presentation of views pertinent to the subject matter and

should give all Directors every opportunity to contribute to relevant issues on the agenda.

- 5.7 After each board meeting and before the next meeting, minutes that faithfully record attendance and decisions should be prepared and should be made available to all Directors as soon as practicable after the meeting.

## INFORMATION AND PROFESSIONAL DEVELOPMENT

### PRINCIPLE 6:

The board should:

- appoint the Chief Executive Officer;
- actively participate in the appointment of senior management;
- ensure that there is adequate training in the Company for management and employees; and
- establish a succession plan for senior management.

- 6.1 Boards should actively consider the establishment and implementation of appropriate schemes to recruit, retain and motivate high quality executive officers and the management team.
- 6.2 All new Directors should be offered a tailored induction programme on joining the board which covers to the extent necessary the company's organization and activities and his responsibilities as a Director.
- 6.3 Board members should continually update and refresh their skills, competencies and capabilities to properly complete their tasks. The Company must provide the necessary resources for the Directors' regular professional development including obtaining independent advice at the company's expense.
- 6.4 The Chief Executive Officer should ensure that systems are in place:
- 6.4.1 to provide for the development of the management and employees generally and to provide for adequate training in the company;
  - 6.4.2 to ensure staff receive adequate and relevant training so that the Company remains competitive;
  - 6.4.3 to provide additional training for individual Directors;
  - 6.4.4 to monitor management and staff morale;
  - 6.4.5 to establish a succession plan for senior management; and
  - 6.4.6 for all Directors to be supplied with precise, timely and clear information to enable board members to disseminate information to effectively contribute to board decisions.

- 6.5 The Chief Executive Officer should participate in the recruitment and appointment of senior management.

#### EVALUATION OF THE BOARD'S PERFORMANCE

**PRINCIPLE 7:** The board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual Directors.

- 7.1 The board should appoint a committee chaired by a non-executive Director in order to regularly carry out a performance evaluation of its role.
- 7.2 The committee is to report directly to the Chairman who should act on the results of the performance evaluation process in order to ascertain the strengths and to address the weaknesses of the board members and to report to the board and, where appropriate, to the Annual General Meeting.
- 7.3 As part of the disclosure requirements in the annual report, the board should provide adequate information about its internal organization and including an indication of the extent to which the self-evaluation of the board has led to any material changes in the company's governance structures and organization.

#### REMUNERATION COMMITTEES

**PRINCIPLE 8:** The board should set up formal and transparent procedures for developing policies on executive remuneration and for fixing the remuneration packages of individual Directors.

- 8.1 The board of Directors should establish Remuneration Committees composed of independent non-executive Directors with no personal financial interest other than as shareholders in the company, one of whom should chair the Committee. No Director should be involved in deciding his or her own remuneration.
- 8.2 Remuneration Committees have as their prime role the function of devising the appropriate packages needed to attract, retain and motivate executive Directors with the right qualities and skills for the proper management of the company.
- 8.3 Remuneration Committees should however avoid paying more than is necessary to secure the executive Directors with the appropriate skills and qualities.
- 8.4 The Remuneration Committee should judge where to position their Company relative to other companies in the marketplace. These comparisons should be exercised with care, in view of the risk of an upward ratchet of remuneration levels with no corresponding improvement in performance. Moreover, they should also be sensitive to pay and employment conditions elsewhere in the group, especially when determining annual salary increases.

- 8.5 The Remuneration Committee should carefully consider what compensation commitments their Directors' terms of appointment would entail in the event of early termination. The aim should be to avoid rewarding poor performance. They should take a robust line on reducing compensation to reflect departing Directors' obligations in order to mitigate loss.
- 8.6 The Remuneration Committee's main duties are:
- 8.6.1 to make proposals to the board on the remuneration policy for executive Directors;
  - 8.6.2 to make proposals to the board on the individual remuneration to be attributed to executive Directors, ensuring that they are consistent with the remuneration policy adopted by the Company and the evaluation of the performance of the Directors concerned;
  - 8.6.3 to monitor the level and structure of remuneration of the non-executive Directors on the basis of adequate information provided by the executive or managing Directors;
  - 8.6.4 to prepare a report in the annual report about its activities, providing information regarding its membership, the number of meetings held, the attendance over the year, its main activities, and a "Remuneration Statement". The "Remuneration Statement" shall contain details of individual Directors' remuneration packages and the remuneration policy of the Company including profit-sharing, share options and pension benefits, as well as specific arrangements relating to the disclosure of information on performance.
- 8.7 The Committee:
- 8.7.1 should consult the Chairman and/or the Chief Executive Officer about proposals relating to the remuneration of other executive Directors;
  - 8.7.2 may avail itself of remuneration consultants, who may be useful in providing the necessary information on market standards for remuneration systems; and
  - 8.7.3 should be responsible for establishing the selection, appointing and setting the terms of reference for any remuneration consultants who advise the Committee.
- 8.8 The board itself, subject to the approval of shareholders in general meeting, should determine the aggregate Emoluments of the Directors, including that of the members of the Remuneration Committee.
- 8.9 Shareholders shall have the right to approve the aggregate remuneration payable and the criteria applied to establish the

remuneration of the Directors but not the remuneration paid to each individual Director.

- 8.10 The Company should provide shareholders with the information regarding the remuneration paid by the Company to individual Directors, both executive and non-executive, in the preceeding Financial Year in order to help shareholders appreciate whether the remuneration is appropriate in the light of the overall performance of the Company.

## RELATIONS WITH SHAREHOLDERS AND WITH THE MARKET

**PRINCIPLE 9:** The board shall serve the legitimate interests of the company, account to shareholders fully and ensure that the Company communicates with the market effectively. The board should as far as possible be prepared to enter into a satisfactory dialogue with institutional shareholders and market intermediaries based on the mutual understanding of objectives. The board shall use the general meeting to communicate with shareholders.

- 9.1 The Company should provide the market with regular, timely, accurate, comprehensive and comparable information in sufficient detail to enable investors to make informed investment decisions.
- 9.2 Communication with the market is crucial for Listed Companies and the integrity of the market itself. The board should ensure that long-term strategic decisions are communicated where Directors consider these to be in the best interests of the company.
- 9.3 Listed Companies should hold a meeting with shareholders and other interested parties. Under exceptional circumstances affecting the Company other meetings may become necessary and should be considered.
- 9.4 The board should endeavour to protect and enhance the interests of both the Company and its shareholders, present and future. The Chairman should ensure that the views of shareholders are communicated to the board as a whole.
- 9.5 The board should:
- 9.5.1 always ensure that all holders of each Class of capital are treated fairly and equally; and
  - 9.5.2 act in the context that its shareholders are constantly changing and, consequently, decisions should take into account the interests of future shareholders as well.
- 9.6 Shareholders must appreciate the significance of participation in the general meetings of the Company and particularly in the election of Directors. They should continue to hold Directors to account for their actions, their stewardship of the company's assets and the performance of the company.

- 9.7 The agenda for general meetings of shareholders and the conduct of such meetings must not be arranged in a manner to frustrate valid discussion and decision-taking.
- 9.8 A detailed explanatory memorandum must a Company all proposals put before an extraordinary general meeting or proposals considered as extraordinary business and it must be provided well in advance of the meeting, at least fifteen (15) days before, with adequate time within which shareholders can evaluate it.
- 9.9 Provision must be made for shareholders who do not attend a general meeting to appoint a proxy of their choice to attend and vote on any matter either in favour of, or against, any proposal presented at a general meeting of shareholders, or to abstain.
- 9.10 Minority shareholders should be able to call special meetings on matters of importance to the company. However a minimum threshold of share ownership, as established in the Memorandum or Articles of Association of the company, should be set up before a group or an individual may call a special meeting.
- 9.11 Procedures should be established to resolve conflicts between minority shareholders and controlling shareholders. To resolve conflicts, there should be some mechanism, disclosed under Company practice, to trigger arbitration.
- 9.12 Minority shareholders should be allowed to formally present an issue to the board of Directors if they own a predefined threshold of shares.
- 9.13 The Company should consider making available for inspection to its shareholders for a period of not less than fifteen (15) days particulars of service contracts and particulars of any contract in which a Director of the Company is materially interested and which is significant in relation to the business of the Company and its subsidiaries taken as a whole.
- 9.14 The Company should disclose the total of any outstanding loans granted by the Company or any of its subsidiaries or the parent of such Company to the Directors of the Company and of any guarantees provided for their benefit.
- 9.15 Directors must not make improper use of information acquired by them by virtue of their position as a Director.
- 9.16 The board should consider whether, from time to time, disclosure should be made by the Company to other stakeholders other than its shareholders, but in other respects treating them equally as regards content and timeliness.

## INSTITUTIONAL SHAREHOLDERS

**PRINCIPLE 10:** Institutional shareholders have a responsibility to make considered use of their votes.

- 10.1 Institutional shareholders have the knowledge and expertise to analyse market information and make their independent and objective conclusions of the information available. Their role in the market is to be perceived by individual investors as being a very significant one. Accordingly, institutional shareholders are expected to conduct themselves in an appropriate manner in the market and act as a more effective check on Listed Companies.
- 10.2 Institutional shareholders should take steps to ensure that their voting objectives are being translated into practice. They should work towards the adherence to very general principles of good governance without taking the reins from the hands of the company's board and management.
- 10.3 The term 'institutional shareholders' should be interpreted widely and includes any person who by profession, whether directly or indirectly, takes position in investments as principal; or Manager or holds funds for or on behalf of others and includes Custodians, banks, financial institutions, fund managers, stockbrokers, investment managers and others.

#### CONFLICTS OF INTEREST

**PRINCIPLE 11:** Directors' primary responsibility is always to act in the interest of the Company and its shareholders as a whole irrespective of who appointed them to the board.

- 11.1 A Director should avoid conflicts of interest at all times and shall not accept a nomination if he is aware that he has an actual conflict of interest.
- 11.2 Should an actual or potential conflict arise during the tenure of a Directorship, a Director must disclose and record the conflict in full and in time to the board and the board shall determine whether or not that Director should participate in the discussion. In any event, the Director shall refrain from voting on the matter. In certain circumstances it may be appropriate for the board to disclose in a public document that an actual conflict or potential conflict of interest has arisen.
- 11.3 The personal interests of a Director must never take precedence over those of the Company and its shareholders.
- 11.4 A Director having a continuing material interest that conflicts with the interests of the company, should take effective steps to eliminate the grounds for conflict. In the event that such steps do not eliminate the grounds for conflict then the Director should consider resigning.
- 11.5 Each Director should declare to the Company his or her interest in the share capital of the Company distinguishing between beneficial and non-beneficial interest and should only deal in such shares as allowed by law.

## CORPORATE SOCIAL RESPONSIBILITY

**PRINCIPLE 12:** Directors should seek to adhere to accepted principles of corporate social responsibility in their day-to-day management practices of their company.

- 12.1 Corporate Social Responsibility is the continuing commitment by business entities to behave ethically and contribute to economic development while improving the quality of life of the work force and their families as well as of the local community and society at large. Being socially responsible means not only fulfilling legal expectations but also going beyond compliance and investing “more” into human capital, the environment and the relations with stakeholders.
- 12.2 It is encouraged that Listed Companies take up initiatives aimed at augmenting investment in human capital, health and safety issues, and managing change, while adopting environmentally responsible practices related mainly to the management of natural resources used in the production process.
- 12.3 Listed Companies are expected to act as corporate citizens in the local community, work closely with suppliers, customers, employees and public authorities.
- 12.4 Listed Companies are encouraged to go through material relating to the theme of corporate social responsibility and keep abreast with initiatives being taken in the local and international scenario.

APPENDIX 8.2  
[Listing Rule 8.107]

The following table identifies the information required to be included in a Circular required pursuant to Listing Rules 8.95 and 8.96 in respect of the Listed Company and the Undertaking the subject of the transaction.

1. The name, registered office and, if different, head office of the Issuer
  
2. A statement that the following documents or certified copies thereof will be available for inspection at the Company's registered office, head office or such other place in Malta as the Listing Authority may agree, for at least fourteen (14) days from the date of publication of the Listing Particulars or for the duration of any offer to which the Listing Particulars relate, if longer:
  - 2.1 the Memorandum and Articles of Association or other constitutive document of the Issuer;
  - 2.2 any contract or written agreement concerning the Issuer and which is referred to in the Prospectus;
  - 2.3 material contracts and Directors' service contracts or in the case of a contract not reduced into writing, a memorandum giving full particulars thereof;
  - 2.4 all reports, letters and other documents, valuations and statements by any Expert any part of which is reproduced or referred to in the Listing Particulars including any written consents from experts;
  - 2.5 the audited Annual Accounts of the Issuer, or, in the case of a Group, the consolidated audited Accounts of the Issuer and its Subsidiary Undertakings for each of the three (3) Financial Years preceding the publication of the Listing Particulars together with, in the case of a Company incorporated in Malta, all notes, certificates or information required by Part V, Title I, Chapter X of the CA;
  - 2.6 in the case of an issue of Securities in connection with a merger, the division of a Company, the transfer of all or part of an Undertaking's assets and liabilities, or a takeover offer, or as consideration for the transfer of assets other than cash, the documents describing the terms and conditions of such operations, together, where appropriate, with any opening balance sheet, if the Issuer has not prepared its own or consolidated audited Annual Accounts (as appropriate); and
  - 2.7 written statements signed by the Accountants setting out the adjustments made by them in arriving at the figures shown in any Accountants' Report and giving the reasons therefor.
  
3. In so far as is known to the Issuer, the name of any person other than a Director of the Issuer who, directly or indirectly, owns five percent (5%) or more of the Issuer's capital, together with the amount of each such person's ownership or, if there are no such persons, an appropriate negative statement.
  
4. A summary of the principal contents (including particulars of dates, parties, terms and conditions, general nature of contract, the name of the receiving notary, where applicable, and any consideration passing to or from the Issuer or any other member of the Group) of:

4.1 each material contract (not being a contract entered into in the ordinary course of business) carried on or intended to be carried on by any member of the Group or any such material contract entered into not more than two (2) years immediately preceding the date of issue of the Prospectus; and

4.2 any other contract (not being a contract entered into in the ordinary course of business) entered into by any member of the Group which contains any provision under which any member of the Group has any obligation or entitlement which is material to the Group as at the date of the Prospectus

5. Information on any legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) which may have or have had in the recent past (covering at least the previous twelve (12) months) a significant effect on the Group's financial position or an appropriate negative statement.
6. A description of any significant change in the financial or trading position of the Group which has occurred since the end of the last Financial Year for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.
7. Particulars of any arrangement under which future dividends are waived or agreed to be waived.
8. A statement showing the interest of each Director of the Issuer or a Connected Person of such Director in the Share Capital of the Issuer or any member of the Group distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement.
9. All relevant particulars regarding the nature and extent of any interests of Directors of the Issuer in transactions which are or were unusual in their nature or conditions or significant to the business of the Group, and which were effected by the Group:
  - 9.1 during the current or immediately preceding Financial Year; or
  - 9.2 during an earlier Financial Year and remain in any respect outstanding or unperformed;
  - 9.3 or an appropriate negative statement.
10. Details of Directors' existing or proposed service contracts with the Issuer or any Subsidiary, excluding contracts expiring, or determinable by, the employing Company without payment of compensation within one 1 year, or an appropriate negative statement.
11. A statement as to the Group's financial and trading prospects for at least the current Financial Year together with any material information which may be relevant thereto, including all special trade factors or risks, if any, which are not mentioned elsewhere in the Listing Particulars and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits of the Issuer.

**and in the case of acquisitions:**

12. A statement that:

- 12.1 the relevant Securities do not fall within a category or description specified in any regulation made by the Minister in accordance with the provisions of the FMA as not being Admissible to a Recognised List;
- 12.2 application has been or will be made to one or more Recognised Investment Exchanges for the relevant Securities to be Admitted to Listing and Trading thereon once the Securities are authorised as Admissible to Listing by the Listing Authority (see Listing Rule 5.7),
- 12.3 or any other statement that may be permitted by the Listing Authority to reflect the circumstances of each particular case.
13. A statement whether or not all the Securities are being offered or made available in whole or in part to the public.
14. Where Shares are issued in connection with any merger, division of a Company, takeover offer, acquisition of an Undertaking's assets and liabilities or transfer of assets:
- 14.1 a statement of the aggregate value of the consideration for the transaction and how it was or is to be satisfied; and
- 14.2 if the total Emoluments receivable by the Directors of the Issuer will be varied in consequence of the transaction, full particulars of the variation; if there will be no variation, a statement to that effect.
15. A profit forecast for the twelve (12) months ending after the end of the Financial Year. Where the Issuer prepares consolidated Annual Accounts, the profit forecast must be prepared on a consolidated basis.
16. The principal assumptions upon which the Issuer has based its forecast must be stated (see Listing Rule 9.21); where so required by Listing Rule 9.19, the forecast must be examined and reported on by the Accountants and their report must be set out; there must also be set out a report from the Sponsor confirming that the forecast has been made after due and careful enquiry by the Directors (see Listing Rule 2.15).

APPENDIX 8.3  
ARTICLES OF ASSOCIATION

Section	Description
1.	Directors
2.	Accounts
3.	Capital
4.	Dividends
5.	Transfers
6.	Borrowing Powers
7.	Notice of Meetings
8.	Winding - Up
9.	Alteration of Articles
10.	Proxy

Directors

- 1.1 All Directors of an Applicant shall be individuals.
- 1.2 Subject to such exceptions specified in the Articles of Association as the Listing Committee may approve, a Director shall not vote on any contract or arrangement or any other proposal in which he has a material interest.
- 1.3 An election of Directors shall take place every year. All Directors, except a Managing Director, shall retire from office once at least in each three (3) years, but shall be eligible for re-election.
- 1.4 The office of a Director shall become vacant should he become of unsound mind, is convicted of any crime punishable by imprisonment, or declared bankrupt during his term of office.
- 1.5 The maximum annual aggregate Emoluments as well as any increase of such Emoluments of the Directors shall be established pursuant to a resolution passed at a general meeting of an Issuer where notice of the proposed aggregate Emoluments and any increase has been given in the notice convening the meeting.
- 1.6 Any person appointed by the Directors to fill a casual vacancy or as an addition to the board will hold office only until the next following annual general meeting of the Issuer, and will be eligible for re-election.
- 1.7 An Issuer must give at least fourteen (14) days notice to its shareholders to submit names for the election of Directors. Notice to the Issuer proposing a person for election as a Director, as well as the latter's acceptance to be nominated as Director shall be given to the Issuer not less than fourteen (14) days prior to the date of the meeting appointed for such election.

Accounts

- 2. A printed copy of the profit and loss account and balance sheet including any Directors' report attached thereto, will, at least fourteen (14) days prior to the general meeting of the Issuer, be delivered or sent by post to every member and/or stockholder or holder of Securities in the Issuer.

### Capital

- 3.1 The share capital structure, the ranking of any different Classes or Shares for all distributions, and the specific rights of each Class of Shares must be stated.
- 3.2 The Issuer shall not issue Shares such that such issue would dilute a substantial interest without prior approval of the shareholders in general meeting.
- 3.3 Unless the shareholders approve in a general meeting, or as otherwise permitted under the Listing Rules, no Director shall participate in an issue of Shares to employees.
- 3.4 Preference shareholders shall have the same rights as ordinary shareholders as regards receiving notices, reports and balance sheets, and attending general meetings of the Issuer.
- 3.5 Preference shareholders shall also have the right to vote at any general meeting of the Issuer convened for the purpose:
  - 3.5.1 of reducing the capital of the Issuer; or
  - 3.5.2 winding up of the Issuer; or
  - 3.5.3 where the proposition to be submitted directly affects their rights and privileges; or
  - 3.5.4 when the dividend on their Shares is in arrears by more than six (6) months.

### Dividends

4. Any amount paid up in advance of calls on any Share may carry interest but will not entitle the holder of the Share to participate in respect of such amount in any dividend.

### Transfers

5. There shall be no restriction on the right to transfer Securities which are authorised as Admissible to Listing.

### Borrowing Powers

6. The scope of the borrowing powers of the Board of Directors shall be expressed.

### Notice of Meetings

- 7.1 A general meeting of an Issuer shall be deemed not to have been duly convened unless at least fourteen (14) days' notice has been given to all shareholders in writing, wherein is stated the place, date and hour of the meeting and in case of special business, the general nature of that business.
- 7.2 Any notice of the meeting called to consider extraordinary business shall be accompanied by a statement regarding the effect and scope of any proposed resolution in respect of such extraordinary business.

### Winding-Up

- 8.1 The basis on which shareholders would participate in a distribution of assets on a winding-up shall be expressed.
- 8.2 On the voluntary liquidation of an Issuer, no commission or fees shall be paid to a liquidator unless it shall have been approved by shareholders. The amount of such payment shall be notified to all shareholders at least seven (7) days prior to the meeting at which it is to be considered.

#### Alteration of Articles

9. Issuers whose Securities are authorised as Admissible to Listing shall not delete, amend or add to any of their existing Articles of Association, which have previously been authorised by the Listing Authority, unless prior written authorisation has been sought and obtained from the Listing Authority for such deletion, amendment or addition.

#### Proxy

10. An Issuer is required to design proxy forms in a manner which will allow a Shareholder of an Issuer to indicate how he/she would like his proxy to vote in relation to each resolution.

## CHAPTER 9

### Financial Information

This chapter explains requirements for financial information in applications for authorisation to listing and financial reporting as part of continuing obligations and one of its objectives is to implement the relevant provisions of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market. These requirements do not exclude the related information required in other chapters of these Listing Rules.

- 9.1 This Chapter establishes requirements in relation to the disclosure of periodic information about Issuers whose securities are already admitted to trading on a Regulated Market situated or operating within a Member State.
- 9.2 The provisions of this Chapter shall not apply to Units issued by collective investment undertakings other than the closed-end type, or to Units acquired or disposed of in such collective investment undertakings.

*New Applicant*

- 9.3 The comparative table, the published audited Accounts or Accountants' Report (as applicable) must include the Issuer and its Subsidiary Undertakings together with those Companies or Group of Companies acquired during the three (3) year relevant period covered by such report, table or Accounts, and any Company or Group of Companies which were acquired as a result of either:

9.3.1 any agreement made since the date to which the last published audited Annual Accounts of the Issuer have been made up; or

9.3.2 an unconditional acceptance of any offer made during the period referred to in 9.3.1 above:

and will, subject to any conditions contained in such agreement or offer being fulfilled, become a Subsidiary or Subsidiaries of the Issuer.

- 9.4 When a New Applicant has acquired or has agreed to acquire at any time during the period covered by the audited Accounts required by Listing Rule 3.5 an Undertaking or assets which would have been classified at the date of application for Admissibility to Listing as a transaction falling within Listing Rule 8.95, financial information on that Undertaking or those assets must be given, which should normally cover a minimum of three (3) years. Pre-acquisition information on the Undertaking which is not included in the financial information provided on the Issuer must have been unqualified, not refer to a matter of fundamental uncertainty and be given in the form of an Accountants' Report or a comparative table. In cases of uncertainty the Listing Authority must be consulted.

- 9.5 An Issuer is required in accordance with Listing Rules 8.92 to 8.96 and 8.107 to circulate information to its shareholders in respect of certain acquisitions of either the Share capital of a Company which is not a Listed Company, or assets whether representing a business or otherwise. The Accountants' Report in these circumstances need only relate to the acquisition.

*Accountants' Report*

- 9.6 An Accountants' Report must:
- 9.6.1 cover the Issuer, its Subsidiary Undertakings and those undertakings which are to become its Subsidiary Undertakings or, in the case of a transaction falling within Listing Rule 8.95, cover the undertaking being acquired, its Subsidiary Undertakings and those undertakings which are to become its Subsidiary Undertakings (see Listing Rule 9.3);
- 9.6.2 cover a period of at least three (3) Financial Years up to the end of the latest audited Financial Period (or any shorter period agreed by the Listing Authority) (see Listing Rule 3.6);
- 9.6.3 be prepared by independent Accountants who are qualified to act as Auditors;

- 9.6.4 set out information as required by Listing Rule 9.15 drawn up in accordance with International Financial Reporting Standards (see Listing Rule 13.7 in respect of Oversea Companies);
  - 9.6.5 contain an opinion by the Accountants as to whether or not, for the purpose for which it was prepared, it gives a true and fair view of the financial matters set out in it;
  - 9.6.6 if the opinion in Listing Rule 9.6.5 above is qualified, refer to all material matters about which the Accountants have reservations, give all reasons for the qualification and, if both relevant and practicable, quantify its effect;
  - 9.6.7 if the report is in respect of a period ending on a date earlier than three (3) months before publication of the Prospectus or Circular, a statement that no Accounts have been made up since that date; and
  - 9.6.8 be dated.
- 9.7 In making their report the Accountants should make any adjustments appropriate for the purposes of the report and state therein that all adjustments considered necessary have been made, or where appropriate, that no adjustments are necessary. Where adjustments are made, a written statement (the “statement of adjustments”) is required to be included in the Accountants’ Report. This should set out each adjustment made in respect of any items referred to in Listing Rules 9.15 to 9.16, for each of the years reported upon, so as to reconcile the figures in the report with corresponding figures in the audited Annual Accounts.
- 9.8 The statement of adjustments must also be made available for inspection.
- Comparative Table*
- 9.9 The financial information contained in a comparative table must:
- 9.9.1 be extracted without material adjustment from audited Accounts which have been prepared and audited in accordance with the standards referred to in Listing Rules 3.5.3 and 3.5.4 (but see Listing Rule 13.7 in respect of Oversea Companies);
  - 9.9.2 include the details set out in Listing Rule 9.15.
- 9.10 In the case of a New Applicant presenting a comparative table, a letter in a form acceptable to the Listing Authority is required from the Accountants stating that in their opinion the Issuer’s audited Annual Accounts have been prepared and audited in accordance with the standards referred to in Listing Rules 3.5.3 and 3.5.4, and that the financial information in the comparative table has been properly extracted without material adjustment from the audited Accounts.
- Issuer with Securities Authorised as Admissible to Listing*
- Acquisitions*
- 9.11 In the case of an acquisition falling within Listing Rule 8.95 by a Listed Company of an interest in an Undertaking which will result in consolidation of the net assets of that Undertaking, a comparative table for that Undertaking is required unless:
- 9.11.1 any material change has taken place to the Group structure or business, including any acquisition or disposal which would have been classified at the date of acquisition by the Listed Company as a transaction falling within Listing Rule 8.95 for the Listed Company, in the period covered by the three (3) years up to the end of the last

Financial Year for which audited Accounts have been prepared or in the period from the last audited Accounts to the date of acquisition;

- 9.11.2 any material change has been made to accounting policies, or any material adjustment has been made or is required to be made to achieve consistency with the Listed Company, to the audited Accounts of that undertaking in the period referred to in 9.9.1 above (see also below);
- 9.11.3 the audit report on the Accounts of that Undertaking for the last Financial Year has been qualified, or refers to a matter of fundamental uncertainty;
- 9.11.4 the Accounts of that Undertaking have not been subject to audit; or
- 9.11.5 the Listing Authority decides for any other reason either not to accept an audit report or that an additional report is necessary;

in which event an Accountants' Report is required. In the case of 9.11.2 above and with the agreement of the Listing Authority, the report may be presented in accordance with the accounting policies of the Undertaking being acquired where a reconciliation of the material differences is included in the report. In respect of such transaction as is referred to in 9.11 above, an Accountants' Report may be presented in substitution for a comparative table.

- 9.12 An Accountants' Report that would otherwise be required by Listing Rules 9.11.3 and 9.11.4 is not required if the Undertaking being acquired is:

- 9.12.1 a Listed Company;
- 9.12.2 an Oversea Company with a listing on an overseas stock exchange or whose Securities are traded on a regulated, regularly operating open market; or
- 9.12.3 a STM Company

in which event a comparative table is required on that Undertaking. Where any material adjustment is required to be made to the financial statements of an Undertaking being acquired in order to conform them with the accounting policies of the Listed Company, a reconciliation of financial information set out in the comparative table of the Undertaking being acquired, on the basis of the accounting policies of the Listed Company, should be published in the document. Such a reconciliation must be reported on in the document by the Auditors/reporting Accountants who should report their opinion as to whether the reconciliation has been properly compiled on the basis stated and that the adjustments are appropriate for the purpose of presenting the financial information (as adjusted) on a basis consistent in all material respects with the accounting policies of the Listed Company. In the case of any audit qualification or fundamental uncertainty (see Listing Rule 9.11.3) details must be given. In the case of 9.12.2 and 9.12.3 above the Sponsor must ensure that adequate disclosure has been made in relation to the material change referred to in Listing Rule 9.11.

#### *Disposals*

- 9.13 In the case of a disposal by a Listed Company falling within Listing Rule 8.95 of an interest in an Undertaking which will result in the net assets no longer being consolidated, the Circular must include the last audited consolidated balance sheet and the audited consolidated profit and loss Accounts for the last three (3) Financial Years for that Undertaking.

- 9.14 In the case of a transaction falling within Listing Rule 8.95 but not falling within Listing Rules 9.11 or 9.13, the Listing Authority must be consulted at an early stage on the financial information to be included.

*Financial Information in a Comparative Table and an Accountants' Report*

- 9.15 A comparative table or an Accountants' Report must include the following financial information in respect of a period of at least three (3) years up to the end of the latest audited Financial Year (or any shorter period agreed by the Listing Authority, Listing Rule 3.6):

- 9.15.1 profit and loss account;
- 9.15.2 balance sheet;
- 9.15.3 cash flow statement;
- 9.15.4 accounting policies in operation at the date of the latest balance sheet of the Issuer, together with a note of any significant changes in policies during the period covered by the report, with an indication of the affect of any such changes; and
- 9.15.5 notes (see Listing Rule 9.16):

and must be presented in a form consistent with that which would be adopted in the Issuer's audited Annual Accounts having regard to the accounting standards, policies and legislation applicable to such Accounts (subject to Listing Rule 9.11 in the case of a transaction falling within Listing Rule 8.95) unless the Listing Authority otherwise agrees.

- 9.16 The notes to the Accountants' Report and comparative table must, as a minimum, include:

- 9.16.1 the last two (2) balance sheets (where either balance sheet relates to the position at the end of a period of less than twelve (12) months, the Listing Authority must be consulted); and
- 9.16.2 the profit and loss Accounts and cash flow statements for all periods included in the Accountants' Report or comparative table.

*Profit Forecasts and Estimates*

- 9.17 A profit forecast or estimate is required:

- 9.17.1 in terms of Chapter 6;
- 9.17.2 where a Financial Year has expired for which the results have not yet been published
- 9.17.3 as otherwise specifically required in these Listing Rules.

- 9.18 Any statement or information relating to the future prospects of an Issuer, or an Undertaking that is to become a significant part of an Issuer Group, must be clear and unambiguous. The Issuer must determine in advance with its Sponsor whether such a statement or information will constitute a profit forecast or estimate. Any earnings forecast or estimate must be presented in an explicit manner.

- 9.18 A form of words which expressly or by implication states a minimum or maximum for the likely level of profits or losses for a period subsequent to that for which the audited Accounts have been published, or contain data from which a calculation of an approximate figure for future profits or losses may be made, is a profit forecast or estimate, even if no particular figure is mentioned and the word "profit" is not used. A dividend forecast must be treated as a profit forecast

where the Issuer has a known policy of relating dividends to profit, or has an insufficient level of retained profit or the forecast otherwise implies a forecast of profit. In the event of uncertainty the Listing Authority must be consulted.

- 9.19 A profit forecast or estimate of an Issuer or an Undertaking that is to become a significant part of an Issuer's Group included or a Circular must be reported on by the Accountants and by the Sponsor (see Listing Rule 2.15). The Accountants must report in the document their opinion as to whether:
- 9.19.1 the profit forecast or estimate has been properly compiled on the basis of the underlying stated assumptions; and
  - 9.19.2 the basis of accounting is consistent with the accounting policies of the Issuer.
- 9.20 The period of the forecast or estimate should normally be to the end of the Issuer's Financial Year; if it is not, then it must be in respect of a period for which the results will be published or the Issuer must make a new forecast for such a period. The forecast or estimate should normally be of profit before tax (disclosing separately any exceptional items and tax charges if they are expected to be abnormally high or low). If the forecast or estimate is not of profit before tax, the reasons for presenting another figure from the profit and loss account must be disclosed and clearly explained. When the results are published relating to a period covered by a forecast or estimate, the published financial statements must disclose the relevant figure so as to enable the forecast and actual results to be directly compared.
- 9.21 The profit forecast must include a statement of the principal assumptions for each factor which could have a material effect on the achievement of the forecast. The assumptions must:
- 9.21.1 be clearly segregated between assumptions about factors which the Directors can influence and assumptions about factors which are exclusively outside the influence of the Directors;
  - 9.21.2 be readily understandable by investors;
  - 9.21.3 be specific and precise; and
  - 9.21.4 not relate to the general accuracy of the estimates underlying the forecast.
- 9.22 Where the Issuer prepares consolidated audited Annual Accounts, the profit forecast must be prepared on a consolidated basis.

*Pro Forma Financial Information*

- 9.23 If an Issuer publishes pro forma financial information in any document requiring authorisation by the Listing Authority prior to publication, that information must comply with Listing Rules 9.24 to 9.29 and a report in the terms of Listing Rule 9.30 must be included in the relevant document.
- 9.24 The pro forma financial information must provide investors with information about the impact of the transaction the subject of the document by illustrating how that transaction might have affected the financial information presented in the document, had the transaction been undertaken at the commencement of the period being reported on or, in the case of a pro forma balance sheet or net asset statement, at the date reported. The pro forma financial information presented must not be misleading, must assist investors in analysing the future prospects of the Issuer and must include all appropriate adjustments permitted by Listing Rule 9.29, of which the Issuer is aware, necessary to give effect to the transaction as if the transaction had been undertaken at the commencement of the period being

reported on or, in the case of a pro forma balance sheet or net asset statement, at the date reported on.

- 9.25 The information must clearly state:
- 9.25.1 the purpose for which it has been prepared;
  - 9.25.2 that it is prepared for illustrative purposes only; and
  - 9.25.3 that because of its nature, it may not give a true picture of the Issuer's financial position or results.
- 9.26 The information must be presented in columnar format showing separately the unadjusted financial information, the pro forma adjustments and the pro forma financial information. The pro forma financial information must be prepared in a manner consistent with both the format and accounting policies adopted by the Issuer in its financial statements and must identify:
- 9.26.1 the basis upon which it is prepared; and
  - 9.26.2 the source of each item of information and adjustment.
- Pro forma figures must be given no greater prominence in the document than audited figures.
- 9.27 Pro forma financial information may only be published in respect of:
- 9.27.1 the current Financial Year;
  - 9.27.2 the most recently completed Financial Year; and/ or
  - 9.27.3 the most recent interim period for which relevant unadjusted information has been or will be published or is being published in the same document;
- and, in the case of a pro forma balance sheet or net asset statement, as at the date on which such periods end or ended.
- 9.28 The unadjusted information must be derived from the most recent:
- 9.28.1 audited published Accounts or preliminary statement;
  - 9.28.2 Accountants' Report or comparative table;
  - 9.28.3 previously published pro forma financial information reported on in accordance with Listing Rule 9.30; or
  - 9.28.4 published profit forecast or estimate.
- 9.29 Any adjustments which are made to the information referred to in Listing Rule 9.21 in relation to any pro forma statement must be:
- 9.29.1 clearly shown and explained;
  - 9.29.2 directly attributable to the transaction concerned and not relating to future events or decisions;
  - 9.29.3 factually supportable; and
  - 9.29.4 in respect of a pro forma profit or cash flow statement, clearly identified as to those adjustments which are expected to have a continuing effect on the Issuer and those which are not.
- 9.30 The pro forma financial information must be reported on in the document by the Accountants who must report that, in their opinion:
- 9.30.1 the pro forma financial information has been properly compiled on the basis stated;

- 9.30.2 such basis is consistent with the accounting policies of the Issuer; and
  - 9.30.3 the adjustments are appropriate for the purposes of the pro forma financial information as disclosed pursuant to Listing Rule 9.24 of the Listing Rules.
- 9.31 Where pro forma earnings per Share information is given for a transaction which includes the issue of Securities, the calculation should be based on the weighted average number of Shares outstanding during the period, adjusted as if that issue had taken place at the beginning of the period.
- Financial Information outside Comparative Table or Accountants' Report*
- 9.32 A clear indication must be given as to which figures relate to historical, forecast, estimated or pro forma information, as appropriate, with reference made to where the basis of presentation can be found.
  - 9.33 Reference must be given to the source of the figures shown, including a statement that investors should read the whole document and not just rely on the key or summarised information.
  - 9.34 An investment entity which regularly publishes its net asset value (see Chapter 15) may include unaudited net asset values in Listing Particulars or Circulars in relation to transactions falling within Listing Rule 8.95. If the unaudited net asset value depends to a significant extent on Directors' valuations of investments, that fact must be disclosed and sufficient additional information provided to enable investors to understand the extent to which Directors' valuations have been relied upon.
- Preliminary Statement of Annual Results*
- 9.35 A preliminary statement of annual results must
    - 9.35.1 include;
      - 9.35.1.1 a condensed balance sheet;
      - 9.35.1.2 a condensed income statement;
      - 9.35.1.3 a condensed statement of changes in equity;
      - 9.35.1.4 a condensed cash flow statement;
      - 9.35.1.5 explanatory notes and any significant additional information necessary of the purpose of assessing the results being announced;
      - 9.35.1.6 a statement that the annual results have been agreed with the Auditors and if the Auditors' report is likely to be qualified, give details of the nature of the qualification; and
      - 9.35.1.7 any decision to pay or make any dividend or other distribution on Equity Securities authorised as Admissible to Listing or to withhold any dividend or interest payment on Securities authorised as Admissible to Listing giving details of;
        - 9.35.1.7.1 the exact net amount payable per Share;
        - 9.35.1.7.2 the payment date; and
        - 9.35.1.7.3 the cut off date when the Register is closed for the purpose of distribution

9.35.2 be announced to the market by way of a Company Announcement in terms of Listing Rule without delay after Board's approval.

*Audited Annual Accounts*

- 9.36 The Annual Report and Accounts must be:
- 9.36.1 prepared in accordance with the International Financial Reporting Standards promulgated and specified from time to time by the International Accounting Standards Committee (see LR 13.7 in respect of Overseas Companies);
  - 9.36.2 audited in accordance with the International Standards on Auditing in force at the year end;
  - 9.36.3 sent to all shareholders at the last known address;
  - 9.36.4 published as soon as possible after such Annual Financial Report has been approved by the Issuer's Directors and, in any event, within four (4) months of the end of the Financial Year to which it relates;
- 9.37 The Issuer shall ensure that such Annual Financial Report is publicly available for at least five years after publication
- 9.38 If the Issuer has Subsidiaries, the Accounts must be in consolidated form but the Issuer's own Accounts must also be published if they contain significant additional information.
- 9.39 If the audited Annual Accounts do not give a true and fair view of the state of affairs, profit or loss, assets and liabilities, changes in equity and cash flows of the Group, more detailed and/or additional information must be provided.
- 9.40 The audited Annual Accounts shall contain at least the following items:
- 9.40.1 the profit and loss account together with comparative figures for the previous year;
  - 9.40.2 the balance sheet together with comparative figures for the previous year;
  - 9.40.3 a cash flow statement with comparative figures for the previous year;
  - 9.40.4 the Directors' report in accordance with the Sixth Schedule of the CA
  - 9.40.5 statements made by the persons responsible within the Issuer, whose names and functions shall be clearly indicated, to the effect that , to the best of their knowledge, the financial statements prepared in accordance with the applicable set of accounting standards give a true and fair view of the assets, liabilities, financial position and profit or loss of the Issuer and the undertakings included in the consolidation taken as a whole and that the Directors report includes a fair review of the development and performance of the business and the position of the Issuer and the undertakings included in the consolidation taken as a whole, together with a description of the principal risks and uncertainties that they face:  

Provided that the requirement to include such a statement shall apply to Audited Annual Accounts relating to financial periods commencing on or after 1 January 2007.
  - 9.40.6 if the Board of the Issuer determines that the results for the period under review differ by ten percent (10%) or more materially from any published forecast or estimate or financial projections by the

- Issuer for that period an explanation of the difference must be made with immediate effect;
- 9.40.7 a statement of the amount of interest capitalised by the Group during the period under review with an indication of the amount and treatment of any related tax relief;
- 9.40.8 the signed Auditors' Report on the items at Listing Rules 9.40.1, 9.40.2 and 9.40.3 above;
- 9.40.9 details of any arrangement under which a Director of the Issuer has waived or agreed to waive any Emoluments from the Issuer or any Subsidiary Undertaking; where a Director has agreed to waive future emoluments, details of such waiver together with those relating to Emoluments which were waived during the period under review;
- 9.40.10 details of any arrangement under which a Shareholder has waived or agreed to waive any dividends; where a Shareholder has agreed to waive future dividends, details of such waiver together with those relating to dividends which are payable during the period under review;
- 9.40.11 a statement as at the end of the Financial Year, showing by way of note the beneficial and non-beneficial interests of each Director of the Issuer in the Share capital of the Issuer, or in any Related Company together with any change to those interests occurring between the end of the Financial Year and a date not earlier than one (1) month prior to the date of the notice of general meeting at which audited Annual Accounts are to be laid before the Issuer in general meeting or, if there has been no such change, disclosure of that fact;
- 9.40.12 a statement as at the end of the Financial Year, setting out by way of note:
- 9.40.12.1 the names of shareholders holding five percent (5%) or more of the Equity Share Capital as shown in the Issuer's Register of Shareholders;
- 9.40.12.2 the number of holders of each Class of Shares and the voting rights attaching to each Class;
- 9.40.12.3 a distribution schedule of each Class of Shares setting out the number of holders in the following categories:
- 1 - 1000  
1001 - 5000  
5001 and over
- together with any change to those interests occurring between the end of the Financial Year and a date not earlier than one (1) month prior to the date of the notice of general meeting at which audited Annual Accounts are to be laid before the Issuer in general meeting or, if there has been no such change, disclosure of that fact;
- 9.40.13 in the case of an Issuer incorporated in Malta, details of any shareholders' authority for the purchase by the Issuer of its own Shares still valid at the end of the period under review and, in the case of such purchases made otherwise than through the market or by tender or partial offer to all shareholders, particulars of the names of sellers of such Shares purchased, or proposed to be purchased, by the Issuer during the period under review; in the case of any such

- purchases, or options or contracts to make such purchases, entered into since the end of the period covered by the report, details thereof;
- 9.40.14 where an Issuer has Securities authorised as Admissible to Listing in issue and is a Subsidiary Undertaking of another Company, particulars of the participation by the Parent Undertaking in any placing made during the period under review;
- 9.40.15 particulars of any contract of significance (see Listing Rule 9.40), subsisting during the period under review, to which the Issuer, or one of its Subsidiary Undertakings, is a party and in which a Director of the Issuer is or was materially interested;
- 9.40.16 particulars of any contract of significance (see Listing Rule 9.40) between the Issuer, or one of its Subsidiary Undertakings, and a Substantial Shareholder (see Listing Rule 3.12) subsisting during the period under review;
- 9.40.17 particulars of any contract for the provision of services to the Issuer or any of its Subsidiary Undertakings by a Substantial Shareholder (see Listing Rule 3.12) subsisting during the period under review; such a contract need not be disclosed if it is a contract for the provision of services which it is the principal business of the Shareholder to provide and it is not a contract of significance (see Listing Rule 9.40);
- 9.40.18 details of Related Party transactions;
- 9.40.19 in the case of a Company incorporated in Malta, a statement by the Directors that the business is a going concern with supporting assumptions or qualifications as necessary; such statement to be reviewed by the Auditors before publication;
- 9.40.20 the name of the Issuer's secretary, the address and telephone number of the registered office;
- 9.40.21 the explanatory statement referred to in Listing Rule 9.47.
- 9.41 For the purpose of Listing Rules 9.40.15 to 9.40.17, a "contract of significance" is one which represents in amount or value (or, as the case may be, in annual amount or value) a sum equal to one percent (1%) or more, calculated on a Group basis where relevant, of:
- 9.41.1 in the case of a capital transaction or a transaction of which the principal purpose or effect is the granting of credit, the aggregate of the Group's Share capital and reserves; or
- 9.41.2 in other cases, the total annual purchases, sales, payments or receipts, as the case may be, of the Group.
- Half-Yearly Report*
- 9.42 Listed Companies shall prepare on a Group basis where relevant, a half-yearly report on the activities and profits and losses for the first six (6) months of each Financial Year.
- 9.43 The half-yearly report shall be –
- 9.43.1 prepared in accordance with IAS 34 Interim Financial Reporting or any other similar standard that may apply from time to time;
- 9.43.2 consistent with Accounting Standards and Accounting Policies of the Issuer's audited Annual Accounts;

- 9.44 The half-yearly financial report shall contain at least the following items:
- 9.44.1 the condensed set of financial statements;
  - 9.44.2 an interim directors' report including at least an indication of important events that have occurred during the first six months of the financial year, and their impact on the condensed set of financial statements, together with a description of the principal risks and uncertainties for the remaining six months of the financial year. For Issuers of shares, the interim directors' report shall also include major related parties transactions;
  - 9.44.3 statements made by the persons responsible within the Issuer, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the condensed set of financial statements which has been prepared in accordance with the applicable set of accounting standards gives a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer, or the undertakings included in the consolidation as a whole and that the interim directors report includes a fair review of the information required in terms of Listing Rule 9.44.2;
  - 9.44.4 when the half-yearly financial report has been audited or reviewed, the Auditors' report shall be reproduced in full, together with any reasoned qualifications which may have been made;
  - 9.44.5 if the half-yearly financial report has not been audited or reviewed, the Issuer shall make a statement to that effect in its report.

Provided that the requirements of an interim directors' report in terms of Listing Rule 9.44.2 and a statement in terms of Listing Rule 9.44.3, shall apply to half-yearly financial reports relating to financial periods commencing on or after 1 January 2007.

- 9.45 Where the Issuer's Securities are listed in a Recognised Jurisdiction, similar arrangements to those referred to in Listing Rule 9.50 must be made in respect of publication of the half-yearly report in such Recognised Jurisdiction. In this case the Issuer must also submit the half-yearly report simultaneously to the Listing Authority, and the competent authority of each other such Recognised Jurisdiction in which the Issuer's Securities are listed.
- 9.46 In exceptional circumstances, and only if Malta is the only Recognised Jurisdiction in which the Issuer is listed, the Listing Authority may, if it considers that investors would not be misled, allow the half-yearly report to include estimated figures for profit and loss; in such cases, a statement to the effect that the figures are estimates must be included in the half-yearly report.
- 9.47 The explanatory statement referred to at Listing Rule 9.40 must contain:
- 9.47.1 an explanatory statement including any significant information enabling investors to make an informed assessment of the trend of the Group's activities and profit or loss;
  - 9.47.2 an indication of any special factor which has influenced those activities and the profit or loss during the period in question;
  - 9.47.3 enough information to enable a comparison to be made with the corresponding period of the preceding Financial Year; and
  - 9.47.4 so far as possible, a reference to the Group's prospects in the current Financial Year.

9.48 Without prejudice to anything contained in this Listing Rule the Listing Authority may authorise the omission from the half-yearly report of certain information provided for in these Listing Rules if it decides that disclosure of such information would be contrary to the public interest or seriously detrimental to the Issuer, provided that, in the latter case, such omission would not be likely to mislead the public with regard to facts and circumstances, knowledge of which is essential for the assessment of the Securities in question. The Issuer shall be responsible for the correctness and relevance of the facts on which any application for such exemption is based.

9.49 The Listing Authority may authorise the omission from a half-yearly report of any information in addition to the items of information referred to in Listing Rule 9.48 and from the preliminary statement of annual results of any information, either on the grounds referred to above or if it considers such omission otherwise necessary or appropriate.

9.50 The half-yearly financial report shall be published as soon as possible after the end of the relevant period, but at the latest two months thereafter. The Issuer shall ensure that the half-yearly financial report remains available to the public for at least five years.

*Interim Directors statements*

9.51 Without prejudice to the provisions of the Prevention of Financial Markets Abuse Act, an Issuer whose shares are admitted to trading on a Regulated Market shall make public a statement by its Directors during the first six-month period of the Financial Year and another statement by its Directors during the second six-month period of the financial year.

Provided that the requirement to make public the interim directors' statement shall apply to those statements relating to financial periods commencing on or after 1 January 2007.

9.52 Such statement shall be made in a period between ten weeks after the beginning and six weeks before the end of the relevant six-month period.

9.53 The interim Directors' statement shall contain information covering the period between the beginning of the relevant six-month period and the date of publication of the statement and shall provide:

9.53.1 an explanation of material events and transactions that have taken place during the relevant period and their impact on the financial position of the Issuer and its Controlled Undertakings, and

9.53.2 a general description of the financial position and performance of the Issuer and its Controlled Undertakings during the relevant period.

*Exemptions*

9.54 The obligation to draw up and make available to the public the annual financial report, the half-yearly financial report and the interim Directors' statement shall not apply to:

9.54.1 a State, a regional or local authority of a State, a public international body of which at least one Member State is a member, the European Central Bank and Central Banks of EU or Member States whether or not they issue shares or other securities; and

9.54.2 an Issuer exclusively of Debt Securities admitted to trading on a regulated market, the denomination per unit of which is at least Lm

21,465 or, in the case of Debt Securities denominated in a currency other than Lm, the value of such denomination per unit is, at the date of the issuer, equivalent to at least Lm 21,465.

9.55 The obligation to draw up and make available to the public the half-yearly financial report shall not apply to;

9.55.1 Credit Institutions whose shares are not admitted to trading on a Regulated Market and which have, in a continuous or repeated manner, only issued Debt Securities provided that the total nominal amount of all such Debt Securities remains below Lm 42,930,000 and that they have not published a Prospectus in terms of the Prospectus Directive;

9.55.2 Issuers already existing at the date of the entry into force of the Prospectus Directive which exclusively issue Debt Securities unconditionally and irrevocably guaranteed by the Home Member State or by one of its regional or local authorities, on a regulated market.

*Uses of Languages*

9.56 Listing Rules 8.134 to 8.141 shall be applicable to the information in Chapter 9.

*Change of Accounting Reference Date*

9.57 If an Issuer which has Securities authorised as Admissible to Listing changes its accounting reference date it must notify the Listing Authority without delay of the new accounting reference date. If the effect of the change in the accounting reference date is to extend the accounting period to more than fourteen (14) months, the Issuer must prepare and publish a second interim report in accordance with the provisions of 9.42 to 9.49 in respect of either the period up to the old accounting reference date or the period up to a date not more than six (6) months prior to the new accounting reference date.

CHAPTER 10  
Documents Not Requiring Prior Authorisation

This chapter explains rules covering documents which do not require prior authorisation.

*General*

- 10.1 Any of the following documents (and any subsequent amendments thereto) complying with the requirements of this Chapter may be lodged with the Listing Authority in accordance with Listing Rule 10.2 without the prior authorisation of the Listing Authority:
- 10.1.1 employee share schemes and long-term incentive schemes;
  - 10.1.2 discounted option arrangements;
  - 10.1.3 proxy forms; and
  - 10.1.4 a Circular relating only to 10.1.1 or 10.1.2 above.
- 10.2 In addition to any other requirements in the Listing Rules to lodge documents with the Listing Authority, three (3) copies of any document referred to in Listing Rule 10.1 must be lodged with the Listing Authority, no later than:
- 10.2.1 the date of despatch of the notice convening the meeting to decide on the document or amendment to it;
  - 10.2.2 where there is no such meeting, the date of despatch of the document to the holders of the relevant Securities; or
  - 10.2.3 where there is no such meeting and no such despatch, the effective date of the document or amendment to it.
- 10.3 Where a document does not comply with the requirements of this Chapter or has unusual features the Listing Authority must be consulted at an early stage. The Listing Authority may:
- 10.3.1 permit variations from the requirements; or
  - 10.3.2 require the Issuer to submit the document for prior authorisation.
- 10.4 Where an existing document which has been authorised by the Listing Authority does not comply with the requirements of this Chapter, or where the Listing Authority is of the opinion that any such document has unusual features the Issuer will not be required to make immediate alterations to the document in order to ensure compliance. However, if changes are made to the document for some other reason, the Issuer must take that opportunity to make such changes as may be necessary to ensure compliance. In cases of doubt the Issuer must consult the Listing Authority.

*Employee Share Schemes and long-term incentive schemes*

- 10.5 Subject to Listing Rule 10.6, the following schemes of a Listed Company incorporated in Malta (and of any of its Subsidiary Undertakings even where that Subsidiary Undertaking is incorporated or operates overseas) must be approved by an ordinary resolution of the shareholders of the Listed Company in general meeting prior to their adoption:
- 10.5.1 an employee share scheme if the scheme involves or may involve the issue of new Shares; and
  - 10.5.2 subject to the provisions of Listing Rule 10.6, a long-term incentive scheme in which one or more Directors of the Issuer is eligible to participate.
- 10.6 The requirements of Listing Rule 10.5, and of Listing Rules 10.7 to 10.11 do not apply to the following long-term incentive schemes:

- 10.6.1 an arrangement under which participation is offered on similar terms to all or substantially all employees of the Issuer or any of its Subsidiary Undertakings whose employees are eligible to participate in the arrangement (provided that all or substantially all employees are not Directors of the Issuer); and
- 10.6.2 an arrangement in which the only participant is a Director (or proposed Director) of the Issuer and the arrangement is established specifically to facilitate, in unusual circumstances, the recruitment or retention of the relevant individual. In these circumstances the following information must be disclosed in the first annual report published by the Issuer following the date on which the relevant individual becomes eligible to participate in the arrangement:
  - 10.6.2.1 all of the information prescribed in Listing Rules 10.7.1 to 10.7.4;
  - 10.6.2.2 the name of the sole participant;
  - 10.6.2.3 the date on which the participant first became eligible to participate in the arrangement;
  - 10.6.2.4 explanation of why the circumstances in which the arrangement was established were unusual;
  - 10.6.2.5 the conditions to be satisfied under the terms of the arrangement; and
  - 10.6.2.6 the maximum award(s) under the terms of the arrangement or, if there is no maximum, the basis on which awards will be determined.
- 10.7 A Circular to shareholders in connection with the authorisation (as required by Listing Rule 10.5) of an employee share scheme or a long-term incentive scheme must:
  - 10.7.1 include either the full text of the scheme or a description of its principal terms, including provisions relating to:
    - 10.7.1.1 the persons to whom, or for whom, Securities, cash or other benefits are provided under the scheme (“the participants”);
    - 10.7.1.2 the total amount of Securities subject to the scheme together with the percentage of issued Share capital of the Issuer that it represents at the time;
    - 10.7.1.3 the fixed maximum entitlement for any one participant;
    - 10.7.1.4 the amount, if any, payable on application or acceptance and the basis for determining the subscription or option price;
    - 10.7.1.5 the period in or after which payments or calls may be paid or called; and
    - 10.7.1.6 the voting, dividend, transfer and other rights, including those arising on a liquidation of the Issuer, attaching to the Securities and to any options, if appropriate. These rights must be drawn to the attention of participants on their joining the scheme;

- 10.7.2 include, where Directors of the Issuer are trustees of the scheme, or have a direct or indirect interest in the trustees, details of such trusteeship or interest;
- 10.7.3 state that the provisions (if any) relating to:
  - 10.7.3.1 limitations on the number or amount of the Securities, cash or other benefits subject to the scheme;
  - 10.7.3.2 the matters referred to in Listing Rule 10.7.1 above;
  - 10.7.3.3 the basis for determining a participant's entitlement to, and the terms of, Securities, cash or other benefits to be provided and for the adjustment thereof (if any) in the event of a capitalisation issue, rights issue or open offer, sub-division or consolidation of Shares or reduction of capital or any other variation of capital (and for the avoidance of doubt, the issue of Securities as consideration for an acquisition will not be regarded as a circumstance requiring adjustment in accordance with the provisions of this Listing Rule)

cannot be altered to the advantage of participants without the prior authorisation of shareholders in general meeting (except for minor amendments to benefit the administration of the scheme, to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for participants in the scheme or for the Company operating the scheme or for members of its Group);
- 10.7.4 state whether benefits under the scheme will be pensionable and, if so, the reasons for this;
- 10.7.5 if the scheme is not circulated to shareholders, include a statement that it will be available for inspection:
  - 10.7.5.1 from the date of the dispatch of the Circular until the close of the relevant general meetings, or, if later for at least fourteen (14) days at the registered or head office of the Issuer or such other place as the Listing Authority may determine ; and
  - 10.7.5.2 at the place of the general meeting for at least fifteen (15) minutes prior to and during the meeting; and
- 10.7.6 comply with the relevant requirements of Listing Rule 11.1 (contents of all Circulars).
- 10.8 The Issuer must comply with the limitations on its altering the scheme as outlined in Listing Rule 10.7.3.1. Any adjustments made in accordance with the above Listing Rule, other than those made on a capitalisation issue, must be confirmed to the Directors in writing by the Issuer's Auditors to be in their opinion fair and reasonable.
- 10.9 The Issuer must comply with the provisions of Listing Rule 10.7.5 in relation to circulation of the scheme to Shareholders.
- 10.10 The resolution contained in the notice of meeting accompanying the Circular must approve a specific scheme and must refer either to the scheme itself (if circulated to shareholders) or to the summary of its principal terms included in the Circular.

- 10.11 A resolution approving the adoption of an employee share scheme or long-term incentive scheme under Listing Rule 10.5 may authorise the Directors to establish further schemes based on any scheme which has previously been approved by shareholders but modified to take account of local tax, exchange control or securities laws in overseas territories, provided that any Shares made available under such further schemes are treated as counting against any limits on individual or overall participation in the main scheme.
- 10.12 A Circular to shareholders in connection with any proposed amendments to an employee share scheme or a long-term incentive scheme (if the scheme would require Shareholder approval in terms of Listing Rule 10.5) must:
- 10.12.1 include an explanation of the effect of the proposed amendments;
  - 10.12.2 include the full terms of the proposed amendments, or a statement that the full text of the scheme as amended will be available for inspection as required in Listing Rule 10.7.5; and
  - 10.12.3 comply with the relevant requirements of Listing Rule 11.1 (contents of all Circulars).

*Discounted Option Arrangements*

- 10.13 Subject to the provisions of Listing Rule 10.14, a Listed Company may not, without the prior approval by an ordinary resolution of the shareholders of the Listed Company in general meeting, grant to a Director or employee of the Issuer or of any Subsidiary Undertaking of the Issuer an option to subscribe, warrant to subscribe or other similar right to subscribe for Shares in the capital of the Issuer or any of its Subsidiary Undertakings, if the price per Share payable on the exercise of such an option, warrant or other similar right to subscribe is less than whichever of the following is used to calculate the exercise price:
- 10.13.1 the market value of the Share on the date when the exercise price is determined;
  - 10.13.2 the market value of the Share on the Business Day before such date; or
  - 10.13.3 the average of the market values for a number of dealing days within a period not exceeding thirty (30) days immediately preceding such date.
- 10.14 The provisions of Listing Rule 10.13 do not apply to the grant of an option to subscribe, warrant to subscribe or other similar right to subscribe for Shares in the capital of the Issuer or any of its Subsidiary Undertakings:
- 10.14.1 under an employee share scheme pursuant to the terms of which participation is offered on similar terms to all or substantially all employees of the Issuer or any of its Subsidiary Undertakings whose employees are entitled to participate in the scheme; or
  - 10.14.2 following a take-over or reconstruction, in replacement for and on comparable terms with options to subscribe, warrants to subscribe or other similar rights to subscribe held immediately prior to the take-over or reconstruction in respect of Shares in either a Company of which the Issuer thereby obtains control or in any of that Company's Subsidiary Undertakings.
- 10.15 Where shareholders' approval is required by Listing Rule 10.13, the following information must be circulated to shareholders:

- 10.15.1 details of the persons to whom the options, warrants or rights are to be granted;
- 10.15.2 a summary of the principal terms of the options, warrants or rights; and
- 10.15.3 details of the relevant requirements of Listing Rule 11.1 (contents of all Circulars).

*Proxy Forms*

- 10.16 A proxy form must:
  - 10.16.1 be sent with the notice convening a meeting of holders of Securities authorised as Admissible to Listing to each person entitled to vote at the meeting;
  - 10.16.2 provide for two-way voting on all resolutions intended to be proposed (except that it is not necessary to provide proxy forms with two-way voting on procedural resolutions);
  - 10.16.3 state that a shareholder is entitled to appoint a proxy of his own choice and provide a space for insertion of the name of such proxy; and
  - 10.16.4 state that if it is returned without an indication as to how the proxy shall vote on any particular matter, the proxy will exercise his discretion as to whether, and if so how, he votes.
- 10.17 Where the resolutions to be proposed include the re-election of retiring Directors, the proxy form:
  - 10.17.1 must allow shareholders to vote for individual candidates irrespective whether they are new candidates or retiring incumbents of the post; and
  - 10.17.2 may give shareholders the opportunity to vote for the re-election of the retiring Directors as a whole.

## CHAPTER 11

### Circulars

This chapter lists rules regarding Circulars and their issue.

*Contents of all Circulars*

- 11.1 Any Circular sent by an Issuer to holders of its Securities authorised as Admissible to Listing must:
- 11.1.1 provide a clear and adequate explanation of its subject matter;
  - 11.1.2 if voting or other action is required, contain all information necessary to allow the holders of the Securities to make a properly informed decision;
  - 11.1.3 if voting or other action is required, contain a heading drawing attention to the importance of the document and advising holders of Securities who are in any doubt as to what action to take to consult appropriate independent advisers;
  - 11.1.4 where voting is required, contain a recommendation from the Directors of the Issuer as to the voting action shareholders should take, indicating whether or not the proposal described in the Circular is, in the opinion of the Directors of the Issuer, in the best interests of the shareholders as a whole;
  - 11.1.5 state that where any or all of the Securities have been sold or transferred by the addressee, the Circular and any other relevant documents should be passed to the person through whom the sale or transfer was effected for transmission to the purchaser or transferee;
  - 11.1.6 not include any reference to a specific date on which Securities will be marked “ex” any benefit or entitlement which has not been agreed in advance with the Recognised Investment Exchange on which the Issuer’s Securities are or are to be Admitted to Listing;
  - 11.1.7 where it relates to a transaction in connection with which Securities are proposed to be Admitted to Listing, include a statement that application has been or will be made for the Securities to be Admitted to Listing and, if known, a statement of the following matters:
    - 11.1.7.1 the dates on which the Securities are expected to be Admitted to Listing and on which dealings are expected to commence on any Recognised Investment Exchange;
    - 11.1.7.2 how the new Securities rank for dividend or interest;
    - 11.1.7.3 whether the new Securities rank *pari passu* with any existing Securities Admitted to Listing;
    - 11.1.7.4 the nature of the document of title;
    - 11.1.7.5 the proposed date of issue;
    - 11.1.7.6 the treatment of any fractions;
    - 11.1.7.7 whether or not the Security may be held in uncertificated form; and
    - 11.1.7.8 the names of the Recognised Investment Exchanges on which Securities are or are to be Admitted to Listing; and
  - 11.1.8 where a person is named in the Circular as having advised the Issuer or its Directors, a statement that such adviser has given and has not withdrawn its written consent to the inclusion of the reference to the adviser’s name in the form and context in which it is included.

*Formal Authorisation of Circulars*

- 11.2 No Circular, save for those described in Listing Rule 11.5, may be circulated or made available publicly until it has received the formal authorisation of the Listing Authority in final form. Such authorisation will not be given until the following documents, or such of them as are applicable, have been lodged with the Listing Authority in final form:
- 11.2.1 the letter from the Sponsor referred to in Listing Rule 2.15 (working capital statement);
  - 11.2.2 in the case of a Circular required pursuant to Listing Rule 8.95 and 8.96 or a Related Party Circular,
  - 11.2.3 the statement of adjustments referred to in Listing Rule 9.7;
  - 11.2.4 the Sponsor's confirmation of independence (see Listing Rule 2.7.2);
  - 11.2.5 any other document required by the Listing Rules, of which the Listing Authority has informed the Issuer or its Sponsor in advance.
- 11.3 To obtain the authorisation of the Listing Authority, three (3) copies of the following documents (where applicable) must be submitted at least ten (10) Business Days prior to the intended publication date of the relevant Circular:
- 11.3.1 the Circular;
  - 11.3.2 the statements, letters and documents referred to in Listing Rule 11.2.1 to 11.2.3.

Where a Circular submitted for authorisation is amended, three (3) copies of amended drafts must be resubmitted, appropriately annotated, to show all the amendments so made. Authorisation will only be given during Normal Business Hours.

*Lodging of Circulars*

- 11.4 Three (3) copies of any Circular in its final form (whether or not it is required to be submitted to the Listing Authority for authorisation) must be lodged with the Listing Authority at the same time as it is despatched to shareholders.

*Circulars not Requiring Authorisation*

- 11.5 A Circular need not be submitted to the Listing Authority for authorisation before publication provided that:
- 11.5.1 it complies with the requirements of Listing Rule 11.1;
  - 11.5.2 it is of a type referred to in Listing Rules 11.7 to 11.26 and complies with the specific requirements for a Circular of that type or it is a Circular only relating to a proposed change of name;
  - 11.5.3 neither it, nor the transaction or matter to which it relates, has unusual features; and

or, in any other case, where the Listing Authority agrees that such Circular need not be so authorised.

- 11.6 Where the Circular, or the transaction or matter to which it relates, has unusual features the Listing Authority must be consulted at an early stage. If there is doubt about whether something is unusual, reference should be made to the Listing Authority.

*Authority to Allot Securities*

- 11.7 A Circular in connection with a resolution proposing to grant the Directors of the Issuer authority to allot relevant Equity Securities in accordance with Article 85(2) of the CA must include:
- 11.7.1 a statement of the maximum amount of relevant Securities which the Directors will have authority to allot and the percentage which that amount represents of the total ordinary share capital in issue as at a date not more than one (1) month prior to the date of the Circular;
  - 11.7.2 a statement by the Directors as to whether they have any present intention of exercising the authority, and if so for what purpose; and
  - 11.7.3 a statement as to when the authority will lapse.
- Increase in Issuer's Authorised Share Capital*
- 11.8 A Circular in connection with a resolution proposing to increase the Issuer's authorised share capital must include:
- 11.8.1 a statement of the proposed percentage increase in the authorised share capital of the relevant Class; and
  - 11.8.2 a statement of the reason for the increase.
- Capitalisation or Bonus Issues*
- 11.9 A Circular in connection with a resolution proposing a capitalisation or bonus issue must include:
- 11.9.1 the reason for the issue;
  - 11.9.2 a statement of the last date on which transfers were or will be accepted for registration to participate in the issue;
  - 11.9.3 details of the pro rata entitlement;
  - 11.9.4 a description of the nature and amount of reserves which are to be capitalised; and
  - 11.9.5 the proposed date of issue;
- 11.10 Any timetable set out in the Circular must be approved before publication by the Recognised Investment Exchange on which the Issuer's Securities are or are to be Admitted to Listing.
- Scrip Dividends*
- 11.11 A Circular containing an offer to shareholders of the right to elect to receive Shares in lieu of all or part of a cash dividend must include:
- 11.11.1 a statement of the total number of Shares that would be issued if all eligible shareholders were to elect to receive Shares in respect of their entire shareholdings, and the percentage which that number represents of the Equity Shares in issue at the date of the Circular;
  - 11.11.2 in a prominent position, details of the equivalent cash dividend forgone to obtain each Share or the basis of the calculation of the number of Shares to be offered in lieu of cash;
  - 11.11.3 a statement of the total cash dividend payable and applicable tax credit on the basis that no elections for the scrip dividend alternative are received;
  - 11.11.4 a statement of the date for ascertaining the Share price used as a basis for calculating the allocation of Shares;

- 11.11.5 details of the pro rata entitlement;
  - 11.11.6 details of what is to happen to fractional entitlements;
  - 11.11.7 the record date; and
  - 11.11.8 a form of election relating to the scrip dividend alternative which:
    - 11.11.8.1 is worded so as to ensure that shareholders must elect positively in order to receive Shares in lieu of cash; and
    - 11.11.8.2 includes a statement that the right is non-transferable.
  - 11.12 Any timetable set out in the Circular must be approved before publication by the Recognised Investment Exchange on which the Issuer's Securities are or are to be Admitted to Listing.
  - 11.13 Three (3) copies of the form of election and the document of title to be issued in connection with the scrip dividend alternative in final form must be lodged with the Listing Authority at the same time as the Circular is lodged (see Listing Rule 11.4). A document of title need not be lodged with the form of election if it is in identical form to a document of title already issued by the Issuer.
  - 11.14 Any proposal whereby shareholders are entitled to complete a mandate in order to receive Shares in lieu of future cash dividends must include, in addition to the requirements set out in Listing Rules 11.11.4 and 11.11.6:
    - 11.14.1 the basis of the calculation of the number of Shares to be offered in lieu of cash;
    - 11.14.2 a statement of the last date for lodging notice of participation or cancellation in order for that instruction to be valid for the next dividend;
    - 11.14.3 details of when adjustment to the number of Shares subject to the mandate will take place;
    - 11.14.4 details of when cancellation of a mandate instruction will take place;
    - 11.14.5 a statement of whether or not the mandate instruction must be in respect of a shareholder's entire holding;
    - 11.14.6 the procedure for notifying shareholders of the details of each scrip dividend; and
    - 11.14.7 a statement of the circumstances, if known, under which the Directors may decide not to offer a scrip alternative in respect of any dividend.
  - 11.15 The timetable for each scrip alternative covered by a scrip dividend mandate scheme must be approved by the Recognised Investment Exchange on which the Issuer's Securities are Admitted to listing or trading.
- Acquisition by Issuer of its own Shares*
- 11.16 A Circular in connection with a resolution proposing to give the Issuer authority to purchase its own Securities must comply with the provisions of Article 106 to 109 of the Companies Act and, if relevant, with the requirements of Chapter 12.
- Miscellaneous*
- 11.17 Whenever holders of Securities authorised as Admissible to Listing are sent a notice of meeting which includes any business, other than Ordinary Business at an annual general meeting, an explanatory Circular must accompany the notice.

If such other business is to be considered at or on the same day as an annual general meeting, the explanation may be incorporated in the Directors' report.

- 11.18 A Circular or other document convening an annual general meeting at which only Ordinary Business is to be conducted and, if applicable, any other matter covered by this Chapter is to be considered or proposed need not be submitted to the Listing Authority for prior authorisation if, in respect of any such other matter to be considered or proposed, the Circular or other document complies with the relevant provisions of this Chapter.
- 11.19 A Circular or other document convening an annual general meeting need not comply with Listing Rules 11.1.3, 11.1.4 and 11.1.5.
- 11.20 A Circular in connection with a resolution proposing to approve the adoption or amendment of the Memorandum and/or Articles of Association must satisfy the requirements for such Circulars set out in Chapter 8.
- 11.21 A Circular in connection with a resolution proposing to approve the adoption or amendment of employee share schemes, long-term incentive schemes and discounted option arrangements must satisfy the requirements for such Circulars set out in Chapter 10.
- 11.22 A Circular in connection with a resolution proposing to redeem a listed Debt Security prior to its due date for redemption must include:
- 11.22.1 reference to the provisions in the relevant Prospectus allowing the early redemption and an explanation of the reasons for the early redemption;
  - 11.22.2 a statement of the market values for the Securities on the first dealing day in each of the six (6) months before the date of the Circular and on the latest practicable date prior to despatch of the Circular;
  - 11.22.3 a statement of any interests of any Director in the Securities;
  - 11.22.4 if there is a trustee, or other representative, of the holders of the Securities to be redeemed, a statement that the trustee, or other representative, has given its consent to the issue of the Circular or stated that it has no objection to the resolution being put to a meeting of the holders of the Securities;
  - 11.22.5 the timetable for redemption; and
  - 11.22.6 an explanation of the procedure to be followed by the holders of the Securities.
- 11.23 The Circular must not contain specific advice as to whether or not to accept the proposal for redemption.
- 11.24 The timetable for redemption must be approved before publication of the Circular by the Recognised Investment Exchange on which the Issuer's Securities are Admitted to Listing.
- 11.25 A Circular sent to holders of listed convertible Securities reminding them of the times when conversion rights are exercisable must include:
- 11.25.1 the date of the last day for lodgement of conversion forms and of the expected despatch of the certificates;
  - 11.25.2 a statement of the market values for the Securities on the first dealing day in each of the six (6) months before the date of the Circular and on the latest practicable date prior to despatch of the Circular;

- 11.25.3 the basis of conversion in the form of a table setting out capital and income comparisons;
  - 11.25.4 a brief explanation of the tax implications of conversion for holders resident for tax purposes in Malta;
  - 11.25.5 reference to future opportunities to convert and whether the terms of conversion will be the same as or will differ from those available at present, or, if there are no such opportunities, disclosure of that fact;
  - 11.25.6 reference to letters of indemnity, for example, where certificates have been lost;
  - 11.25.7 where power exists to allot Shares issued on conversion to another person, reference to forms of nomination; and
  - 11.25.8 a statement as to whether holders exercising their rights of conversion will retain the next interest payment due on the Securities.
- 11.26 The Circular must not contain specific advice as to whether or not to convert the Securities.

## CHAPTER 12

### Purchase of own Securities

This chapter explains the procedures for the purchase of an issuers own securities.

*Introduction*

- 12.1 An Issuer being a Listed Company shall not acquire or sell its own Securities unless the acquisition or sale:
- 12.1.1 is effected by offers made by the Issuer on a Recognised Investment Exchange; and
  - 12.1.2 is effected in compliance with Articles 106 to 109 of the CA.
  - 12.1.3 The acquisition of Equity Securities by a Company must be made in good faith and in the best interests of the Company.
- 12.2 “Sale” for the purposes of this Chapter 12 shall not include a fresh allotment of Securities by an Issuer but only a resale of existing Securities by an Issuer.

*Notification to the Listing Authority*

- 12.3 Any resolution by the Directors of an Issuer to submit to the general meeting of the Issuer a proposal for the authorisation to acquire its own Equity Securities must be notified to the Listing Authority within fourteen (14) days of the date of such resolution. Where the general meeting of an Issuer authorises the acquisition by that Issuer of its own Equity Securities, the Issuer must also inform the Listing Authority, within fourteen (14) days of the date of such authorisation, whether it intends to cancel or hold the relevant Securities.
- 12.4 The provisions of listing Rule 12.3 shall not apply where a Directors’ resolution has for its object the renewal of an existing authority for the Issuer to acquire its own shares.

*Issuer acquiring its own Equity Securities*

- 12.5 An Issuer seeking shareholders’ authority to acquire its own Equity Securities must issue a Circular including the following information:
- 12.5.1 a statement of the Directors’ intentions regarding utilisation of the authority sought;
  - 12.5.2 the method by which an Issuer intends to finance the acquisition and the number of Equity Securities to be acquired in that way;
  - 12.5.3 duration and timing of the proposed acquisition;
  - 12.5.4 details regarding the maximum and minimum price to be paid,
  - 12.5.5 the Issuer’s intentions subsequent to acquisition namely whether the Issuer intends to cancel the Securities or hold them for re-sale.
  - 12.5.6 a statement showing the impact of the acquisition on the financial position of the Issuer, based on the assumption that the authority sought will be used in full at the maximum price allowed and this assumption must be stated.
- 12.6 The information indicated in Listing Rule 12.5 must also be notified to the Listing Authority and relevant Recognised Investment Exchange.
- 12.7 An Issuer intending to acquire its own Securities shall give prior written notice to the Listing Authority, being at least twenty-four (24) hours prior to the date on which the trade is to be effected. This notice shall specify:
- 12.7.1 the period within which the Issuer will acquire the Securities;
  - 12.7.2 the Class and maximum number of Securities to be acquired during that period; and

- 12.7.3 the maximum price at which the Securities may be acquired by the Issuer.
- Securities acquired for resale by the Issuer*
- 12.8 The resale by an Issuer of its own Securities must be subject to shareholder approval to sell those Securities.
- 12.9 A Circular seeking Shareholders' authority for an Issuer to sell Securities must include the following information:
- 12.9.1 details regarding the price of the maximum and minimum price at which the Securities are to be sold;
- 12.9.2 the number of Securities which the Issuer intends to sell; and
- 12.9.3 the duration and timing of the sale.
- 12.10 Securities held by the Issuer will not be eligible to receive dividends.
- 12.11 An Issuer intending to sell its own Securities shall give prior written notice to the Listing Authority, being at least twenty-four (24) hours prior to the date on which the trade is to be effected. This notice shall specify:
- 12.11.1 the period within which the Issuer will sell the Securities;
- 12.11.2 the Class and maximum number of Securities to be sold during that period; and
- 12.11.3 the minimum price at which the Securities will be sold by the Issuer.
- 12.12 Where an Issuer's holding in its own Equity Securities exceeds or falls below the thresholds of 5% or 10% of the voting rights, the Issuer shall make a Company Announcement in terms of Listing Rule 8.7.10.
- 12.13 The proportion of such holding shall be calculated on the basis of the total number of Equity Securities to which voting rights are attached.
- Conditions*
- 12.14 An Issuer shall not acquire and sell, or give notice to acquire and sell, any of its own Securities at the same time.
- 12.15 An Issuer may only acquire and sell its own Securities at a price within such parameters as may have been approved by the shareholders.
- 12.16 An Issuer may at any time, by notice to the Listing Authority, cancel or vary any notice given in accordance with the provisions of Listing Rule 12.11.
- 12.17 Where an Issuer acquires or sells its own Securities, it shall forthwith give to the Listing Authority details of the sale or acquisition including:
- 12.17.1 Class of Securities and their progressive numbering, where applicable;
- 12.17.2 the number of Securities acquired or sold;
- 12.17.3 the nominal value and acquisition or selling price of the Securities;
- 12.17.4 the form of payment;
- 12.17.5 the percentage of the total Class of Securities acquired or sold.
- 12.18 Details of the acquisition or sale by an Issuer of its own Securities shall be given to the Listing Authority not later than 9.00a.m. of the next Business Day after the acquisition or sale takes place. A weekly report of any repurchases must be made to the market by means of a Company Announcement.

*Prohibitions on Dealing*

- 12.19 Dealings by an Issuer in its own Securities must not be made at a time when a Director of the Issuer would be prohibited from dealing in its Securities, whether in terms of these Listing Rules or otherwise.

*Obligations*

- 12.20 Any deals executed on the market by an Issuer in its own Securities can only be effected through a single broker. The Issuer is required to inform the Listing Authority of the broker it intends to use for such deals prior to their execution. Any change in broker must immediately be notified to the Listing Authority.

*Exceptions*

- 12.21 The requirements of this Chapter do not apply to transactions entered into:
- 12.21.1 in the ordinary course of business by an Issuer dealing in Securities;  
or
  - 12.21.2 on behalf of third parties by the Issuer or any other member of its Group.

CHAPTER 13  
Overseas Companies

This chapter lists rules for Overseas Companies.

*Admissibility requirements for Oversea Companies*

*General*

- 13.1 Unless modified as hereinafter provided, the listing requirements under these Listing Rules shall equally apply to Oversea Companies seeking authorisation for Admissibility to Listing. Certain of these modifications apply to all Oversea Companies, while others depend on whether the Oversea Company is seeking or has a Primary or Secondary Listing. The Primary Listing will normally be in the country of incorporation or the country of first listing or the country in which a majority of the Oversea Company's Securities are held.
- 13.2 This Chapter also describes the circumstances under which a document authorised by the competent authority of a Recognised Jurisdiction will be recognised as Prospectus by the Listing Authority ("mutual recognition").

*Modifications applying to all Oversea Companies*

*Conditions for Authorisation for Admissibility to Listing*

- 13.3 Shares of an Oversea Company incorporated in a non-Recognised Jurisdiction which are not Admitted to Listing either in its country of incorporation or in the country in which a majority of its Shares are held, will only be authorised as Admissible to Listing if the Listing Authority is satisfied that the absence of such a listing in its country of incorporation or in the country in which a majority of its Shares are held is not due to the need to protect investors.
- 13.4 Any application for authorisation for Admissibility to listing submitted to the Listing Authority by an Oversea Company shall clearly indicate whether authorisation for a Primary Listing or for a Secondary Listing is being sought in Malta.
- 13.5 An Oversea Company which is subject to public reporting and filing obligations in its country of incorporation or in its country of Primary Listing if different, may, subject to the Listing Authority's consent, incorporate in the Prospectus relevant documents published in accordance with those obligations. These documents must be in the Maltese or the English language or accompanied by a translation into either of these languages.
- 13.6 The Listing Authority may authorise the omission of certain information otherwise required to be included in the Prospectus. In considering whether to authorise an omission by an Oversea Company of information not required by the CARD Directive, the Listing Authority will, in addition to the factors described in Listing Rule 5.18, have regard to:
- 13.6.1 whether the Issuer is listed on a regulated regularly operating, recognised and open market and conducts its business and makes disclosure according to internationally accepted standards; and
- 13.6.2 the nature and extent of the regulation to which the Issuer is subject in its country of incorporation.

*Audited Annual Accounts*

- 13.7 If the Listing Authority is satisfied that an Oversea Company's Accounts have been prepared and audited to a standard appropriate to protect the interests of investors, different standards from those mentioned in Listing Rule 3.5 or International Standards on Auditing may be accepted in an Auditors' report, in any comparative table of financial information in respect of any Financial Years and in the audited Annual Accounts.

However:

- 13.7.1 consolidation practices must be adopted such as to provide a fair presentation of the results and financial position of the Group as a whole with adequate disclosure of the basis of presentation;
  - 13.7.2 unless otherwise required by law amounts transferred to reserves must be dealt with as appropriations of profits; and
  - 13.7.3 adequate information must be provided in the Accounts as to the basis of asset valuation.
- 13.8 Where an Oversea Company which is not required in terms of the law of its country of incorporation to draw up its Accounts so as to give a true and fair view and such Accounts have not been prepared in accordance with Listing Rules 3.5 and 3.7, the Oversea Company or its advisers must consult the Listing Authority at an early stage to discuss possible derogations from these requirements and to establish whether the standard to which its Accounts are drawn up will be sufficient.
- 13.9 In the case of Oversea Companies operating in the fields of banking and insurance, the wording of any Auditors' report must make it clear whether or not profits have been stated before transfers to or from undisclosed reserves.

*Half-yearly Reports*

- 13.10 If an Oversea Company incorporated in a non-Recognised Jurisdiction publishes a half-yearly report in its country of incorporation, the Listing Authority may authorise it to publish that report (if necessary translated into Maltese or English) instead of the half-yearly report required by Listing Rules 9.42 to 9.49, provided:-
- 13.10.1 that the information given is equivalent to that which would otherwise have been required;
  - 13.10.2 where the half-yearly report required in terms of Listing Rule 9.42 is not prepared on a basis consistent with that of the audited Annual Accounts, such report must include a statement that in the opinion of the Issuer's Directors, the report enables investors to make an informed assessment of the results and activities of the Issuer and its Group, where appropriate for the period.

*Pre-emption Rights*

- 13.11 An Oversea Company is not required to comply with Listing Rule 4.31 in the case where the safeguarding of pre-emption rights would be inconsistent with the law of the country of the Oversea Company's incorporation. Proof of such inconsistency must result from the submission of a written legal opinion, provided by an independent legal adviser holding a warrant or equivalent authority to practice as an advocate or lawyer in the country of the Oversea Company's incorporation.

*Language*

- 13.12 When an Oversea Company issues any information in any Circular, report or other document required by these Listing Rules to be sent to shareholders, it must issue a version in Maltese or in English. Information notified to the Listing Authority must be in either the Maltese or the English language.

*Paying Agent and Registrar*

- 13.13 Unless an Oversea Company provides financial services and itself performs the functions of a Paying Agent and registrar in Malta, it must:
- 13.13.1 appoint a Paying Agent in Malta; and

13.13.2 unless the Listing Authority otherwise agrees, where either there are two hundred (200) or more registered holders resident in Malta or ten percent (10%) or more of the Securities are held by persons resident in Malta, appoint a registrar in Malta.

*Memoranda and Articles of Association or other equivalent Deed of Incorporation*

13.14 Unless exempted by the Listing Authority, the requirements of Listing Rule 8.88 shall apply to Oversea Companies.

*Dispatch of Documents*

13.15 An Oversea Company shall use airmail or other equivalent service that is not slower, when sending documents to the Listing Authority or to holders of its Securities resident in countries outside the country of the Issuer's incorporation.

*Oversea Companies having or seeking authorisation for Admissibility for a Primary Listing from the Listing Authority*

*Directors*

13.16 The information about Directors required by Listing Rules 8.16 to 8.19 may be adjusted to take into account the laws to which the Oversea Company is subject.

*Application of Rules*

13.17 An Oversea Company having, or seeking, authorisation from the Listing Authority for the Admissibility of its Securities for a Primary Listing in Malta shall comply with all the listing requirements relevant to Issuers as modified by Listing Rules 13.3 to 13.16 of this Chapter applicable to Issuers provided that:

13.17.1 the information available to it enables it to do so and compliance is not contrary to the law in its country of incorporation;

13.17.2 it need not comply with Listing Rule 9.40.19 and Listing Rule 8.38.

In the latter case, an Oversea Company must produce a written legal opinion provided by an independent legal adviser holding a warrant or equivalent authority to practice as an advocate or lawyer in the country of the Oversea Company's incorporation, explaining why compliance with the said requirements would be contrary to that law.

*Interests in Shares*

13.18 An Oversea Company must notify to the Listing Authority without delay information equivalent to that required under Listing Rule 8.7.8 (notifications of shareholdings) and Listing Rule 8.42 to 8.44 (notification of interests of Directors) whenever it becomes aware of such information.

*Oversea Companies having or seeking authorisation for Admissibility for a Secondary Listing from the Listing Authority*

*General*

13.19 An Oversea Company having or seeking authorisation from the Listing Authority for the Admissibility of its Securities to a Secondary Listing in Malta must comply with all Listing Rules relevant to Issuers as modified by Listing Rules 13.3 to 13.11 and Listing Rules 13.18 to 13.22 unless the Listing Authority otherwise agrees, save that it need not comply with Listing Rule 3.22 (Settlement), Chapter 8 and Listing Rules 9.35 to 9.49. In case of doubt, the Listing Authority must be consulted at an early stage.

*Working Capital*

- 13.20 The Sponsor of an Oversea Company having, or seeking, authorisation from the Listing Authority for the Admissibility of its Securities to a Secondary Listing in Malta is not required to report to the Listing Authority on the matters described in Listing Rule 2.15.

*Profit Forecast*

- 13.21 Where the laws or regulations in the country where an Oversea Company has its Primary Listing require a statement to be included in the Prospectus as to the future prospects of the Issuer which constitutes an earnings forecast, the Listing Authority will allow its inclusion without the need for it to have been reported on by the Issuer's Sponsor and/or Accountants (see Listing Rule 9.19) if the Issuer confirms in writing to the Listing Authority that the statement has been properly compiled on a basis consistent with the accounting policies normally adopted by that Issuer and has been made after due and careful enquiry.

*Conditions for Authorisation for Admissibility to a Secondary Listing*

- 13.22 Listing Rule 3.23 (Warrants and Options Limits) does not apply to an Oversea Company with, or seeking, a Secondary Listing from the Listing Authority.

- 13.23 An Oversea Company having, or seeking authorisation from the Listing Authority for the Admissibility of its Securities to, a Secondary Listing in Malta must:

- 13.23.1 at all times be in compliance with the requirements of:
- 13.23.1.1 any overseas stock exchange on which it has Securities listed; and
  - 13.23.1.2 any competent authority or equivalent regulatory body which regulates it; and
- 13.23.2 in the case of a New Applicant, submit to the Listing Authority a letter issued by each of the relevant bodies mentioned in 13.23.1 confirming that the said Applicant is in compliance with the relative regulatory requirements of these bodies . Any letter from an overseas Stock Exchange shall also state the number and amount of its Securities so listed.

*Continuing obligations of Oversea Companies having a Secondary Listing in Malta*

*Notification of information*

- 13.24 An Oversea Company must notify the Listing Authority without delay of any major new developments in its sphere of activity which are not public knowledge which may:

- 13.24.1 by virtue of the effect of those developments on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its Securities authorised as Admissible to Listing; or
- 13.24.2 in the case of an Issuer with Debt Securities authorised as Admissible to Listing, by virtue of the effect of those developments on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its Securities, or significantly affect its ability to meet its commitments.

*Exception*

- 13.25 If an Oversea Company considers that disclosure to the public of information required by these Listing Rules to be notified to the Listing Authority might prejudice the Issuer's legitimate interests, the Listing Authority may grant a dispensation from the relevant requirement by written notice to that effect.

*Equivalent Information*

- 13.26 An Oversea Company must ensure that equivalent information is notified to the Listing Authority at the same time as any information is made available to the stock exchange on which the Company has a Primary Listing, or if earlier, to any other stock exchange on which its Securities are listed.

- 13.27 Where an Oversea Company seeks a Secondary Listing in Malta, the Listing Authority reserves the right, at its absolute discretion, to exempt the Oversea Company from any or all the requirements of Chapter 8 of these Listing Rules and to require, instead, a certificate of compliance issued by the overseas exchange/s where the Oversea Company has a Primary Listing confirming that the Oversea Company has been in compliance with all the relevant regulatory requirements of that jurisdiction throughout the period during which it has been listed. Any such exemption must be granted by the Listing Authority in writing.

*Changes in Capital Structure*

- 13.28 The Oversea Company must notify the Listing Authority without delay of the following information relating to its capital:

13.28.1 any proposed change in its capital structure, including the structure of its Debt Securities authorised as Admissible to Listing, save that an Announcement of a new issue may be delayed while an offer or underwriting is in progress;

13.28.2 where the Issuer has Debt Securities authorised as Admissible to Listing, any new issues of Debt Securities and in particular any guarantee or security in respect thereof;

13.28.3 any change in the rights attaching to any Class of Securities (including any change in loan terms or in the rate of interest carried by a Debt Security) or to any Securities into which any authorised as Admissible to Listing are convertible or exchangeable; and

13.28.4 any drawing or redemption of Securities authorised as Admissible to Listing, other than purchases to meet the sinking fund requirements of the current year.

*Acquisitions and Disposals*

- 13.29 An Oversea Company must notify the Listing Authority of the details of acquisitions and disposals of assets as required by the stock exchange on which the Issuer has its Primary Listing or by a competent authority or equivalent regulatory body which regulates it.

*Interests in Shares*

- 13.30 An Oversea Company must notify the Listing Authority:

13.30.1 if it is incorporated in a Recognised Jurisdiction, details of the interests of which the Issuer is aware in the Shares of the Issuer of Directors and major shareholders as communicated to the Issuer pursuant to the law of the Company's country of incorporation and (if different) the requirements of the competent authority of the Recognised Jurisdiction where the Issuer has its Primary Listing;

13.30.2 if it is incorporated in a non-Recognised Jurisdiction, whenever it becomes aware that a person or entity has acquired or disposed of a number of Shares such that that person or entity's holding of the voting rights in the Issuer reaches, exceeds or falls below ten percent (10%), twenty percent (20%), one third (1/3), fifty percent (50%) and two thirds (2/3) of the total voting rights, the following details:

13.30.2.1 the proportion of voting rights held;

13.30.2.2 the identity of the person or entity; and

13.30.2.3 the date on which the Issuer became so aware; and

the notification must be made within nine (9) calendar days of the date on which the Issuer becomes aware of the acquisition or disposal. The voting rights that are to be regarded as held by a person or entity are to be determined in accordance with the CARD Directive.

#### *Equality of Treatment*

13.31 An Oversea Company having Shares authorised as Admissible to Listing must ensure equality of treatment for all holders of such Shares who are in the same position.

13.32 An Oversea Company having Debt Securities authorised as Admissible to Listing must ensure equality of treatment for all holders of such Securities of the same Class in respect of all rights attaching to such Securities. Early repayment of Debt Securities issued by an Oversea Company may be permitted if such repayment is in accordance with the relevant national law of the country where the holders, or any Class of them, are principally situated.

#### *Communication with Shareholders*

##### *Prescribed Information to Shareholders*

13.33 An Oversea Company must ensure that at least in each Recognised Jurisdiction in which its Securities are listed all the necessary facilities and information are available to enable holders of such Securities to exercise their rights. In particular it must:

13.33.1 inform holders of Securities of the holding of meetings which they are entitled to attend;

13.33.2 enable holders of Securities to exercise their right to vote, where applicable; and

13.33.3 publish notices or distribute Circulars giving information on:

13.33.3.1 the allocation and payment of dividends and interest;

13.33.3.2 the issue of new Securities, including arrangements for the allotment, subscription, renunciation, conversion or exchange of the Securities; and

13.33.3.3 redemption or repayment of the Securities.

##### *Circulation of Audited Annual Accounts*

13.34 An Oversea Company that is not required under the law of its country of incorporation to circulate its Annual Accounts to all shareholders, must at least circulate to shareholders resident in Malta, a copy of the said Annual Accounts together with a copy of the Auditors' report.

- 13.35 The Listing Authority may at the request of the issuer, if it considers that disclosure of such information would be contrary to the public interest or seriously detrimental to the Issuer, provided that, in the latter case, such omission would not be likely to mislead the public with regard to facts and circumstances, knowledge of which was essential for the assessment of the Shares in question. The request for omission must be in writing and the Issuer or its representatives will be responsible for the correctness and relevance of the facts on which any request to omit information is based.

*Further Issues*

- 13.36 When further Securities are allotted of the same Class as Securities already authorised as Admissible to listing, application for authorisation for Admissibility to listing in respect of such further Securities must be made either not more than one (1) year after their issue or when they become freely transferable.

*Mutual Recognition of Forms of Securities*

- 13.37 For the authorisation for Admissibility to Listing of Debt and Equity Securities offered by Issuers which are nationals of a Recognised Jurisdiction and which Debt Securities have a physical form, it is necessary and sufficient that their physical form comply with the standards laid down in that Recognised Jurisdiction, and in relation to Debt and Equity Securities offered by Issuers which are nationals of a non-Recognised Jurisdiction, so long as the physical form of Securities issued by such Issuers affords sufficient safeguard for the protection of investors this is sufficient. Where the physical form does not conform to the standards in force in Malta, the Listing Authority shall make that fact known to the public.

CHAPTER 14  
Property Companies

This chapter defines and sets out the Listing Rules for Property Companies.

*General*

- 14.1 A Property Company Applicant or whose Securities are authorised as Admissible to Listing must comply with the Listing Rules contained in this Chapter in addition to all other applicable Listing Rules. Other Issuers which own Property or which carry out certain Property-related transactions must comply with Listing Rules 14.4 to 14.17 where appropriate.

*Classification of Transactions by Property Companies*

- 14.2 Acquisitions and disposals of Property by a Property Company (including any transactions or arrangements the purpose of which is to change, in whole or in part, the beneficial ownership of a Property) are subject to the rules contained in Chapter 8 regarding the classification of transactions save as indicated below:

14.2.1 for the purposes of Listing Rule 8.99 “the assets of the acquiring or disposing company” means the consideration (and Listing Rule 8.98 and 8.99 do not apply);

14.2.2 for an acquisition of land to be developed for the purposes of Listing Rule 8.99 “the assets of the acquiring or disposing company” means the consideration plus any financial commitments relating to the development; and

14.2.3 for the purposes of Listing Rule 8.99 and Listing Rule 8.92.1 the assets of the acquiring or disposing Company are, at the option of the Issuer, either:

14.2.3.1 the aggregate of such Company’s share capital and reserves (excluding minority interests);

14.2.3.2 the book value of such Company’s Properties (excluding those Properties classified as current assets in the latest published Annual Accounts); or

14.2.3.3 the published Valuation of such Properties (excluding those Properties classified as current assets in the latest published Annual Accounts);

14.2.4 for the purposes of Listing Rule 8.92.2, the net profits attributable to the assets acquired or disposed of and the net profits of the acquiring or disposing Issuer means the net annual rental income;

14.2.5 Listing Rule 8.92.3 does not apply, but when any of the consideration for an acquisition is in Shares an alternative test will be applied comparing the Shares to be issued with the number of Shares in issue;

14.2.6 Listing Rule 8.92.4 applies to disposals as well as acquisitions in respect of all Property transactions; and

14.2.7 for an acquisition of a Property or Property portfolio by a Property Company which is a transaction falling within the criteria set out at Listing Rule 8.92, financial information in the form of a comparative table or Accountants’ report will not normally be required (see Listing Rule 14.4.2).

- 14.3 The acquisition or disposal by a Property Company of a Property in the ordinary course of business which, in the case of an acquisition will be classified as a current asset in the Issuer’s published Accounts, or, in the case of a disposal, was so classified in the Issuer’s published Accounts, will not be subject to the rules contained in Chapter 8 relating to specific transactions. The Listing Authority

may deem a transaction not to be in the ordinary course of business because of its size or incidence. Subsequent transfers of Property assets from current to fixed assets or from fixed to current assets in the Accounts of a Property Company may be subject to the rules regarding the classification of transactions and the Listing Authority must be consulted at an early stage.

*Requirement for a Valuation and a Valuation Report*

- 14.4 A valuation must be obtained by:
- 14.4.1 a New Applicant if it is a Property Company;
  - 14.4.2 an Issuer if it makes an acquisition or disposal of Property, or of a Property Company which is not listed;
  - 14.4.3 an Issuer issuing Debt Securities which are to be authorised as Admissible to Listing and which are secured on Property; or
  - 14.4.4 an Issuer which makes significant reference to the valuation of Property in Prospectus or in a Circular.
- 14.5 Where a valuation is required under Listing Rule 14.4, the Prospectus or Circular must include:
- 14.5.1 a valuation report (see Listing Rules 14.7 to 14.16); and
  - 14.5.2 where appropriate, a statement reconciling the valuation figure with the equivalent figure included in the Issuer's latest published Annual Accounts.

*Independence of Valuer*

- 14.6 The valuation must be carried out by a competent and independent Expert unless otherwise authorised by the Listing Authority. The Listing Authority may permit the valuation to be carried out by the Issuer's internal valuer.

*Valuation report*

*Contents of Valuation Report*

- 14.7 The valuation report to be included in the Prospectus or Circular must:
- 14.7.1 contain the following details which should be summarised in respect of each Property:
    - 14.7.1.1 the address;
    - 14.7.1.2 nature of valuer's inspection;
    - 14.7.1.3 a brief description (e.g. land or buildings, approximate site and floor areas);
    - 14.7.1.4 existing use (e.g. shops, offices, factories, residential);
    - 14.7.1.5 relevant planning permissions;
    - 14.7.1.6 any material contravention of statutory requirements;
    - 14.7.1.7 tenure (i.e. freehold, leasehold, emphyteutical grant, etc providing unexpired term);
    - 14.7.1.8 main terms of tenants' leases or sub-leases (including repairing obligations);
    - 14.7.1.9 approximate age of any buildings;
    - 14.7.1.10 present capital value in existing state;

- 14.7.1.11 terms of any intra-group lease on Property occupied by the Group (identifying the Properties) to the extent that such leases are taken into account in the valuation;
  - 14.7.1.12 any other matters which materially affect the value (including any assumptions and information on contamination, if any);
  - 14.7.1.13 sources of information and verification; and
  - 14.7.1.14 details of registered mortgages and privileges and other charges, real rights thereon including details of emphyteutical concessions, easements and other burdens;
- 14.7.2 state the name, address and professional qualifications of the valuer;
  - 14.7.3 be dated and state the effective date of valuation for each Property which, unless otherwise agreed by the Listing Authority, must not be more than sixty (60) days prior to the date of publication of the Prospectus or Circular;
  - 14.7.4 state that the valuation is based on open market value for existing use or, if necessary, depreciated replacement cost subject to adequate profitability;
  - 14.7.5 state any assumptions on which the valuation is based and, where open market value is the basis of valuation, identify any qualifying words to be applied to the definition of open market value and state reasons for the adoption of any such qualification;
  - 14.7.6 divide the valuation between freehold, long leasehold (over 50 years) and short leasehold Properties;
  - 14.7.7 where the Directors have required a valuation of the benefit or detriment of contractual arrangements in respect of Property or where there is thought to be benefit in any options held, show such valuations separately and include a reconciliation of the costs and values;
  - 14.7.8 in those cases where Directors or promoters have had an interest in any acquisitions or disposals (of the type referred to in 14.4.2 above) of any of the Properties during the two (2) years preceding the valuation, contain details of the nature and extent of such interests and the date of the transactions and the prices paid or received or other terms on which the transactions were effected. In such cases, the information required must be provided by the Directors to the valuer for this purpose. Alternatively, the information on interests of Directors or promoters may be given elsewhere in the Prospectus or Circular;
  - 14.7.9 identify any other matter which the valuer considers relevant for the purposes of the valuation; and
  - 14.7.10 be carried out in accordance with standards and guidelines issued by the Royal Institute of Chartered Surveyors (RICS).

*Valuations of Property in course of Development*

- 14.8 Where the valuation is in respect of Property currently being developed the following additional information must be given in the valuation report:

- 14.8.1 whether the relevant planning permits have been obtained, and, if so, the date of the relevant permits and whether there are any material or onerous conditions attached to the issue of such permits;
- 14.8.2 the date when the development is expected to be completed and any estimate of letting or occupation dates;
- 14.8.3 the estimated total cost of completion including, without limitation, the cost of financial carrying charges, letting commissions and other ancillary costs;
- 14.8.4 the open market value of the Property in its existing state at the date of valuation;
- 14.8.5 the estimated capital values at current prices and on the basis of current market conditions:
  - 14.8.5.1 after development has been completed; and
  - 14.8.5.2 after the development has been completed and the Property has been let.

*Progressive Development*

- 14.9 Where Property in the course of development is being developed in phases over a period of time by the erection of a number of buildings, each of which is intended to be sold soon after completion of construction, the requirements of Listing Rules 14.8.3 and 14.8.5 may be satisfied by the provision of information for each phase or for groups of phases. For this purpose, Property in the course of development includes any phase where, at the date of valuation, work is in progress and any other phase where a start is imminent, all appropriate consents have been obtained and a building contract has been entered into. Later phases, where construction at the date of valuation has not yet started, or where all appropriate consents and permits have not been obtained or a building contract has not been entered into, may be treated as Properties held for development (see Listing Rule 14.10).

*Properties held for Development*

- 14.10 Where Property is held for future development the valuation report must contain the following additional information so far as it is known and relevant at the valuation date:
  - 14.10.1 whether or not the relevant planning permits have been applied for, whether such applications have been granted or refused and the date of such grant or refusal;
  - 14.10.2 the nature and a brief description of the proposed development;
  - 14.10.3 an indication of when it is reasonable to expect development to commence;
  - 14.10.4 the expected development period; and
  - 14.10.5 the estimated total costs of the development including, without limitation, the cost of financial carrying charges, letting commissions and other ancillary costs.

*Valuation of Property for Business Use*

- 14.11 A Property which is occupied for the purposes of a business should be valued at existing use value. Where open market value for an alternative use significantly exceeds this basis the alternative use valuation must be stated in the valuation report, together with the Directors' estimate of the costs of cessation and removal

of the business. Where the alternative use value is significantly lower than the existing use value and the existing use value is no longer appropriate, the alternative use valuation must be stated in the valuation report.

*Overseas Property*

- 14.12 If the Issuer owns any overseas Property then this Property must be shown separately in the valuation report and its basis of valuation clearly identified.

*Rentals used in Valuations*

- 14.13 In respect of each Property which is rented out by the Issuer, the Net Annual Rent and the estimated Net Annual Rent (based on its current open market rental value) at a specified future date (where this differs materially) must be included in the valuation report.

*Summary of Valuations*

- 14.14 The valuation report must include a summary of the number of Properties and the aggregate of their valuations must be split to show the separate totals for the freehold and leasehold Properties. Negative values must be shown separately and not aggregated with the other valuations. Separate totals must be given for:

- 14.14.1 properties valued on an open market basis;
- 14.14.2 properties valued on an existing use value basis;
- 14.14.3 properties valued on a depreciated replacement cost basis; and
- 14.14.4 for any overseas Properties.

*Condensed Format*

- 14.15 If the Properties held are too numerous to enable the Issuer to comply with the normal requirements for a valuation report, the Listing Authority may consent to a suitably condensed format in the relevant Prospectus or Circular. The full valuation report must be available for inspection pursuant to Listing Rule 7.15.
- 14.16 The Listing Authority may authorise the omission of any specific item of information in the valuation report if the Listing Authority considers that disclosure would be seriously detrimental to the Issuer and omission is not likely to mislead investors with regard to facts and circumstances, knowledge of which is essential for the assessment of the Securities in question.

*Continuing Obligations*

- 14.17 In addition to their continuing obligations (see Chapter 8), Property Companies must also provide for regular independent valuations of their Property portfolio after a Class of their Securities become Admissible to Listing as agreed to with the Listing Authority.

## CHAPTER 15

### Admissibility requirements for Collective Investment Schemes

This chapter explains what a Collective Investment Scheme is and covers the following: Application Procedures and Requirements, Continuing Obligations of Schemes.

*General*

- 15.1 This Chapter sets out the requirements for the Admissibility to listing of Units in Collective Investment Schemes (open ended and closed ended) whether incorporated in Malta or outside the territory of Malta. Applications will be considered in respect of both existing and newly formed Schemes, whether these are established as single-class funds or umbrella funds.
- Section I of this Chapter deals with the Application Procedures and Requirements that shall be complied with by open ended Schemes seeking authorisation for Admissibility for Primary Listing.
- Section II deals with the Continuing Obligations of open ended Schemes authorised as Admissible for Primary Listing.
- Section III lays down the Application Procedures and Requirements that shall be complied with by open ended Schemes seeking authorisation for Admissibility for Secondary Listing.
- Section IV deals with the Continuing Obligations of open ended Schemes authorised as Admissible for Secondary Listing.
- Section V of this Chapter deals with the Application Procedures and Requirements that shall be complied with by closed ended Schemes seeking authorisation for Admissibility for Listing.
- Section VI deals with the Continuing Obligations of closed ended Schemes authorised as Admissible for Listing.
- 15.2 In order to qualify for a listing, a scheme shall be duly licensed by the Malta Financial Services Authority pursuant to the provisions of the ISA or is an Undertaking for Collective Investment in Transferable Securities (UCITS) licensed by a regulatory authority in a Member State or EEA State.
- 15.3 In cases involving new applicants for authorisation for Admissibility to Listing or the existence of exceptional circumstances, applicants are encouraged to contact the Listing Authority at the earliest opportunity prior to listing to seek informal guidance as to the authorisation for Admissibility to Listing of a particular Scheme. Such guidance will be treated by the Listing Authority in strict confidence.
- 15.4 The Listing Authority requires every application for the authorisation for Admissibility to Listing of any such Scheme to be supported by a Prospectus.
- 15.5 All the requirements in this Chapter will apply to every application for the authorisation for Admissibility to listing of a new class of Unit in a Scheme where such a Scheme has already been previously authorised for Admissibility to Listing, as if it were a New Applicant.
- 15.5.1 The general rules laid out in the Listing Rules which are relevant to authorisation for Admissibility to Listing of Collective Investment Schemes and which are not otherwise provided for in this Chapter, however, will likewise apply.

## **Section I - Application Procedures and Requirements for open ended Schemes seeking Authorisation for Admissibility for Primary Listing**

### *Preliminary*

- 15.6 All Applicants shall appoint a Sponsor in accordance with the requirements of Chapter 2. Besides fulfilling the obligations laid down in Chapter 2, the Sponsor will be responsible for preparing the applicant for authorisation for Admissibility to Listing and for dealing with the Listing Authority on all matters arising in connection with the application.
- 15.7 When considering an application for authorisation for Admissibility to Listing, the Listing Authority reserves the right to assess each case on its own merits and, on the basis of the relevant circumstances, may modify or request additional authorisation requirements as it deems fit.

### *Conditions to be fulfilled by a Scheme seeking authorisation for Admissibility for Primary Listing*

- 15.8 The following conditions shall be fulfilled by a Scheme
- 15.8.1 the Units shall be freely transferable.
  - 15.8.2 the number of Directors of a Scheme shall at least be one (1). In order to ensure the protection of investors, the Listing Authority may decide to require the presence of one (1) or more non-executive Directors who are independent of the manager or of the investment adviser to the Scheme or of any affiliated entity.
  - 15.8.3 Corporate Directors are not eligible, unless the Corporate Director is the manager of the Scheme.
  - 15.8.4 A Scheme shall adopt rules governing dealings by Directors which will preclude them from dealing in the listed Units of the Scheme at a time when they are in possession of price-sensitive information.
  - 15.8.5 copies of the Directors' service contracts, if any, shall be made available to the general public for inspection at the time of the Annual General Meeting (AGM) of the Scheme.
  - 15.8.6 any other activity of the Directors, manager or investment adviser should not result in the Scheme being disadvantaged in any way due to possible conflicts of interest between their obligations arising as a result of such activities and their obligations to the Scheme.
  - 15.8.7 Directors and proposed Directors, and in the case of a Unit Trust, the Directors of the manager, will be personally responsible for the information contained in the Prospectus.
  - 15.8.8 the Directors of the Scheme, and the manager, shall acknowledge to the Listing Authority in writing that they accept full responsibility collectively and individually for the Scheme's compliance with all the Listing Authority's requirements and continuing obligations, whether in terms of these Listing Rules or otherwise.

### *Formal Application for Authorisation for Admissibility for Primary Listing*

- 15.9 A formal application for authorisation for Admissibility to listing in accordance with the application form in Appendix 15.1 shall be lodged with the Listing Authority at least five (5) Business Days prior to the date of hearing of the application by the Listing Committee of the Listing Authority. The following requirements shall also be satisfied:

- 15.9.1 the application form shall be duly completed and signed by a duly authorised representative of the Scheme and the Sponsor; and
  - 15.9.2 in the case of any other form of Collective Investment Scheme, the form shall also be signed by a duly authorised officer for and on behalf of the Scheme and, if appropriate, the management company.
  - 15.10 The Formal Application shall be accompanied by the following documents:
    - 15.10.1 one (1) copy of the Prospectus marked in the margin to indicate where the relevant requirements in this Chapter have been met; and
    - 15.10.2 any other document or information which the Listing Authority may require.
  - 15.11 The Sponsor shall communicate to the Listing Authority any event or arrangement of which he is aware, and which, in his/her opinion, is relevant to the authorisation for Admissibility of the Scheme to listing or if the Sponsor is not aware of any such event or arrangement, an appropriate negative statement to this effect.
  - 15.12 When formal application for authorisation for Admissibility to Listing under this section is made to the Listing Authority concurrently with the submission to the MFSA of an application for a licence pursuant to the provisions of the Investment Services Act, the Listing Authority shall not consider such application for authorisation for Admissibility to Listing unless:
    - 15.12.1 the appropriate Investment Services Act licence is duly granted to the Scheme by the MFSA; or
    - 15.12.2 in the case of UCITS the scheme is licenced by a regulatory authority of a Member State or EEA State;

and the time periods referred to in Listing Rule 15.13 below shall begin to run from the date when such licence is granted by the MFSA.
  - 15.13 The Listing Authority shall notify the Applicant of its decision to accept or refuse an application for Admissibility to listing:
    - 15.13.1 before the end of the period of forty (40) days beginning with the date on which the application is received; or
    - 15.13.2 if within that period the Listing Authority has required the applicant to provide further information in connection with the application, before the end of the period of forty (40) days beginning with the date on which that information is provided.
  - 15.14 The Scheme shall comply at all times with MFSA regulations related to such Schemes, particularly those concerning investment restrictions.
- Prospectus*
- 15.15 Every Prospectus which is submitted to the Listing Authority by or on behalf of the Scheme in support of an application for authorisation for Admissibility to Listing, shall be drawn in compliance with the requirements of Schedules A or B, as applicable, of Appendix 9 to the current Investment Services Guidelines issued by the MFSA in terms of the Investment Services Act and shall contain:
    - 15.15.1 a statement that application has been made to a Recognised Investment Exchange for Admission to Listing, of the Units issued or to be issued by the Scheme;

- 15.15.2 any additional information as may be required by the Listing Authority;
- 15.15.3 the name of the Recognised Investment Exchange on which the primary listing is or is to be;
- 15.15.4 particulars of any other Recognised Investment Exchange on which any of the Units are listed or dealt in or where listing or permission to deal is being sought or an appropriate negative statement; and
- 15.15.5 particulars of any exchange where the Scheme had previously sought a listing but had been refused and the reasons for such a refusal.

The Prospectus shall be accompanied by a letter signed by every Director of the Scheme confirming that the Prospectus includes all such information within their knowledge (or which it would be reasonable for them to obtain) that investors and their professional advisers would reasonably require and reasonably expect to find for the purpose of making an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Scheme and of the rights attaching to the units to which the Prospectus relates.

- 15.16 Where during the process of authorisation any document is amended after submission, a copy of such amended document shall be submitted to the Listing Authority for review, marked in the margin to indicate where the relevant items for the Admissibility requirements have been complied with in respect of the amendments. The copy shall also be marked in the margin to indicate any amendments introduced in order to conform with points raised by the Listing Authority.
- 15.17 No amendment to the authorised Prospectus will be allowed without the consent of the Listing Authority. The Prospectus shall not be published unless they are formally authorised by the Listing Authority in their final form in accordance with these Listing Rules.
- 15.18 The Prospectus shall be published in the manner referred to in Listing Rules 7.8, 7.11, 7.12 and 7.13 as if references to Listing Particulars were to the Prospectus .
- 15.19 Every Scheme shall comply with Listing Rules 5.25 to 5.27 as if references to Listing Particulars were to Prospectus.

*General Provisions*

- 15.20 A Scheme shall include in its Prospectus any holdings of its Units registered in the name of any one of its Directors, his/her spouse or minor children or of any person connected with the Director.
- 15.21 Open ended Schemes are exempt from the Listing Authority's requirements regarding purchase of own units.

*Supplementary Prospectus*

- 15.23 The Listing Authority may require the publication of further information by and impose additional requirements on a listed Scheme either specifically or generally through the publication of a Supplementary Prospectus . The Scheme shall comply with such requirements and, in case of default, the Listing Authority may take any steps that may consider appropriate in accordance with the Financial Markets Act.

*Disclaimer*

15.23 Every Prospectus and Supplements thereto required pursuant to this Chapter 15 shall contain on the front cover of the Document a prominent and legible disclaimer as follows:

“The Listing Authority accepts no responsibility for the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this document.”

## **Section II - Continuing Obligations of Open ended Schemes Authorised as Admissible for Primary Listing**

### *General Obligation of Disclosure*

- 15.24 Every Scheme applying for authorisation for Admissibility to Listing is required to comply with the continuing obligations as set out in this Section II of this Chapter and to which they would be subject as a condition of the Authorisation for Admissibility to Listing of the Units in the Scheme except insofar as the Scheme is specifically exempt from any such obligations by the Listing Authority.
- 15.25 The Listing Authority may be prepared to dispense with, vary or not require compliance with any of the continuing obligations to suit the circumstances of a particular case. Any such dispensation, variation or concession shall be signified to the Applicant or Issuer by the Listing Authority in writing.
- 15.26 Generally, and apart from compliance with all specific requirements which follow, any information necessary to enable holders of the Scheme's Units authorised as admissible to Listing as well as the general public to appraise the financial position of the Scheme and to avoid the creation of a false market in such Units, shall be made known to the Listing Authority. Such information shall not normally be passed on to a third party other than its manager, custodian and advisers prior to it being communicated to the Listing Authority.
- 15.26.1 A Scheme, its management company, its custodian and its advisers, may give information concerning the Scheme in strict confidence to outside advisers and to persons with whom it is negotiating with a view to the raising of finance. Information required by and provided in confidence to and for the purposes of a regulatory authority, need not be communicated to the Listing Authority unless so required by the Listing Authority.
- 15.26.2 Where it is being proposed to announce information which might affect the market price of the Scheme's Units that have been authorised as admissible to Listing at any meeting of holders of those Units, or any class thereof, arrangements shall be made with the Recognised Investment Exchange so that an announcement is immediately made known to the market.
- 15.26.3 A Scheme shall give notice to the Listing Authority of any major new developments in its sphere of activity which are not yet public knowledge and which, by virtue of their effect on its assets and liabilities or financial position or on the general course of its business, may lead to substantial movements in the price or value of its Units.
- 15.26.4 The Scheme shall update its Prospectus whenever there are material changes in the contents or when the Listing Authority so requires. Every subsequent Prospectus issued by or on behalf of the Scheme shall contain a statement that the Units which have already been issued are authorised as Admissible to Listing.

### *Continuing Obligations relating to Capital and Management*

- 15.27 The Scheme shall immediately notify the Recognised Investment Exchange where it is listed of the following:
- 15.27.1 the net asset value and net asset value per share, when calculated;

- 15.27.2 any suspension in the calculation of net asset value or in the process of redemption;
- 15.27.3 any change in the status of the Scheme for taxation purposes;
- 15.27.4 any changes in the capital structure of the Scheme; and
- 15.27.5 any other information necessary to enable Unit holders to appraise the position of the Scheme and to avoid the establishment of a false market in its Units.

*Rights as between Holders*

- 15.28 A Scheme having Units of different classes in issue, any of which classes have been authorised as Admissible to Listing, shall ensure identical treatment of all holders in the same position (e.g. in the same class).

*Communications with Holders*

- 15.29 A Scheme shall ensure that all the necessary facilities and information are available to enable holders of its Units to exercise their rights. In particular, it shall inform such holders of the holding of meetings which they are entitled to attend, enable them to exercise their right to vote where applicable and publish notices or distribute circulars giving details of the allocation and payment of dividends or interest or otherwise in respect of such Units.
- 15.30 Whenever holders are sent a notice of a meeting which includes any business other than ordinary business at an Annual General Meeting, an explanatory circular shall accompany the notice or, if the business is to be considered at or on the same day as an Annual General Meeting, an explanation shall be incorporated in the Directors' report. Drafts of these documents should be submitted to the Listing Authority in advance of the issue to holders.
- 15.31 If appropriate, a proxy form shall be sent with the notice convening the meeting of holders of listed Units to each person entitled to vote at the meeting.
- 15.32 In the event of a Circular being issued to the holders of any particular class of Unit, the Scheme shall issue a copy or summary of such Circular to the holders of all other classes of Units unless the contents of such Circulars are manifestly irrelevant to such other holders.

*Miscellaneous Obligations*

- 15.33 Any decision to pay or make any dividend or other distribution on Units authorised as Admissible to Listing or to pass any interest payment or dividend on Units authorised as Admissible to Listing or any other decision requiring announcement shall be communicated to the Recognised Investment Exchange immediately after board authorisation.
- 15.34 A Scheme shall make appropriate arrangements to facilitate the efficient settlement of all transfers and registration of the Units as appropriate.
- 15.35 If a Scheme proposes to enter into a transaction with a Related Party, the Scheme is required to obtain the authorisation of its members prior to the transaction unless such transactions have been identified and described in the Prospectus .

*Financial Information: Annual Report and Accounts*

- 15.36 A Scheme shall issue and send to all Unit holders an Annual Report and Audited Accounts within four (4) months of the end of the financial period to which they relate.

The Annual Report, one (1) copy of which shall be lodged with the Listing Authority at the earliest opportunity but in any event within four (4) months of the end of the financial period to which they relate, shall contain at least all the information required to be put in such a Report by the MFSA as well as any other significant information necessary to enable investors to make an informed judgment on the progress of the Scheme and its results.

In addition, the Report shall:

- 15.36.1 have been prepared in accordance with the laws of Malta and in all material aspects with International Financial Reporting Standards;
- 15.36.2 have been independently audited and reported on in accordance with the International Standards on Auditing as promulgated by the International Federation of Accountants;
- 15.36.3 be in consolidated form if the Scheme operates as an umbrella fund unless otherwise authorised by the Listing Authority;
- 15.36.4 include the following :
  - 15.36.4.1 the information necessary to enable holders of the Scheme's Units authorised as Admissible to Listing to obtain relief from any taxation to which they are entitled by reason of their being holders of such Units;
  - 15.36.4.2 the amounts of managers' charges and Directors' fees and emoluments;
  - 15.36.4.3 a statement of all unlisted investments with a value greater than five percent (5%) of the Scheme's gross assets, and the ten (10) largest investments stating in respect of each such investment:
    - 15.36.4.3.1 the market value of the listed investment;
    - 15.36.4.3.2 Directors' valuation of the unlisted securities;
    - 15.36.4.3.3 the name of the Issuer of such investments;
    - 15.36.4.3.4 the denomination of the investment; and
    - 15.36.4.3.5 the percentage of total net assets owned by the Scheme.
- 15.36.5 In addition, an analysis of realised and unrealised surpluses, should also be provided stating separately profits and losses as between those investments which are listed on a regulated, regularly operating, Recognised Investment Exchange and those investments which are not so listed.

*Directors (including Directors of the Manager in the case of a Unit Trust)*

- 15.37 Copies of the Directors' service contracts, if any, shall be made available for inspection to the general public:
  - 15.37.1 at the registered office of the company, or in the case of an Oversea Company, at the office of the Sponsor during Normal Business Hours

from the date of the notice convening the Annual General Meeting up to close of the meeting; and

15.37.2 throughout the meeting at the place where the Annual General Meeting is being held.

15.38 A Scheme shall notify the Listing Authority without delay of any change in the holding of its Units by any Director and/or of any person connected with the Director. The communication shall include the following: (Listing Rule 15.38 does not apply to unit trusts.)

15.38.1 the date on which the transaction giving rise to the interest (or cessation of the interest) was effected;

15.38.2 the price, amount and class of Securities concerned;

15.38.3 the nature of the transaction and the nature and extent of the Director's interest in the transaction; and

15.38.4 the number of Units held and the percentage holding of the Director following the transaction.

The above information is required to be communicated by the Scheme insofar as it is known to the Scheme. The Scheme, however, shall ensure that the Directors disclose all the necessary information in time to enable the Scheme to comply with this requirement.

*Consultation with the Listing Authority and Maintenance of Information*

15.39 The Scheme shall notify the Listing Authority on a quarterly basis, or more frequently when so required by the Listing Authority, of:

15.39.1 the total number of Units in issue whether in bearer or in registered form as appropriate; and

15.39.2 the total number of Units in issue held by the manager.

15.40 The Scheme shall immediately notify the Listing Authority of:

15.40.1 any changes in the general character or nature of the Scheme; and

15.40.2 any renewal or termination of or variation to the Scheme.

15.41 The Listing Authority shall be consulted in advance of any event of which the Scheme is aware and which is relevant to the maintenance of Admissibility by the Scheme.

15.42 The Scheme shall maintain a complete file of all advertisements, brochures, leaflets and other documents issued with a view to effecting or stimulating sales or purchases of Units. The file shall be produced to the Listing Authority or its representative on demand.

*Other Continuing Obligations*

15.43 Besides complying with the Continuing Obligations contained in this section, Schemes having listed Units shall also ensure that the following obligations shall be observed so long as the Units remain authorised as Admissible to Listing:

15.43.1 the respective obligations of the Scheme and/or its manager under the constitutional documents of the Scheme and the applicable legal and regulatory requirements shall be complied with;

15.43.2 the amount of the charges and expenses (to the extent borne by the Scheme) of the managers, the trustee and any agent of the managers

or trustee, the investment adviser or any sub-adviser or any custodian or sub-custodian, shall be clearly set out in each Annual Report issued by the Scheme;

- 15.43.3 all Circulars issued in respect of the sale of Units in the Scheme shall clearly state any terms or conditions under which the managers undertake to repurchase Units in the Scheme;
- 15.43.4 the Scheme shall notify the following information to the Listing Authority without delay, and in any event within one (1) month of the end of each distribution or allocation period:
  - 15.43.4.1 the total gross and net income per Unit (before charging expenses to the Scheme);
  - 15.43.4.2 the net amount per Unit or share (after allowing for charges and adjustments) to be distributed or allocated, together with the gross equivalent attributable to the distribution or allocation period;
  - 15.43.4.3 the date of the striking of holders register balances; and
  - 15.43.4.4 any date on and from which trading ex-distribution (where applicable) will take place.

### **Section III – Requirement in relation to Open ended Schemes seeking authorisation for Admissibility for Secondary Listing**

This section sets out the additional requirements, modifications or exceptions which apply to Schemes seeking authorisation for admissibility for Secondary Listing in Malta.

#### *Basic Conditions*

- 15.44 A Scheme seeking authorisation for Admissibility for Secondary Listing in Malta shall hold
- 15.44.1 the appropriate Investment Services Act licence duly granted to the Scheme by the MFSA; or
  - 15.44.2 in the case of UCITS the scheme is licenced by a regulatory authority of a Member State or EEA State;
- before it can be listed and shall comply with all the provisions set out in Section I of this Chapter dealing with “Application Procedures and Requirements”.
- 15.45 In the case of a Scheme seeking Admissibility for Secondary Listing in Malta, the formal application shall be accompanied by a supplement to the Prospectus containing information relevant to the Maltese investor.
- 15.46 Notwithstanding to the provisions of Listing Rule 15.45, the Listing Authority may authorise the omission of any information otherwise required to be included in the Prospectus or any supplement thereto. When considering whether to authorise such omissions, the Listing Authority will give due regard to:
- 15.46.1 whether the company’s Primary Listing is on a recognised, regulated and regularly operating stock exchange;
  - 15.46.2 whether it conducts its business and makes disclosure according to internationally accepted standards; and
  - 15.46.3 the nature and extent of the regulation to which the company is subject in its country of incorporation.
- 15.47 The Listing Authority reserves the right, at its absolute discretion, to refuse to grant authorisation for Admissibility to Listing to a Scheme if the Scheme is listed on a stock exchange or otherwise regulated in a jurisdiction, being a non-Recognised Jurisdiction, which, in the opinion of the Listing Authority, does not provide the same degree of investor protection as that provided by Maltese regulations.

**Section IV Continuing Obligations of  
Schemes Authorised for Admissibility for Secondary Listing**

- 15.48 Where a Scheme is granted a Secondary Listing in Malta, the Listing Authority reserves the right, at its absolute discretion, to exempt the Scheme from any or all the requirements of Section II and to require, instead, a certificate of compliance issued by the overseas exchange where the Scheme has a Primary Listing confirming that the Scheme has been in compliance with all the regulatory requirements of that jurisdiction throughout the period that it has been listed. Any such exemption shall be granted by the Listing authority in writing.

*Overseas Schemes*

- 15.49 The following requisites will apply to all Overseas Schemes granted a Secondary Listing:
- 15.49.1 the Overseas Scheme's Annual Report and Audited Accounts shall be prepared in accordance with International Financial Reporting Standards, independently audited and reported on in accordance with the International Standards on Auditing as promulgated by the International Federation of Accountants or by any national standard considered by the Listing Authority to be at least equivalent thereto;
  - 15.49.2 the Overseas Scheme shall appoint, and maintain throughout the period that the units are authorised as admissible to listing, a licensed Sponsor to deal with all matters appertaining to authorisation for Admissibility to Listing in terms of Listing Rule 15.06. The appointed Sponsor will also be responsible:
    - 15.49.2.1 for ensuring that, for Overseas Schemes whose Primary Listing is on an overseas exchange, at least the equivalent information as that made available to the overseas exchange is also made available to the Listing Authority; and
    - 15.49.2.2 for providing such other information related to the operations of the Scheme at regular intervals as the Listing Authority may require;
  - 15.49.3 the Overseas Scheme shall adhere to all MFSA requirements as laid out in Section 5 of Part C.I of the Investment Services Guidelines dealing with advertising and promotion of Collective Investment Schemes as issued from time to time by the MFSA. In particular, a Scheme which advertises or carries out any promotional activity in Malta shall appoint a representative licensed by the MFSA in terms of the Investment Services Act;
  - 15.49.4 an Overseas Scheme offering or planning to market its products in the territory of Malta will not be required to have a registrar in Malta but provision shall be made for a register of holders to be maintained in such place as the Listing Authority may agree, and for transfers to be registered locally by a Paying Agent duly appointed by the Scheme. Any change in the Paying Agent shall be immediately notified to the Listing Authority;
  - 15.49.5 in addition, an Overseas Scheme shall comply with such other requirements as the Listing Authority may impose on a case by case basis in order to ensure that investors in Malta will be afforded the same level of protection as that existing in Malta in relation to the holding of Securities in a Scheme incorporated in Malta; and

15.49.6 any information issued by an Overseas Scheme by means of Circulars, reports or other documents required by the Listing Rules to be sent to Unit holders, shall also be prepared in the Maltese or in the English language. Any information or correspondence sent by the Overseas Scheme to the Listing Authority shall also be in the Maltese or the English language.

## Section V – Admissibility of Closed-Ended Collective Investment Schemes

### *Introduction*

- 15.50 This section applies to the Admissibility of Closed-Ended Collective Investment Schemes investing in Securities, listed or unlisted, including warrants, money market instruments, bank deposits, currency investments, commodities, options, future contracts, precious metals or Property. Investments may also take the form of partnership arrangements, participations, joint ventures and other forms of non-corporate investments as well as other Securities as may be held with the authorisation of the Listing Authority.

### *Basic Conditions*

- 15.51 The Scheme and its management bind themselves, either through the inclusion of relevant clauses in the Articles of Association, trust deed or equivalent document of constitution, or in such other manner as is acceptable to the Listing Authority, to ensure compliance with the following requirements throughout the period it is authorised as Admissible to Listing under this section:

15.51.1 that the Scheme, either on its own or in conjunction with any connected person, shall not take legal or effective management or control of any underlying investments in companies or other entities in which it invests;

15.51.2 that any custodian, management company, any of their connected persons and every Director of any investment company and management company, is prohibited from voting at, or being part of a quorum for, any meeting to the extent that they have, or any of their associates has, a material interest in the business to be conducted; and

15.51.3 that the Scheme's auditors are independent of the Scheme, any management company and any custodian and that the said auditors act in accordance with the International Standards on Auditing as promulgated from time to time by the International Federation of Accountants; and

15.51.4 that unless authorised by the shareholders, a Scheme will not issue further shares of the same class as existing shares for cash at a price below the net asset value per share of those shares unless they are first offered pro rata to existing holders of shares of that class.

- 15.52 Schemes being Property Companies will also be subject to the additional requirements laid out in Chapter 14.

- 15.53 All Applicants shall appoint a Sponsor in accordance with the requirements of Chapter 2. Besides fulfilling the obligations laid down in Chapter 2, the Sponsor will be responsible for preparing the applicant for authorisation for Admissibility to Listing and for dealing with the Listing Authority on all matters arising in connection with the application.

- 15.54 When considering an application for authorisation for Admissibility to Listing, the Listing Authority reserves the right to assess each case on its own merits and, on the basis of the relevant circumstances, may modify or request additional authorisation requirements as it deems fit.

### *Conditions to be fulfilled by a Scheme seeking authorisation for Admissibility for Listing*

- 15.55 A formal application for authorisation for Admissibility to listing in accordance with the application form in Appendix 15.1 shall be lodged with the Listing

Authority at least five (5) Business Days prior to the date of hearing of the application by the Listing Committee of the Listing Authority. The following requirements shall also be satisfied:

- 15.55.1 the application form shall be duly completed and signed by a duly authorised representative of the Scheme and the Sponsor; and
  - 15.55.2 in the case of any other form of closed ended collective investment scheme, the form shall also be signed by a duly authorised officer for and on behalf of the Scheme and, if appropriate, the management company.
- 15.56 The Formal Application shall be accompanied by the following documents:
- 15.56.1 one (1) copy of the Prospectus marked in the margin to indicate where the relevant requirements in this Chapter have been met; and
  - 15.56.2 any other document or information which the Listing Authority may require.
- 15.57 The Sponsor shall communicate to the Listing Authority any event or arrangement of which he is aware, and which, in his/her opinion, is relevant to the authorisation for Admissibility of the Scheme to listing or if the Sponsor is not aware of any such event or arrangement, an appropriate negative statement to this effect.
- 15.58 When formal application for authorisation for Admissibility to Listing under this section is made to the Listing Authority concurrently with the submission to the MFSA of an application for a licence pursuant to the provisions of the Investment Services Act, the Listing Authority shall not consider such application for authorisation for Admissibility to Listing unless:
- 15.58.1 the appropriate licence under the Investment Services Act is duly granted to the closed ended collective investment scheme by the MFSA; and
  - 15.58.2 the time periods referred to in Listing Rule 15.59 below shall begin to run from the date when such licence is granted by the MFSA.
- 15.59 The Listing Authority shall notify the Applicant of its decision to approve or refuse an application for Admissibility to listing including the approval or refusal of the Prospectus:
- 15.59.1 before the end of the period of ten (10) days beginning with the date on which the application is received; or
  - 15.59.2 The time limit referred to in Listing Rule 15.59.1 shall be extended to 20 working days if the public offer involves units issued by a Scheme which does not have any units admitted to trading on a regulated market and which has not previously offered units to the public.
  - 15.59.3 If the Listing Authority finds, on reasonable grounds, that the documents submitted to it are incomplete or that supplementary information is needed, the time limits referred to in Listing Rules 15.59.1 and 15.59.2 above shall apply only from the date on which such information is provided by the Applicant.

The Listing Authority shall notify the Applicant if the documents are incomplete within 10 working days of the submission of the application.

If the Listing Authority fails to give a decision on the Prospectus within the time limits laid down in Listing Rules 15.59.1 and 15.59.2, this shall not be deemed to constitute approval of the application.

- 15.60 The Scheme shall comply at all times with MFSA regulations related to such Schemes, particularly those concerning investment restrictions.

*Prospectus*

- 15.61 The Prospectus and supplements thereto shall not be published, before they have been formally approved by the Listing Authority.

- 15.62 The Prospectus of a Scheme shall be drawn up in compliance with and adhere to the provisions of the Schedule C to Appendix 9 of the current Investment Services Guidelines published by the MFSA in terms of the Investment Services Act.

- 15.63 The Scheme, may draw up its Prospectus as a single document or separated documents. A Prospectus composed of separate documents shall divide the required information into a registration document, a securities note and a summary note. The registration document shall contain the information relating to the Scheme. The securities note shall contain the information concerning the units on offer.

- 15.64 The Prospectus shall also include the following statement:

“This document includes information given in compliance with the Listing Rules of the Listing Authority for the purpose of giving information with regard to the Scheme. All of the Directors whose names appear on page [ ], accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors who have taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.”

- 15.65 The Listing Authority may authorise the omission of information from the Prospectus which is applicable and required by the Listing Rules if it considers that:

15.66.1 The information is of minor importance only and is not such as will influence assessment of the assets and liabilities, financial position, profits and losses and prospects of the Issuer, or Guarantor, if any; or

15.66.2 disclosure would be contrary to the public interest; or

15.66.3 disclosure would be seriously detrimental to the Scheme and omission is not likely to mislead investors with regard to facts and circumstances, knowledge of which is essential for the assessment of the Scheme or Guarantor, if any and of the rights attached to the units in question.

- 15.67 Without prejudice to the adequate information of investors, where, exceptionally, certain information required by this Chapter to be included in a Prospectus is inappropriate to the Scheme’s sphere of activity or to the legal form of the Scheme or to the offer of units to which the Prospectus relates, the Prospectus shall contain information equivalent to the required information.

- 15.68 A Prospectus shall be valid for 12 months after its publication provided that it is completed by the supplements required pursuant to Listing Rule 15.69 below.

- 15.69 Every significant new factor, material mistake or inaccuracy relating to the information included in the Prospectus which is capable of affecting the assessment of the units and which arises or is noted between the time when the Prospectus is approved and the time when trading on a regulated market begins, shall be mentioned in a supplement to the Prospectus.
- Investors who have already agreed to purchase or subscribe for the units before the supplement is published shall have the right to withdraw their acceptances before the expiration of the third working day after the publication.
- 15.70 In the case of an offering programme, the base Prospectus, previously filed, shall be valid for a period of up to 12 months.
- 15.71 A registration document, previously filed, shall be valid for a period of up to 12 months provided that it has been updated in accordance with Listing Rule 15.82 below.
- 15.72 Once approved, the Prospectus shall be filed with the Listing Authority and shall be made available to the public by the Applicant at the latest six (6) working days before the securities involved are admitted to trading. In addition, in the case of an initial public offer of a class of shares not already admitted to trading on a regulated market that is seeking admissibility to listing for the first time, the Prospectus shall be available at least six (6) working days before the offer opens.
- 15.73 In the case of a Prospectus comprising several documents and/or incorporating by reference, the documents and information making up the Prospectus may be published and circulated separately provided that the said documents are made available to the public, free of charge. Each document shall indicate where the other constituent documents of the full Prospectus may be obtained.
- 15.74 The text and the format of the Prospectus and any supplements thereto, made available to the public, shall at all times be identical to the original version approved by the Listing Authority.
- 15.75 Where the Prospectus is made available by publication in electronic form, a hard copy shall nevertheless be delivered to the investor, upon his request and free of charge, by the Scheme, the person asking for admission to trading or the financial intermediaries placing or selling the units.
- 15.76 Where Malta is the home Member State and an admission to trading is provided for in one or more Member State, other than Malta or EEA State, the Prospectus approved by the Listing Authority and any supplements thereto shall be valid in any number of host Member States or EEA States, provided that the regulatory authority of each host Member State or EEA State is notified in accordance with Listing Rule 15.78 below.
- 15.77 The Listing Authority shall provide the regulatory authority of the host Member State or EEA State, at the request of the Scheme or the person responsible for drawing up the Prospectus and within three working days following that request or, if the request is submitted together with the draft Prospectus, within one working day after the approval of the Prospectus, with a certificate of approval and a copy of the Prospectus as approved. If applicable, this notification shall be accompanied by a translation of the summary of the Prospectus produced under the responsibility of the Scheme or person responsible for drawing up the Prospectus. The same procedure shall be followed for any supplement to the Prospectus.

For the purposes of this listing rule, the certificate of approval shall consist of a statement –

- 15.77.1 that the Prospectus has been drawn up in accordance with the Prospectus Directive;
  - 15.77.2 that the Prospectus has been approved in accordance with the Prospectus Directive, by the Listing Authority or the regulatory authority of the Member State or EEA state, as the case may be, providing the certificate; and where applicable
  - 15.77.3 of the reasons as to why the Listing Authority or the regulatory authority providing the certificate, authorised, in accordance with the Prospectus Directive, the omission from the Prospectus of information which would otherwise have been included.
- 15.78 A Prospectus in relation to an admission to trading which has been approved by the regulatory authority of another Member State, other than Malta, or an EEA State is not deemed to be an approved Prospectus unless that authority has provided the Listing Authority with a certificate of approval and a copy of the Prospectus as approved; together with, where requested by the Listing Authority, a translation into English or Maltese of the summary of the Prospectus.

**Section VI - Continuing Obligations of closed ended collective investment schemes  
Authorised as Admissible for Primary Listing**

- 15.2 In order to qualify for a listing, a scheme shall be duly licensed by the Malta Financial Services Authority pursuant to the provisions of the ISA.

Once a Scheme is authorised as Admissible to Listing and remains on a Recognised List, the Scheme shall be responsible for ensuring compliance with the continuing obligations of these Listing Rules at all times.

The Scheme shall comply with the continuing obligations to provide information and if it fails to do so, the Listing Authority may itself publish any relevant information it may have in its possession after having heard the representation of the Scheme.

*General Obligation of Disclosure*

- 15.79 Every Scheme applying for authorisation for Admissibility to Listing is required to comply with the continuing obligations as set out in this Section VI of this Chapter and to which they would be subject as a condition of the Authorisation for Admissibility to Listing of the Units in the Scheme except insofar as the Scheme is specifically exempt from any such obligations by the Listing Authority.

- 15.80 The Listing Authority may be prepared to dispense with, vary or not require compliance with any of the continuing obligations to suit the circumstances of a particular case. Any such dispensation, variation or concession shall be signified to the Applicant or Issuer by the Listing Authority in writing.

- 15.81 Generally, and apart from compliance with all specific requirements which follow, any information necessary to enable holders of the Scheme's Units authorised as admissible to Listing as well as the general public to appraise the financial position of the Scheme and to avoid the creation of a false market in such Units, shall be made known to the Listing Authority. Such information shall not normally be passed on to a third party other than its manager, custodian and advisers prior to it being communicated to the Listing Authority.

15.81.1 A Scheme, its management company, its custodian and its advisers, may give information concerning the Scheme in strict confidence to outside advisers and to persons with whom it is negotiating with a view to the raising of finance. Information required by and provided in confidence to and for the purposes of a regulatory authority, need not be communicated to the Listing Authority unless so required by the Listing Authority.

15.81.2 Where it is being proposed to announce information which might affect the market price of the Scheme's Units that have been authorised as admissible to Listing at any meeting of holders of those Units, or any class thereof, arrangements shall be made with the Recognised Investment Exchange so that an announcement is immediately made known to the market.

- 15.81.3 A Scheme shall give notice to the Listing Authority of any major new developments in its sphere of activity which are not yet public knowledge and which, by virtue of their effect on its assets and liabilities or financial position or on the general course of its business, may lead to substantial movements in the price or value of its Units.
- 15.81.4 The Scheme shall update its Prospectus whenever there are material changes in the contents or when the Listing Authority so requires. Every subsequent Prospectus issued by or on behalf of the Scheme shall contain a statement that the Units which have already been issued are authorised as Admissible to Listing.
- 15.82 A Scheme whose units are admitted to trading and in relation to whom Malta is the home member state shall at least annually prepare a document (an annual information update) that refers to or contains all information that has been published or made available to the public over the previous 12 months in one or more Member State or EEA State and in third countries in compliance with its obligations under Community and national laws and rules dealing with the regulation of securities, issuer of securities and securities markets.
- Provided that such an obligation shall not apply to issuers of non-equity securities whose denomination per unit amounts to at least Lm 21,465.
- 15.83 The document shall be filed with the Listing Authority after the publication of the financial statement. Where the document refers to information, it shall be stated where the information can be obtained.
- 15.84 The Listing Authority would expect the annual information update to refer or contain at least information that is made available to the public in terms of:
- 15.84.1 the CA or, for an overseas Scheme, the companies legislation of the place where it is incorporated, relating to the regulation of securities, issuers and securities markets; and
- 15.84.2 Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards
- 15.84.3 laws and rules of other Member State or EEA State and third countries that relate to the regulation of securities, issuers of securities and securities markets.
- 15.85 Where a Scheme has only filed a registration document without approval, the entire documentation, including updated information, shall be subject to approval.

*Uses of Languages*

- 15.86 When Malta is the home Member State and securities are admitted to trading only in Malta, regulated information shall be disclosed in the English or Maltese language.
- 15.87 When Malta is the home Member State and units are admitted to trading in Malta and in one or more host Member or EEA State, the regulated information shall be disclosed:

- 15.87.1 in the English or in the Maltese language; and
  - 15.87.2 depending on the choice of the Scheme, either in a language accepted by the regulatory authorities of those host Member or EEA States or in a language customary in the sphere of international finance.
- 15.88 When the Scheme is admitted to trading in Malta as the host Member State, the regulated information shall be disclosed either in English or Maltese or in a language customary in the sphere of international finance.
- When Malta is the home Member State and the Scheme is admitted to trading on a Recognised Investment Exchange in one or more host Member or EEA States excluding Malta, the regulated information shall be disclosed either in English or Maltese or in a language customary in the sphere of international finance, depending on the choice of the Scheme.
- 15.89 Where the Scheme is admitted to trading on a Recognised Investment Exchange without the Scheme's consent, the obligation under Listing Rules 15.86 to 15.88 shall be incumbent not upon the Scheme, but upon the person who, without the Scheme's consent, has requested such admission.
- 15.90 Unit Holders and the natural or legal persons referred to in Listing Rules 15.109 and 15.113 shall notify information to the Scheme in a language customary in the sphere of international finance. In this case, the Scheme is not required to provide the Listing Authority with a translation of such notification.
- 15.91 Where the units of a Scheme whose denomination per unit amounts to at least Lm 21,465 at the date of the issue, are admitted to trading on a Recognised Investment Exchange in one or more Member or EEA States, regulated information shall be disclosed to the public either in English or Maltese language or in a language customary in the sphere of international finance, at the choice of the Scheme or of the person who, without the Scheme's consent, has requested such admission.
- 15.92 If an action concerning the content of regulated information is brought before a court or tribunal in Malta, responsibility for the payment of costs incurred in the translation of that information for the purposes of the proceedings shall be decided in accordance with the Maltese law.

*Continuing Obligations relating to Capital and Management*

- 15.93 The Scheme shall immediately notify the Recognised Investment Exchange where it is listed of the following:
- 15.93.1 the net asset value and net asset value per share, when calculated;
  - 15.93.2 any suspension in the calculation of net asset value or in the process of redemption;
  - 15.93.3 any change in the status of the Scheme for taxation purposes;
  - 15.93.4 any changes in the capital structure of the Scheme; and

- 15.93.5 any other information necessary to enable Unit holders to appraise the position of the Scheme and to avoid the establishment of a false market in its Units.

*Rights as between Holders*

- 15.94 A Scheme having Units of different classes in issue, any of which classes have been authorised as Admissible to Listing, shall ensure identical treatment of all holders in the same position (e.g. in the same class).

*Communications with Holders*

- 15.95 A Scheme shall ensure that all the facilities and information necessary to enable holders of shares to exercise their rights are available in Malta, where Malta is the home Member State and that the integrity of data is preserved.

The Scheme shall:

- 15.95.1 provide information on the place, time and agenda of meetings, the total number of shares and voting rights and the rights of holders entitled to participate in meetings
- 15.95.2 make available a proxy form in terms of Listing Rules 10.16 and 10.17, on paper or, where applicable, by electronic means, to each person entitled to vote at a shareholders' meeting, together with the notice concerning the meeting or, on request, after an announcement of the meeting;
- 15.95.3 At the request of a Unit Holder, designate as its agent a financial or credit institution through which the Unit Holder may exercise his financial rights; and
- 15.94 publish notices or distribute circulars concerning the allocation and payment of dividends and the issuer of new shares, including information on any arrangements for allotment, subscription, cancellation or conversion.
- 15.96 Whenever holders are sent a notice of a meeting which includes any business other than ordinary business at an Annual General Meeting, an explanatory circular shall accompany the notice or, if the business is to be considered at or on the same day as an Annual General Meeting, an explanation shall be incorporated in the Directors' report. Drafts of these documents should be submitted to the Listing Authority in advance of the issue to holders.
- 15.97 If appropriate, a proxy form shall be sent with the notice convening the meeting of holders of listed Units to each person entitled to vote at the meeting.
- 15.98 In the event of a Circular being issued to the holders of any particular class of Unit, the Scheme shall issue a copy or summary of such Circular to the holders of all other classes of Units unless the contents of such Circulars are manifestly irrelevant to such other holders.
- 15.99 The Scheme may use electronic means to circulate information other than Annual Accounts, provided such a decision to this effect is taken in a general meeting and such decision meets at least the following conditions:

- 15.99.1 the use of electronic means shall in no way depend upon the location of the seat or residence of the unit holder or, in the cases referred to in Listing Rule 15.113.1, of the natural or legal persons;
- 15.99.2 identification arrangements shall be put in place so that the Unit holders, or the natural or legal persons entitled to exercise or to direct the exercise of voting rights, are effectively informed;
- 15.99.3 unit holders, or in the cases referred to in Listing Rule 15.113.1, the natural or legal persons entitled to acquire, dispose of or exercise voting rights, shall be contacted in writing to request their consent for the use of electronic means for conveying information and, if they do not object within a reasonable period of time, their consent shall be deemed to be given. They shall be able to request, at any time in the future, that information be conveyed in writing; and
- 15.99.4 any apportionment of the costs entailed in the conveyance of such information by electronic means shall be determined by the Scheme in compliance with the principle of equal treatment.

*Miscellaneous Obligations*

- 15.100 Any decision to pay or make any dividend or other distribution on Units authorised as Admissible to Listing or to pass any interest payment or dividend on Units authorised as Admissible to Listing or any other decision requiring announcement shall be communicated to the Recognised Investment Exchange immediately after board authorisation.
- 15.101 A Scheme shall make appropriate arrangements to facilitate the efficient settlement of all transfers and registration of the Units as appropriate.
- 15.102 If a Scheme proposes to enter into a transaction with a Related Party, the Scheme is required to obtain the authorisation of its members prior to the transaction unless such transactions have been identified and described in the Prospectus.
- 15.103 The Scheme shall supply the Listing Authority with an original and an electronic copy of:
  - 15.103.1 all periodicals, special reports and Circulars released or issued by the Scheme for the information of holders of the Scheme's units;
  - 15.103.2 the published audited Annual Accounts of the Scheme and all documents required by law to be annexed thereto, as soon these have been made available to the public;
  - 15.103.3 all proceedings of the annual general meeting where they contain information additional to that contained in the Annual Accounts.

The Scheme shall also communicate the draft amendments to its Memorandum and Articles of Association to the Listing Authority and the Recognised Investment Exchange to which its units have been admitted to trading

*Financial Information - Annual Financial Report*

- 15.104 A Scheme shall publish its Annual Financial Report within four (4) months of the end of the Financial Year to which it relates. The Scheme shall also send to all Unit holders an Annual Financial Report within four (4) months of the end of the financial period to which it relates. The Scheme shall ensure that the Annual Financial Report remain public for at least 5 years.

The Annual Financial Report, one (1) copy of which shall be lodged with the Listing Authority at the earliest opportunity but in any event within four (4) months of the end of the financial period to which they relate, shall contain at least all the information required to be put in such a Report by the MFSA as well as any other significant information necessary to enable investors to make an informed judgment on the progress of the Scheme and its results.

In addition, the Report shall:

- 15.104.1 have been prepared in accordance with the laws of Malta and in all material aspects with International Financial Reporting Standards;
- 15.104.2 have been independently audited and reported on in accordance with the International Standards on Auditing as promulgated by the International Federation of Accountants;
- 15.104.3 be in consolidated form unless otherwise authorised by the Listing Authority;
- 15.104.4 include the following :
  - 15.104.4.1 the audited financial statements
  - 15.104.4.2 The Directors report in accordance with the Sixth Schedule of the Companies Act.
  - 15.104.4.3 Statements made by the persons responsible within the Scheme, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the financial statements prepared in accordance with the applicable set of accounting standards give a true and fair view of the assets, liabilities, financial position and profit or loss of the Scheme and the undertakings included in the consolidation taken as a whole and that the directors report includes a fair review of the development and performance of the business and the position of the Scheme and the undertakings included in the consolidation taken as a whole, together with a description of the principal risks and uncertainties that they face:

Provided that the requirement to include such a statement shall apply to Audited Annual Accounts relating to financial periods commencing on or after 1 January 2007.
  - 15.104.4.4 the information necessary to enable holders of the Scheme's Units authorised as Admissible to Listing to

obtain relief from any taxation to which they are entitled by reason of their being holders of such Units;

- 15.104.4.5 the amounts of managers' charges and Directors' fees and emoluments;
- 15.104.4.6 a statement of all unlisted investments with a value greater than five percent (5%) of the Scheme's gross assets, and the ten (10) largest investments stating in respect of each such investment:
  - 15.104.4.6.1 the market value of the listed investment;
  - 15.104.4.6.2 Directors' valuation of the unlisted securities;
  - 15.104.4.6.3 the name of the Issuer of such investments;
  - 15.104.4.6.4 the denomination of the investment; and
  - 15.104.4.6.5 the percentage of total net assets owned by the Scheme.

15.104.5 In addition, an analysis of realised and unrealised surpluses, should also be provided stating separately profits and losses as between those investments which are listed on a regulated, regularly operating, Recognised Investment Exchange and those investments which are not so listed.

*Financial Information – Half Yearly Financial Report*

15.105 A Scheme shall publish its Half Yearly Financial Report within two (2) months of the end of the period to which it relates. The Scheme shall also send to all Unit holders the Half Yearly Financial Report within two (2) months of the end of the period to which it relates. The Scheme shall ensure that the Half Yearly Financial Report remains public for at least 5 years.

The Half Yearly Financial Report, one (1) copy of which shall be lodged with the Listing Authority at the earliest opportunity but in any event within two (2) months of the end of the financial period to which it relates, shall contain at least all the information required to be put in such a Report by the MFSA as well as any other significant information necessary to enable investors to make an informed judgment on the progress of the Scheme and its results.

In addition, the Report shall:

- 15.105.1 be prepared in accordance with International Financial Reporting Standards;
- 15.105.2 include the following:
  - 15.105.2.1 the condensed set of financial statements;
  - 15.105.2.2 an interim directors report including at least an indication

of important events that have occurred during the first six months of the financial year, and their impact on the condensed set of financial statements, together with a description of the principal risks and uncertainties for the remaining six months of the financial year.

- 15.105.2.3 statements made by the persons responsible within the Scheme, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the condensed set of financial statements which has been prepared in accordance with the applicable set of accounting standards gives a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer, or the undertakings included in the consolidation as a whole and that the interim directors report includes a fair review of the information required in terms of LR 15.105.2.2.
- 15.105.2.4 When the Half Yearly Financial Report has been audited or reviewed, the Auditors' report shall be reproduced in full, together with any reasoned qualifications which may have been made.
- 15.105.2.5 If the Half Yearly Financial Report has not been audited or reviewed, the Scheme shall make a statement to that effect in its report.

Provided that the requirements of an interim directors' report in terms of Listing Rule 15.105.2.2 and a statement in terms of Listing Rule 15.105.2.3, shall apply to Half-yearly Financial Reports relating to financial periods commencing on or after 1 January 2007.

#### *Interim Directors' Statements*

- 15.106 Without prejudice to the provisions of the Prevention of Financial Markets Abuse Act, a Scheme whose units are admitted to trading on a Recognised Investment Exchange shall make available to the public a statement by its Directors during the first six-month period of the financial year and another statement by its Directors during the second six-month period of the financial year.

Provided that this requirement to make public such a statement shall apply to Interim Directors' Statements relating to financial periods commencing on or after 1 January 2007.

Such statement shall be made in a period between ten weeks after the beginning and six weeks before the end of the relevant six-month period.

- 15.107 The interim directors statement shall contain information covering the period between the beginning of the relevant six-month period and the date of publication of the statement and shall provide:

- 15.107.1 an explanation of material events and transactions that have taken place during the relevant period and their impact on the financial position of the Scheme and its controlled undertakings, and

- 15.107.1 a general description of the financial position and performance of the Scheme and its controlled undertakings during the relevant period.
- 15.108 The obligation to draw up and make available to the public the Interim Directors' Statement shall not apply to Schemes which, of their own initiative, make available to the public quarterly financial reports.

*Notification of the acquisition or disposal of major holdings to which voting rights are attached.*

- 15.109a Where the Home Member State is Malta and as soon as a Unit Holder acquires 5% or more of the Scheme's units to which voting rights are attached the Scheme shall immediately inform the Unit Holder of his obligation to notify the Scheme and the Listing Authority of any changes in major holdings in terms of Listing Rules 15.109 to 15.112.
- 15.109 Any Unit holder who acquires or disposes of units to which voting rights are attached and where the home Member State is Malta, such Unit holder shall notify the Scheme and the Listing Authority of the proportion of voting rights of the Scheme held by such Unit holder as a result of the acquisition or disposal where that proportion reaches, exceeds or falls below the thresholds of 5%, 10%, 15%, 20%, 25%, 30%, 50%, 75% and 90%.

The voting rights shall be calculated on the basis of all the units to which voting rights are attached even if the exercise thereof is suspended.

This information shall also be given in respect of all the units which are in the same class and to which voting rights are attached.

- 15.110 The Scheme and the Listing Authority shall also be notified by a Unit holder when its holding in the Scheme reaches, exceeds or falls below the thresholds specified in the Listing Rule 15.109, as a result of events changing the breakdown of voting rights. Where the Scheme is incorporated in a third country, the notification shall be made for equivalent events.

The Scheme shall make a Company Announcement disclosing the total number of voting rights and capital at the end of the relevant calendar month during which an increase or decrease of such total number has occurred. The threshold referred to in Listing Rule 15.109 shall be calculated on the basis of this public information.

- 15.111 Listing Rule 15.109 shall not apply to:

15.111.1 shares acquired for the sole purpose of clearing and settling within the usual short settlement cycle, or to custodians holding shares in their custodian capacity provided such custodians can only exercise the voting rights attached to such units under instructions given in writing or by electronic means.

15.111.2 acquisitions or disposal of a major holding reaching or crossing the 5% threshold by a market maker acting in its capacity of a market maker, provided that the market maker is authorised by its home Member State and it neither intervenes in the management of the Scheme concerned nor exerts any influence on the Scheme to buy such units or back the price.

15.111.3 Units provided to or by the members of the European System of Central Banks in carrying out their functions as monetary authorities, including units provided to or by members of the European System of Central Banks under a pledge or repurchase or similar agreement for liquidity granted for monetary policy purposes or within a payment system.

Provided that the above shall apply with regards to transactions lasting for a short period and the voting rights attaching to such units are not exercised.

15.112 Where Malta is the home Member State, voting rights held in the trading book, as defined in Article 2(6) of Council Directive 93/6/EEC, of a credit institution or investment firm shall not be counted for the purposes of Listing Rule 15.109 provided that:

15.112.1 the voting rights held in the trading book do not exceed 5%; and

15.112.2 the credit institution or investment firm ensures that the voting rights attaching to units held in the trading book are not exercised nor otherwise used to intervene in the management of the Scheme.

15.113 The notification requirement defined in Listing Rule 15.109 shall also apply to a natural or legal person who:

15.113.1 is entitled to acquire, to dispose of, or to exercise voting rights in any of the following cases or a combination of them:

5.113.1.1 voting rights held by a third party with whom that person or entity has concluded an agreement, which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the Scheme in question;

5.113.1.2 voting rights held by a third party under an agreement concluded with that person or entity providing for the temporary transfer for consideration of the voting rights in question;

5.113.1.3 voting rights attaching to units which are lodged as collateral with that person or entity, provided the person or entity controls the voting rights and declares its intention of exercising them;

5.113.1.4 voting rights attaching to units in which that person or entity has the right of usufruct;

5.113.1.5 voting rights which are held, or may be exercised within the meaning of Listing Rule 15.113.1.1 to 15.113.1.4 above, by an undertaking controlled by that person or entity;

5.113.1.6 voting rights attaching to units deposited with that person or entity which the person or entity can exercise at its discretion in the absence of specific instructions from the

Unit holders;

- 5.113.1.7 voting rights held by a third party in its own name on behalf of that person or entity;
  - 5.113.1.8 voting rights which that person or entity may exercise as a proxy where the person or entity can exercise the voting rights at its discretion in the absence of specific instructions from the Unit holders.
- 15.113.2 holds directly or indirectly, financial instruments that result in an entitlement to acquire, on such holder's own initiative alone, under a formal agreement, units already issued and to which voting rights are attached, of a Scheme whose units are admitted to trading on a Recognised Investment Exchange.
- 15.114 The notification required under Listing Rule 15.109 shall include the following information:
- 15.114.1 the resulting position in terms of voting rights;
  - 15.114.2 the chain of controlled undertakings through which voting rights are effectively held, if applicable;
  - 15.114.3 the date on which the threshold was reached or crossed; and
  - 15.114.4 the identity of the Unit holders, even if that Unit holder is not entitled to exercise voting rights under the conditions laid down in Listing Rule New 15.113, and of the natural person or legal entity entitled to exercise voting rights on behalf of that Unit holders.
- 15.115 The notification to the Scheme referred to in Listing Rule 15.114 shall be effected as soon as possible, but not later than four trading days following the date on which the Unit holder, or the natural or legal person representing the Unit holder:
- 15.115.1 learns of the acquisition or disposal or of the possibility of exercising voting rights, or on which, having regard to the circumstances, should have learned of it, regardless of the date on which the acquisition, disposal or possibility of exercising voting rights takes effect; or
  - 15.115.2 is informed about the events changing the breakdown of voting rights.
- 15.116 Notwithstanding Listing Rule 15.115, a shareholder shall notify the Scheme by not later than 1 May 2007, of the proportion of voting rights and capital it already holds in accordance with Listing Rule 15.109 and 15.113 with Issuers as at that date, unless it has already made a notification containing equivalent information before this date.
- 15.117 An undertaking shall be exempted from notifying the Scheme of any changes in its holding as required under Listing Rules 15.109 if the notification is made by the parent undertaking or, where the parent undertaking is itself a controlled undertaking, by its own parent undertaking.
- 15.118 The parent undertaking of a management company shall not be required to aggregate its holdings with the holdings managed by the management company

under the conditions laid down in Directive 85/611/EEC, provided such management company exercises its voting rights independently from the parent undertaking.

Where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in holdings managed by such management company and the management company has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking, the holdings of the parent undertaking shall be aggregated with its holdings through the management company.

15.119 The parent undertaking of an investment firm authorised under Directive 2004/39/EC shall not be required to aggregate its holdings with the holdings which such investment firm manages on a client-by-client basis within the meaning of Art 4(1), point 9, of Directive 2004/39/EC provided that:

15.119.1 the investment firm is authorised to provide such portfolio management under point 4 of Section A of Annex I to Directive 2004/39/EC;

15.119.2 it may only exercise the voting rights attached to such units under instructions given in writing or by electronic means or it ensures that individual portfolio management services are conducted independently of any other services under conditions equivalent to those provided for under Directive 85/611/EEC by putting into place appropriate mechanisms; and

15.119.3 the investment firm exercises its voting rights independently from the parent undertaking.

Where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in holdings managed by such investment firm and the investment firm has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking, the holdings of the parent undertaking shall be aggregated with its holdings through the investment firm.

15.120 Undertakings whose registered office is not in a Member or EEA State which would have required an authorization in accordance with Article 5(1) of Directive 85/611/EEC or, with regard to portfolio management under point 4 of section A of Annex I to Directive 2004/39/EC if it had its registered office or, only in the case of an investment firm, its head office within the Community, shall also be exempted from aggregating holdings with the holdings of its parent undertaking under the requirements laid down in Listing Rules 15.118 and 15.119 provided that they comply with equivalent conditions of independence as management companies or investment firms.

15.121 Upon receipt of the notification in terms of Listing Rule 15.109 but no later than three trading days thereafter, the Scheme shall also make a Company Announcement including all the information contained in the notification.

15.122 Notwithstanding Listing Rule 15.121 a Scheme shall disclose the information received in the notifications mentioned in Listing Rule 15.116, by not later than 1

June 2007.

- 15.123 Where a Scheme acquires or disposes of its own units, either itself or through a person acting in his own name but on the Scheme's behalf, the Scheme shall make a Company Announcement in the English or Maltese language without delay through the Recognised Investment Exchange as soon as possible, but not later than four trading days following such acquisition or disposal where that proportion reaches, exceeds or falls below the thresholds of 5% or 10% of the voting rights. The Company Announcement shall disclose the proportion of the Scheme's holding in its own units, following the acquisition or sale referred to above.

The proportion of such holding shall be calculated on the basis of the total number of units to which voting rights are attached.

*Additional Notifications*

- 15.124 A Scheme or a person who has applied for admissibility to trading on a Regulated Market without the Scheme's consent, where applicable, must make a Company Announcement in the English or Maltese language without delay through the Recognised Investment Exchange with regards to the following:
- 15.124.1 price-sensitive facts which arise in its sphere of activity and which are not public knowledge;
  - 15.124.2 any information concerning the Scheme or any of its Subsidiaries necessary to avoid the establishment of a false market in its units;
  - 15.124.3 information of any major new developments in its sphere of activity which are not public knowledge which may:
    - 15.124.3.1 lead to substantial movement in the price of its units; or
    - 15.124.3.2 or significantly affect its ability to meet its commitments;
  - 15.124.4 the date fixed for any board meeting of the Scheme at which the declaration or recommendation or payment of a dividend on units authorised as Admissible to Listing is expected to be decided, or at which any announcement of the profits or losses in respect of any year, half-year or other period is to be approved for publication;
  - 15.124.5 any decision by the Directors of the Scheme to declare any dividend or other distribution on units Admissible to Listing or not to declare any dividend units authorised as Admissible to Listing or relating to profits;
  - 15.124.6 the filing of a winding-up application;
  - 15.124.7 any resolution for the merger or amalgamation of the Scheme and any agreement entered into in connection with any acquisition or realisation of assets or any transaction outside the ordinary course of business of the Scheme and/or its Subsidiaries which is likely to materially affect the price of its units;
  - 15.124.8 indicating any change in the rights attaching to any class of units issued by the Scheme.

- 15.124.9 the effect, if any, of any issue of further units on the terms of the exercise of rights under options, warrants and convertible units;
- 15.124.10 the results of any new issue or Public Offer of units. Where the units are subject to an underwriting arrangement the Scheme may at its discretion, delay notifying the Listing Authority until the obligations by the underwriter to take or procure others to take units are finally determined or lapse. In the case of an issue or offer of units which is not underwritten, notification of the result must be made as soon as it is known;
- 15.124.11 all resolutions put to a general meeting of the Scheme which are not Ordinary Business and immediately after such meeting whether or not the resolutions were carried;
- 15.124.12 any change of address of the registered office of the Scheme;
- 15.124.13 any proposed changes to the Memorandum and Articles of Association of the Scheme;
- 15.124.14 the intention to Discontinue Listing by the Scheme;
- 15.124.15 a statement indicating where the audited Annual Financial Report and Half Yearly Financial Report have been made available to the public
- 15.124.16 indicating the total number of voting rights and capital, at the end of each calendar month during which an increase or decrease of such total number has occurred;
- 15.124.17 the matters referred to in Listing Rule 15.137 (preliminary results)

Where the Scheme is admitted to trading on a Regulated Market in Malta and Malta is the only host Member or EEA State, the Scheme or a person who has applied for admission to trading on a Regulated Market without the Scheme's consent is obliged to make a Company Announcement in terms of Listing Rules 15.110, 15.121, 15.123 and 15.124.8 and also provides such information to the Officially Appointed Mechanism.

- 15.125 The Listing Authority shall require that information disclosed in a non Member or EEA State, which may be of importance for the public in the Malta or another EEA State is disclosed in terms of Listing Rules 15.86 to 15.92 and 15.124.

*Directors (including Directors of the Manager in the case of a Unit Trust)*

- 15.126 Copies of the Directors' service contracts, if any, shall be made available for inspection to the general public:
  - 15.126.1 at the registered office of the company, or in the case of an Oversea Company, at the office of the Sponsor during Normal Business Hours from the date of the notice convening the Annual General Meeting up to close of the meeting; and
  - 15.126.2 throughout the meeting at the place where the Annual General Meeting is being held.

- 15.127 A Scheme shall notify the Listing Authority without delay of any change in the holding of its Units by any Director and/or of any person connected with the Director. The communication shall include the following:
- 15.127.1 the date on which the transaction giving rise to the interest (or cessation of the interest) was effected;
  - 15.127.2 the price, amount and class of units concerned;
  - 15.127.3 the nature of the transaction and the nature and extent of the Director's interest in the transaction; and
  - 15.127.4 the number of Units held and the percentage holding of the Director following the transaction.

The above information is required to be communicated by the Scheme insofar as it is known to the Scheme. The Scheme, however, shall ensure that the Directors disclose all the necessary information in time to enable the Scheme to comply with this requirement.

*Consultation with the Listing Authority and Maintenance of Information*

- 15.128 The Scheme shall immediately notify the Listing Authority of:
- 15.128.1 any changes in the general character or nature of the Scheme; and
  - 15.128.2 any renewal or termination of or variation to the Scheme.
- 15.129 The Listing Authority shall be consulted in advance of any event of which the Scheme is aware and which is relevant to the maintenance of Admissibility by the Scheme.
- 15.130 The Scheme shall maintain a complete file of all advertisements, brochures, leaflets and other documents issued with a view to effecting or stimulating sales or purchases of Units. The file shall be produced to the Listing Authority or its representative on demand.

*Other Continuing Obligations*

- 15.131 Besides complying with the Continuing Obligations contained in this section, Schemes having listed Units shall also ensure that the following obligations shall be observed so long as the Units remain authorised as Admissible to Listing:
- 15.131.1 the respective obligations of the Scheme and/or its manager under the constitutional documents of the Scheme and the applicable legal and regulatory requirements shall be complied with;
  - 15.131.2 the amount of the charges and expenses (to the extent borne by the Scheme) of the managers, the trustee and any agent of the managers or trustee, the investment adviser or any sub-adviser or any custodian or sub-custodian, shall be clearly set out in each Annual Report issued by the Scheme;
  - 15.131.3 all Circulars issued in respect of the sale of Units in the Scheme shall

clearly state any terms or conditions under which the managers undertake to repurchase Units in the Scheme;

15.131.4 the Scheme shall notify the following information to the Listing Authority without delay, and in any event within one (1) month of the end of each distribution or allocation period:

15.131.4.1 the total gross and net income per Unit (before charging expenses to the Scheme);

15.131.4.2 the net amount per Unit or share (after allowing for charges and adjustments) to be distributed or allocated, together with the gross equivalent attributable to the distribution or allocation period;

15.131.4.3 the date of the striking of holders register balances; and

15.131.4.4 any date on and from which trading ex-distribution (where applicable) will take place.

#### *Exemptions*

15.132 Where a Scheme is admitted to trading in Malta but its registered office is not in a Member or EEA State, the Listing Authority may exempt that Scheme from the requirements of the following Listing Rules 15.2 (second para.), 15.94 till 15.99, 15.104 till 15.108, 15.110 (second para.), 15.121, 15.123, 15.124.

Provided that the Listing Authority considers that the Scheme is subject to equivalent legal requirements.

15.133 The Scheme referred to in Listing Rule 15.132, shall be exempted from preparing its Annual Financial Report and Half-Yearly Financial Report in accordance with Listing Rules 15.104 and 15.105 respectively, prior to the financial year starting on or after 1 January 2007, as long as such Scheme prepares its Annual Financial Report and Half-Yearly Financial Report in accordance with internationally accepted standards referred to in Article 9 of Regulation (EC) No 1606/2002.

#### *Cooperation with other regulatory authorities*

15.134 The Listing Authority shall cooperate with other regulatory authorities for the purpose of assisting other regulatory authorities in carrying out their duties and making use of their powers, particularly for the following purposes:

15.134.1 Exchange of information and cooperation when a Scheme has more than one home regulatory authority;

15.134.2 transfer of the approval of a Prospectus to the regulatory authority of another Member State or EEA State.

15.134.3 When requiring suspension or prohibition of trading for securities traded in various Member States or EEA States in order to ensure a level playing field between trading venues and protection of investors.

- 15.135 Where Malta is the host Member State and the Listing Authority finds that breaches have been committed by the Scheme or the financial institutions responsible for seeking admissibility to listing, it shall refer those findings to the regulatory authority of the home Member State or EEA State.
- 15.136 If measures taken by the regulatory authority of the home Member State or EEA State do not prevent the Scheme or the financial institutions responsible for seeking admissibility to listing, from breaching the relevant provisions of these Listing Rules, the Listing Authority shall, after informing the regulatory authority of the home Member State or EEA State, take all the appropriate measures in order to protect investors.

*Preliminary Statement of Annual Results*

- 15.137 A preliminary statement of annual results must
- 15.137.1 include;
    - 15.137.1.1 a condensed balance sheet;
    - 15.137.1.2 a condensed income statement;
    - 15.137.1.3 a condensed statement of changes in equity;
    - 15.137.1.4 a condensed cash flow statement;
    - 15.137.1.5 explanatory notes and any significant additional information necessary of the purpose of assessing the results being announced;
    - 15.137.1.6 a statement that the annual results have been agreed with the Auditors and if the Auditors' report is likely to be qualified, give details of the nature of the qualification; and
      - 15.137.1.6.1 any decision to pay or make any dividend or other distribution on Equity Securities authorised as Admissible to Listing or to withhold any dividend or interest payment on Securities authorised as Admissible to Listing giving details of;
      - 15.137.1.6.2 the exact net amount payable per Share;
      - 15.137.1.6.3 the payment date; and
      - 15.137.1.6.4 the cut off date when the Register is closed for the purpose of distribution
  - 15.137.2 be announced to the market by way of a Company Announcement in terms of Listing Rule without delay after Board's approval.

**APPENDIX 15.1**  
(Listing Rule 15.9)

<b>FORMAL APPLICATION FOR AUTHORISATION FOR ADMISSIBILITY TO LISTING OF COLLECTIVE INVESTMENT SCHEMES</b>
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(To be typed on the letter-head of the Collective Investment Scheme applying for authorisation for Admissibility to listing)

Date .....

To: THE LISTING AUTHORITY  
MALTA FINANCIAL SERVICES AUTHORITY  
ATTARD

Dear Sir

1. We (..... hereby apply) (are instructed by .....to lodge an application) for authorisation for the admissibility of the securities referred to in Paragraph 4 below to listing, as a primary/secondary listing in Malta, in accordance with and subject to the Listing Rules of the Listing Authority.
2. (.....) is a Collective Investment Scheme which has been duly licensed by the MFSA pursuant to Section 6 of the Investment Services Act on ..... with Licence No. ....
3. Application is presently being made for the authorisation for the admissibility to listing of ..... (number of) Units.
4. The securities for which application is presently being made :-
  - (a) are identical\* in all respects/are divided into the following classes :  
.....  
.....  
(\* See Note 1.)
  - (b) are not authorised admitted to listing on another recognised investment exchange or overseas stock exchange /are listed on the following recognised investment exchange/s or overseas stock exchange/s  
.....  
.....  
.....

- (c) have been in the previous six (6) months, are or will be the subject of an application for listing on the following recognised investment exchange/s or overseas stock exchange/s:

.....  
.....

5. We declare that :

- (a) the Collective Investment Scheme has been licensed by the MFSA pursuant to Section 6 of the Investment Services Act, 1994 and that such licence is currently in force and that we know of no reasons why such licence may be withdrawn;
- (b) that the Scheme complies and will comply in all material respects with the Regulations in respect of Collective Investment Schemes as issued from time to time by the MFSA;
- (c) all information required to be included in the Equivalent Offering Document/explanatory memorandum by virtue of the abovementioned Regulations, the Listing Rules, the Companies Act, the Financial Markets Act as well as its Listing Rules and any other applicable legislation has been included therein or, if the final version has not yet been submitted (or reviewed) will be included therein before it is so submitted; and
- (d) there are no other facts bearing on the Scheme’s application for listing such securities which, in our opinion, should be disclosed to the Listing Authority.

6. We undertake to comply with the provisions of the MFSA and with the Listing Rules in force from time to time.

Yours faithfully  
(See Note 2)

Signed .....  
Name:  
for and on behalf of  
(Management Company,  
Scheme)

Signed .....  
Name:  
for and on behalf of  
(Sponsor’s Name)

## CHAPTER 16

### Public/State Sector Issuers Issuing Debt Securities

This chapter explains Public Sector Issuers and obligations required for issuance of those securities, and their corresponding continuing obligations.

*General*

A Public Sector Issuer issuing Debt Securities (other than those Securities falling within Chapter 17) must comply with the rules contained in this Chapter. When a Public Sector Issuer issues Securities falling within Chapter 17, it must comply with the rules contained in that chapter applicable to it.

*Conditions for Admissibility*

- 16.1 A Public Sector Issuer must satisfy the relevant conditions for Admissibility set out in Chapter 3, as modified by Listing Rule 16.2.
- 16.2 Only Listing Rules 3.15 to 3.18 and 3.21 apply in the case of Debt Securities issued by a state, its regional or local authorities or a public international body.

*Methods of bringing securities to Admissibility to Listing*

- 16.3 Public Sector Issuers need not comply with the requirements of Chapter 4.

*Listing Particulars and Equivalent Offering Documents*

*States and their Regional and Local Authorities*

- 16.4 States and their regional or local authorities need not comply with Chapter 2 and are not required to produce Prospectus when making an application for authorisation for Admissibility to listing. Instead, such Issuers must produce an Equivalent Offering Document containing the information (with adaptation as necessary according to the type of Issuer) set out in Listing Rule 16.5. The Listing Authority will, however, have noted information already available to the public in deciding on the application of the requirements of that Listing Rule and of Listing Rule 16.6 for each particular issue.

- 16.5 An Equivalent Offering Document must contain:

- 16.5.1 the name of the Issuer;
- 16.5.2 a statement that application has been made to the Listing Authority for the Securities to be authorised as Admissible to Listing, setting out the relevant Securities;
- 16.5.3 the nominal amount and title of the Securities in respect of which authorisation for Admissibility to Listing is sought;
- 16.5.4 the authority under which the Securities are issued;
- 16.5.5 the names and addresses of the bankers, Sponsor and trustees (if applicable);
- 16.5.6 details of the revenue and capital against which the security is charged and of the revenue cover for interest, if appropriate; and
- 16.5.7 the terms and conditions of issue of the Securities including, in particular:
- 16.5.7.1 the rights conferred as regards income and capital, with information as to the amount and application of any sinking fund;
- 16.5.7.2 any right of the Issuer to redeem before maturity;
- 16.5.8 any rights of conversion or other similar rights and the security on which any loan is charged;
- 16.5.9 the interest payment dates and, if included in the conditions of issue or other provisions, the dates on which a balance is struck for the purposes of payment; and

- 16.5.10 the price at which and the terms upon which the Securities have been issued or agreed to be issued, and whether the Securities have or have not been paid up in full (and if not paid up in full, particulars of all payments still to be made with due dates of payments); and
- 16.5.11 the markets on which the Securities are expected to be listed.
- 16.6 The Equivalent Offering Document must be formally authorised by the Listing Authority before publication. Formal authorisation will only be given during Normal Business Hours. Three (3) copies of the document in draft must be submitted for authorisation.
- 16.7 Each copy of the Equivalent Offering Document must contain an application form which may be used to apply for the Securities to be offered.
- Admissibility Application and Publication and Circulation Procedures*
- States and their Regional and Local Authorities*
- 16.8 States and their regional and local authorities need not comply with Chapter 7, save for the Listing Rules of that chapter specified in Listing Rule 16.13. Such Issuers must instead comply with Listing Rules 16.11 and 16.12 below in respect of Admissibility application procedures save where the Listing Authority otherwise allows having regard to information already available to the public and the particular circumstances of the issue.
- State Monopolies, State Finance Organisations, Public International Bodies and Statutory Bodies, Corporations and other Legal Persons set by Act of Parliament.*
- 16.9 State monopolies, state finance organisations, public international bodies and corporations and other legal persons set up by Act of Parliament need not comply with chapter 7 save for the Listing Rules of that chapter specified in Listing Rule 16.12. Such Issuers must instead comply with Listing Rules 16.10 and 16.11 below in respect of Admissibility application procedures save where the Listing Authority otherwise allows having regard to information already available to the public and the particular circumstances of the issue.
- Submission of Draft Documents*
- 16.10 Three (3) copies of the following documents (wherever relevant), appropriately annotated in the margin to indicate where the paragraphs required by this chapter have been included, must be submitted in final form to the Listing Authority:
- 16.10.1 the Equivalent Offering Document satisfying all requirements for the contents of such documents, one of which, in the case of an application in respect of Securities of a Class not already Admissible to Listing, must be signed and dated by a duly authorised official of the Issuer or by his agent or attorney and lodged with a certified copy of the authority of any such agent or attorney;
- 16.10.2 application forms to purchase or subscribe Securities; and
- 16.10.3 formal notices (see Listing Rules 16.21 to 16.23).
- 16.10.4 unless already submitted to the Listing Authority under Listing Rule 5.9, an application for authorisation for Admissibility to listing in the appropriate form issued by the Listing Authority, signed by a duly authorised official of the Issuer
- 16.10.5 When Prospectus is, or an Equivalent Offering Document is, required and unless already submitted to the Listing Authority, a letter in a form acceptable to the Listing Authority is required from

the Accountants stating that in their opinion the Issuer's audited Annual Accounts have been prepared and audited in accordance with the standards referred to in Listing Rules 3.5.3 and 3.5.4, and that the financial information in the comparative table has been properly extracted without material adjustment from the audited Accounts.

- 16.10.6 three (3) copies of the Prospectus or Equivalent Offering Document satisfying all requirements for the contents of such documents, one of which, in the case of an application in respect of Securities of a Class not already authorised as Admissible to listing, must be signed and dated by a duly authorised official of the Issuer or by his agent or attorney and lodged with a certified copy of the authority of any such agent or attorney;
  - 16.10.7 where applicable, a copy of a national newspaper which contains the Listing Particulars, Equivalent Offering Document or any notice submitted for authorisation under Listing Rule 16.10;
  - 16.10.8 an official copy of any Act, or the equivalent in the case of a Public Sector Issuer from outside Malta, and a copy of any consent, order and/or resolution, authorising the issue;
  - 16.10.9 where a regional or local authority has offered Securities for sale to or subscription by the public, a certificate of the authority;
  - 16.10.10 in the case of a state monopoly, state finance organisation, corporation or other legal person set up by an Act of Parliament which is incorporated or established in a Recognised Jurisdiction, and which is issuing bearer Securities, some or all of which are being issued outside Malta, a certificate of compliance with the standards laid down in that Recognised Jurisdiction;
  - 16.10.11 a letter from an authorised adviser confirming that any deferred settlement arrangements applying to the Class of Securities the subject of the application for authorisation for Admissibility to Listing have been formally agreed with the Recognised Investment Exchange on which the Securities are to be Admitted to listing; and
  - 16.10.12 a copy of the Issuer's application for Admission to Listing in the appropriate form issued by the relevant Recognised Investment Exchange signed by a duly authorised officer of the Issuer for each Recognised Investment Exchange to which the Issuer is applying for authorisation for Admission to Listing.
- 16.11 The Listing Authority shall notify the Applicant of its decision to accept or refuse an application for Admissibility to listing:
- 16.11.1 before the end of the period of forty (40) days beginning with the date on which the application is received; or
  - 16.11.2 if within that period the Listing Authority has required the Applicant to provide further information in connection with the application, before the end of the period of forty (40) days beginning with the date on which that information is provided.

*Additional Requirements*

- 16.12 A Public Sector Issuer is also subject to the applicable provisions of the Listing Rules in Chapter 7 listed below:

Listing Rule

7.1 application for authorisation for Admissibility to listing becoming effective

7.24 additional documents.

*Publication and circulation*

*States and their regional or local authorities*

16.13 States and their regional or local authorities need not comply with Chapter 7. Such Issuers must instead comply with Listing Rules 16.14 to 16.23 with regard to the publication and circulation of Equivalent Offering Documents, save where the Listing Authority otherwise allows having regard to information already available to the public and the particular circumstances of the issue.

*Prior authorisation*

16.14 Prospectus and Equivalent Offering Documents must not be published, advertised or circulated until they have been formally authorised by the MFSA in terms of the Investment Services Act, where relevant, and by the Listing Authority in their final form.

16.15 Prospectus and Equivalent Offering Documents must not be circulated or made available publicly unless they have first been published as required by Listing Rules 16.17 to 16.22.

16.16 Subject to any prohibitions imposed by law, draft Prospectus and Equivalent Offering Documents, clearly marked as such, may, however, be circulated without authorisation for the purpose of arranging an underwriting or placing.

*Publication*

16.17 Prospectus and Equivalent Offering Documents issued by a Public Sector Issuer, must be published either:

16.17.1 by insertion in one (1) or more newspapers circulated in Malta; or

16.17.2 in the form of a brochure to be made available free of charge to the public in sufficient numbers to satisfy demand at the offices of the Recognised Investment Exchange on which the Securities are expected to be admitted to listing, at the registered office of the Issuer and at the offices of the Issuer's Paying Agents, where applicable.

16.18 Prospectus or Equivalent Offering Document must be published

16.18.1 at least seven (7) Business Days prior to the date on which the offer period for the Securities to which they relate is expected to open.

16.18.2 The Listing Authority may allow a shorter period for the publication of the Prospectus or Equivalent Offering Document and, where relevant, a formal notice to be inserted in a national newspaper provided a written request from the Sponsor is received and the application is by a Listed Company in respect of Securities of a Class new to Admissibility to Listing.

16.19 A note stating that such documents have been published and are available at the Issuer's registered office will be inserted by the Listing Authority on the Listing Authority Website and on the notice board designated for that purpose by the Listing Authority.

16.20 In the case of a Public Sector Issuer other than a state or regional or local authority where a Prospectus relating to any Securities is required under Listing

Rule 5.1, the offeror of those Securities shall be responsible for the publication of the Prospectus.

*Advertising*

- 16.21 A Public Sector Issuer must advertise the publication of Prospectus or an Equivalent Offering Document (as appropriate) by the insertion in at least one (1) national newspaper of either the full text of the relevant document, or a formal notice (see Listing Rule 16.22) unless they relate to Securities which are of a Class already authorised as Admissible to listing.
- 16.22 For the purposes of Listing Rule 16.21, a formal notice is an advertisement, not constituting Prospectus or an Equivalent Offering Document, containing the following items of information where applicable:
- 16.22.1 the name and country of incorporation or establishment of the Issuer;
  - 16.22.2 the amount and title of the Securities in respect of which authorisation for Admissibility to Listing is sought;
  - 16.22.3 the name and country of incorporation of any guarantor of the principal or interest on such Debt Securities;
  - 16.22.4 a statement that the relevant document has been published and the addresses and times at which copies of the relevant document are available to the public (see Listing Rule 16.17);
  - 16.22.5 the date of the formal notice; and
  - 16.22.6 in the case of Securities with a facility to issue further tranches, the total amount of the Securities which could be issued under such facility.
- 16.23 The formal notice must not contain information that is not included in the Prospectus or Equivalent Offering Document.
- Additional requirements for Public Sector Issuers other than states and their Regional or Local Authorities
- 16.24 State monopolies, state finance organisations, public international bodies, corporations and other legal persons set up by Act of Parliament must, in the case of any issue of Debt Securities, in addition to complying with Listing Rules 16.14 to 16.23, make available (at the addresses and times at which it makes available copies of its Prospectus) the following documents;
- 16.24.1 A statement that the following documents or certified copies thereof will be available for inspection at the Company's registered office, head office or such other place in Malta as the Listing Authority may agree, for at least fourteen (14) days from the date of publication of the Prospectus or for the duration of any offer to which the Prospectus relate, if longer:
    - 16.24.1.1 the Memorandum and Articles of Association or other constitutive document of the Issuer;
    - 16.24.1.2 any contract or written agreement concerning the Issuer and which is referred to in the Prospectus;
    - 16.24.1.3 each document disclosed pursuant to material contracts and Directors' service contracts or in the case of a contract not reduced into writing, a memorandum giving full particulars thereof;

- 16.24.1.4 all reports, letters and other documents, valuations and statements by any Expert any part of which is reproduced or referred to in the Prospectus including any written consents from experts;
  - 16.24.1.5 the audited Annual Accounts of the Issuer, or, in the case of a Group, the consolidated audited Accounts of the Issuer and its Subsidiary Undertakings for each of the three (3) Financial Years preceding the publication of the Prospectus together with, in the case of a Company incorporated in Malta, all notes, certificates or information required by Part V, Title I, Chapter X of the CA;
  - 16.24.1.6 in the case of an issue of Securities in connection with a merger, the division of a Company, the transfer of all or part of an Undertaking's assets and liabilities, or a takeover offer, or as consideration for the transfer of assets other than cash, the documents describing the terms and conditions of such operations, together, where appropriate, with any opening balance sheet, if the Issuer has not prepared its own or consolidated audited Annual Accounts (as appropriate); and
  - 16.24.1.7 written statements signed by the Accountants setting out the adjustments made by them in arriving at the figures shown in any Accountants' Report therefore and giving the reasons therefor.
- 16.25 Where Prospectus are to be published, any advertisement or document (excluding Prospectus) which is to be issued in Malta and which is to be issued by or on behalf of a state monopoly, state finance organisation, public international body, corporations and other legal persons set up by Act of Parliament for the purpose of announcing the Admissibility to Listing must be lodged with the Listing Authority at least six (6) hours prior to publication. Press releases and advertisements that merely include a reference to authorisation for Admissibility to Listing or a Public Offer are not required to be submitted to the Listing Authority for authorisation.
- 16.26 Any advertisement or document described in Listing Rule 16.25 must contain:
- 16.26.1 a statement that a Prospectus, has been or will be published; and
  - 16.26.2 the addresses and times at which copies of the Prospectus are or will be available to the public (see Listing Rule 16.17).
- 16.27 Any advertisement or other document (other than a Prospectus) issued by or on behalf of a state monopoly, state finance organisation, public international body, corporations and other legal persons set up by Act of Parliament for the purpose of announcing a Public Offer where a Prospectus is required by the Listing Rules, must be lodged with the Listing Authority prior to its publication and:
- 16.27.1 must contain a statement that a Prospectus has been or will be published;
  - 16.27.2 must contain the addresses and times at which copies of the Prospectus are or will be available to the public (see Listing Rule 16.17); and

16.27.3 must comply with the requirements of MFSA guidelines issued in relation to advertisements in terms of Section 11 of the Investment Services Act.

*Continuing Obligations*

*General*

16.28 A Public Sector Issuer which only has Debt Securities authorised as Admissible to Listing need not comply with the continuing obligations set out in other chapters of the Listing Rules except those contained in Chapter 17 as specified below.

*State monopolies, state finance organisations, public international bodies and corporations and other legal persons set up by Act of Parliament*

16.29 State monopolies, state finance organisations, public international bodies, corporations and other legal persons set up by Act of Parliament are subject to the continuing obligations set out in Listing Rules..

*States and their Regional and Local Authorities*

16.30 A Public Sector Issuer which is a state or a regional or local authority must, subject to Listing Rule 16.31:

*Exercise of Rights*

16.30.1 ensure that, at least in each Recognised Jurisdiction in which its Securities are Admissible to Listing, all necessary facilities and information are available to enable holders of such Securities to exercise their rights; in particular, it must publish notices or distribute Circulars concerning the holding of meetings of holders of its Debt Securities Admissible to Listing, the payment of interest on and redemption of its Debt Securities Admissible to Listing, and in addition it must appoint a registrar and/or where appropriate a Paying Agent in Malta;

*Equality of treatment*

16.30.2 ensure equal treatment for all holders of its Debt Securities Admissible to Listing of the same Class in respect of all rights attaching to such Securities; the Listing Authority may, in exceptional cases, permit an early repayment contrary to this Listing Rule, provided that the repayment is in accordance with the relevant national law of the country where the holders, or any Class of them are principally situated.

*Equivalent Information*

16.30.3 where Securities are authorised as Admissible to Listing and are listed on any overseas stock exchange, ensure that equivalent information is made available at the same time to the public (by way of notification to the Listing Authority) and each of such other stock exchanges. In the case of Issuers with Debt Securities listed on a stock exchange situated or operating in a non-Recognised Jurisdiction, equivalent information to that notified to the market of the non-Recognised Jurisdiction need only be notified to the Listing Authority if such information may be of importance for the evaluation of the Debt Securities' authorisation for Admissibility to Listing by the Listing Authority;

*Interest payment*

- 16.30.4 notify to the Listing Authority all proposed payments of interest or the decision to pass any interest payment and in the case of a registered or inscribed Security, the date of the closing of the books or the striking of the balance for the payment of interest, prior to the due date;

*Proposal to purchase own Securities*

- 16.30.5 notify to the Listing Authority any proposed repurchase by it or on its behalf of its Debt Securities Admissible to Listing open to all holders in respect of all or part of their holdings, and whilst the proposal is being actively considered, the Issuer must ensure that no dealings in the relevant Securities are effected by or on behalf of the Issuer until the proposal has been announced or abandoned, save that:

16.30.5.1 this requirement does not apply to transactions entered into in the ordinary course of business by Securities dealing businesses;

16.30.5.2 the Listing Authority may be prepared to grant a waiver of this requirement in cases where the issue is not widely held and it is possible to contact all holders directly and their authorisation is obtained;

16.30.5.3 no prior Announcement is required for individual transactions in accordance with the terms of issue of the Securities, whether for sinking fund purposes or otherwise.

*Notification of Purchases*

- 16.30.6 Notify to the Listing Authority any purchase by it or on its behalf, or redemption or cancellation by it of its Debt Securities Admissible to Listing when an aggregate of ten percent (10%) of the initial nominal amount of the Securities has been purchased, redeemed or cancelled and for each five percent (5%) of the initial nominal amount purchased, redeemed or cancelled in aggregate thereafter and, in this connection:

16.30.6.1 such notifications must be made as soon as possible and in any event no later than the opening of business on the Business Day following the calendar day on which the transaction occurred to reach or exceed the relevant threshold;

16.30.6.2 the notification must state the nominal amount of the Securities purchased, redeemed or cancelled since the last such notification, the nominal amount of the Securities remaining outstanding and whether or not the Securities acquired are to be cancelled; and

16.30.6.3 where a purchase is not being made pursuant to a general offer announced in accordance with 16.30.5 and the purchase causes a relevant threshold in this Listing Rule 16.30.6 to be reached or exceeded, no further purchases are to be effected until after a notification in compliance with this Listing Rule 16.30.6 has been made:

save that these requirements do not apply to transactions entered into in the ordinary course of business by Securities dealing businesses;

*Drawings*

- 16.30.7 notify to the Listing Authority in advance all proposed drawings, and, in the case of a registered Security, the date on which it is proposed to close the books for the purpose of making the drawing;

*Outstanding Amount*

- 16.30.8 notify to the Listing Authority immediately the amount of the Security outstanding after any purchase or drawing has been made;

*Announcements*

- 16.30.9 notify to the Listing Authority without delay all notifications or Company Announcements made in respect of a Security authorised as Admissible to Listing;

*Certificates*

- 16.30.10 ensure that definitive certificates are issued within fourteen (14) days of the date of the lodgement of a transfer and, if required, balance certificates are issued within one month without charge;

*Changes to Rights*

- 16.30.11 notify to the Listing Authority without delay any change in the rights attaching to Debt Securities authorised as Admissible to Listing (including any change in loan terms or in the rate of interest carried by a Security);

*Annual Listing Fee*

- 16.30.12 other than an Issuer of international securities, pay the annual fee for Admissibility to the Listing Authority as soon as such payment becomes due;

*Admission to Listing and Trading*

- 16.30.13 inform the Listing Authority in writing without delay if it has:
- 16.30.13.1 requested a Recognised Investment Exchange to admit or re-admit any of its Securities Admissible to Listing (except where a copy of the Issuer's application for Admission to Listing and Trading will be or has been lodged with the Listing Authority pursuant to Listing Rule 16.10.9);
  - 16.30.13.2 requested a Recognised Investment Exchange to cancel or suspend trading of any of its Securities Admissible to Listing; or
  - 16.30.13.3 been informed by a Recognised Investment Exchange that the trading of any of its Securities Admissible to Listing will be cancelled or suspended.

- 16.31 In appropriate cases, the Listing Authority will have regard to information already available to the public and the particular circumstances in deciding on the application of the requirements of Listing Rule 16.25.

## CHAPTER 17

### Second Tier Market Requirements

This Chapter details the requirements relating to the authorisation for Admissibility to Listing of Securities to Second-tier Markets (STM).

*General*

- 17.1 The Listing Authority will consider applications for Admissibility to Listing of Securities on a STM if the Applicant does not fully meet the listing requirements of Chapters 3, 5 and 6 of these Listing Rules. The Listing Authority will refuse an application for admission to a STM if it is satisfied that the Applicant fully meets the listing requirements of Chapters 3, 5 and 6 of these Listing Rules.
- 17.2 The Listing Authority may authorise Securities as Admissible to Listing on a STM subject to any special conditions which the Listing Authority considers appropriate in the interests of protecting investors and of which the Listing Authority has explicitly informed the Applicant.
- 17.3 In exceptional circumstances, the Listing Authority may consider an application for Admissibility to Listing on a STM by an Applicant which does not comply with all of the entry requirements contained in this Chapter, provided that the Listing Authority is satisfied that alternative conditions have been met which provide equivalent information and investor protection. The Listing Authority must be consulted in advance in such circumstances.
- 17.4 The Listing Authority may refuse an application for admission to STM if the Applicant does not comply with any special condition which the Listing Authority considers appropriate and of which the Listing Authority has informed the Applicant and/or its Sponsor.
- 17.5 Without prejudice to any of the above, the Listing Authority may refuse an application for Admissibility to Listing on a STM if it considers that the application is not in the interest of investors generally.

*Application for Admissibility to Listing*

- 17.6 Any application for Admissibility to Listing on a STM shall:
- 17.6.1 be made in writing on the application form set out in Appendix 5.4 and signed by all the Directors and/or authorised representatives;
  - 17.6.2 be accompanied by an Admission Document;
  - 17.6.3 contain a declaration by the Sponsor relating to the satisfaction by the Applicant of Listing Rules 17.21.1 and 17.21.3, and 17.22 and
  - 17.6.4 contain a declaration by the Directors relating to the satisfaction by the Applicant of Listing Rules 17.10.
- 17.7 An application for Admissibility to Listing on a STM of any Class of Securities must:
- 17.7.1 if no Securities of that Class are already Admitted, relate to all Securities of that Class, issued or proposed to be issued; or
  - 17.7.2 if Securities of that Class are already Admitted, relate to all further Securities of that Class, issued or proposed to be issued.

Where an Applicant has a Substantial Shareholder, it must demonstrate, by means of the presence of independent Directors on the board or otherwise to the satisfaction of the Listing Authority, that it is capable at all times of operating and making decisions independently of any such shareholder and all transactions and relationships in the future between the Applicant and any Substantial Shareholder must be at arms' length and on a normal commercial basis.

*Basic Conditions*

- 17.8 A Company applying for Admissibility to Listing on a STM or is applying for the Admissibility of its Debt Securities must:
- 17.8.1 appoint the services of a Sponsor (see Listing Rule 17.20);
  - 17.8.2 be legally established under the laws of its country;
  - 17.8.3 have published Accounts that conform to International Accounting Standards (IAS);
  - 17.8.4 ensure that the Securities listed are freely transferable;
  - 17.8.5 adopt, by board resolution, that the Issuer abides by the continuing obligations set out in this Chapter of the Listing Rules.
- 17.9 In the case the Company has been generating revenue for less than two (2) years, the Directors and all employees must agree not to sell any interests they may have in the Company's Securities for at least one (1) year from the date of being authorised as Admissible to Listing on a STM.

*Effective Date of Authorisation*

- 17.10 Authorisation to listing of any Securities on a STM becomes effective only when the Listing Authority issues an official notice to the Sponsor to that effect.
- 17.11 The Applicant must pay the fees as set by the Listing Authority from time to time.
- Entry Requirements (Second Tier Market)
- 17.12 The Applicant Company must be incorporated in accordance with all applicable law and able to offer Securities to the public and operating in conformity with its Memorandum and Articles of Association which, in any event, must comply with the requirements of Appendix 8.3 to Chapter 8.
- 17.13 The issue of Securities for which authorisation for Admissibility to Listing on a STM is sought:
- 17.13.1 must be made by a Company whose fully paid up share capital must be at least seventy-five thousand Maltese Liri (Lm 75,000) or the equivalent value in any other convertible currency;
  - 17.13.2 need not have a trading record;
  - 17.13.3 must have a flotation limit of not less than seventy five thousand Maltese Liri (Lm75,000) or the equivalent value in any other convertible currency. Further issues of Shares of a Class already authorised as Admissible to Listing are not subject to this limit;
  - 17.13.4 must be fully paid and freely transferable;
  - 17.13.5 must be duly authorised according to the Applicant's Memorandum and Articles of Association or equivalent statute or deed of incorporation; and
  - 17.13.6 must have any necessary statutory or other consent.

*Shares in the Hands of the Public*

- 17.14 At the time of listing on a STM, at least twenty-five percent (25%) of each Class of Shares in respect of which application for Admissibility to Listing has been made must be in the hands of the public if the paid-up share capital is less than one million Maltese Liri (Lm1,000,000) or the equivalent value in any other convertible currency and ten percent (10%) if the paid-up share capital exceeds one million Maltese Liri (Lm1,000,000) or the equivalent value in any other

convertible currency. Shares will not normally be regarded as being held in the hands of the public if they are held directly or indirectly by a Director or a person connected with him. The shareholdings must be sufficiently spread to allow a market to develop in the shares.

*Admissibility to Listing of Debt Securities*

- 17.15 A Company may apply for the Admissibility to Listing of Debt Securities:
- 17.15.1 without first obtaining the prior Admissibility to Listing of its ordinary shares;
  - 17.15.2 without having a trading record; and
  - 17.15.3 provided the Company offers at least one million Maltese Liri (Lm1,000,000) or the equivalent value in any other convertible currency of issued debt capital of the Class to be Admissible to Listing (further issues of Securities of a Class already listed are not subject to these limits).

*Accounts*

- 17.16 An Applicant must have:
- 17.16.1 published or filed its first set of audited Accounts which may cover a period of less than twelve (12) months ended not more than six (6) months from the date of the Admission Document if such Applicant does not have a three (3) year trading record;
  - 17.16.2 published or filed audited Accounts are to be filed if such Applicant has a three (3) year trading record;
  - 17.16.3 published or filed audited Accounts which are Consolidated Accounts in respect of the Applicant and all its Subsidiary Undertakings;
  - 17.16.4 published or filed audited Accounts which have been prepared in accordance with International Accounting Standards;
  - 17.16.5 published or filed audited Accounts which have been independently audited in accordance with International Standards on Auditing; and
  - 17.16.6 where it is a subsidiary, all the information of 17.16.1 to 8.15.5 in relation to the parent company.

*Management*

- 17.17 An Applicant must have had continuity of management throughout the period covered by the Accounts required in Listing Rule 17.16.1. In determining whether this condition is satisfied, the Listing Authority will have regard to whether, throughout the relevant period:
- 17.17.1 the current Directors have had, collectively, direct management responsibility;
  - 17.17.2 the current Directors have played a significant role in the Company's activities;
  - 17.17.3 any material change has been made to the senior management of the Company.

*Directors*

- 17.18 The Directors of an Applicant must collectively have appropriate expertise and experience for the management of the Company's business.

17.19 An Applicant must ensure that each of its Directors is free from any conflict of interest unless the Applicant can demonstrate that arrangements are in place to avoid detriment to its interests.

*Sponsors*

17.20 A Company seeking authorisation for Admissibility to Listing on a STM must appoint a Sponsor in terms of Listing Rule 17.8.1 who must:

17.20.1 satisfy itself that the Applicant has satisfied all relevant conditions for authorisation for Admissibility to Listing on a STM;

17.20.2 guide and advise the Applicant as to the requirements of the Listing Authority on authorisation for Admissibility to Listing on a STM and on an ongoing basis; and

17.20.3 conduct the application process with the Listing Authority on behalf of the Applicant.

17.21 The responsibilities of a Sponsor owed to the Listing Authority, are:

17.21.1 to confirm to the Listing Authority in writing in such form as the Listing Authority may from time to time prescribe:

17.21.1.1 that, in relation to any application for authorisation for Admissibility to Listing on a STM which requires the production of an Admission Document:

17.21.1.1.1 in its opinion, it is satisfied that the Issuer and the Securities the subject of the application are appropriate to be authorised as Admissible to Listing on a STM;

17.21.1.1.2 the Directors of the Issuer have received advice and guidance, from the Sponsor or other appropriate professional adviser, as to the nature of their responsibilities and obligations to ensure compliance by the Issuer with the rules contained in this Chapter;

17.21.1.1.3 to the best of the knowledge and belief of the Sponsor, having made due and careful enquiry, all relevant requirements of the Listing Rules have been complied with; and

17.21.1.2 immediately when it ceases to be the Applicant's Sponsor giving full reasons for such cessation;

17.21.2 to provide to the Listing Authority such information in such form and within such time limits as the Listing Authority may require; and

17.21.3 to review regularly with the Applicant the Issuer's actual trading performance and financial condition against any earnings forecast, estimate or projection included in the Admission Document or otherwise made public by, or on behalf of, the Issuer in order to assist the Issuer in determining whether an Announcement is necessary under Listing Rule 17.34.

17.22 A Sponsor must:

17.22.1 provide the Listing Authority with any information known to it which the Listing Authority may reasonably require for the purpose

of verifying whether these Listing Rules have been complied with by it or the Applicant;

- 17.22.2 comply with any relevant eligibility criteria published by the Listing Authority;
- 17.22.3 confirm that all matters known to it which should be taken into account by the Listing Authority in considering the particular application have been disclosed in the Admission Document or otherwise in writing to the Listing Authority.

*Advance Notification*

- 17.23 An Issuer seeking authorisation for Admissibility to Listing on a STM for any Class of Securities for the first time must give the Listing Authority written notice of the following matters, prior to submitting the relative application form for its consideration:
  - 17.23.1 its name and country of incorporation;
  - 17.23.2 a brief description of its business;
  - 17.23.3 the nature of the Securities in respect of which authorisation for Admissibility to Listing will be sought and an indication of whether capital will be raised upon Admission;
  - 17.23.4 the full names and functions of its Directors and proposed Directors together with details of that person's professional qualifications, relevant business and management expertise and experience;
  - 17.23.5 insofar as known to it, the name of any person who is interested directly or indirectly in five percent (5%) or more of the Issuer's capital, together with the amount of the issued share capital, expressed as a percentage, of each such person's interest;
  - 17.23.6 the names and addresses of any persons who will be disclosed in the Admission Document;
  - 17.23.7 the name and address of the Sponsor;
  - 17.23.8 the names and addresses of the Applicant's professional advisers; and
  - 17.23.9 that an Admission Document will be available from it at the time of Admission which alone will contain full details of the Company and of its Securities.
- 17.24 Prior to the date of authorisation of the Securities for Admissibility to Listing an Issuer must notify any change in the details provided under Listing Rule 17.23 to the Listing Authority without delay.
- 17.25 The Listing Authority shall notify the Applicant of its decision to accept or refuse an application for Admissibility to listing:
  - 17.25.1 before the end of the period of forty (40) days beginning with the date on which the application is received; or
  - 17.25.2 if within that period the Listing Authority has required the Applicant to provide further information in connection with the application, before the end of the period of forty (40) days beginning with the date on which that information is provided.

*Admission Document*

- 17.26 When an Applicant applies for the authorisation for Admissibility of its Securities to listing on a STM, it must publish an Admission Document, containing all such information as required in Article 90 of the CA.

This must include the following:

- 17.26.1 a description of the Securities to be traded on a STM;
- 17.26.2 a full description of the Company, its principal activities and its capital;
- 17.26.3 financial information about the Company, its trading history and performance in recent years;
- 17.26.4 details of the management, administrative structure and supervision of the company;
- 17.26.5 details of the professional qualifications, relevant business and management expertise and experience of the management;
- 17.26.6 recent developments and prospects;
- 17.26.7 details of all Directors relating to their Directorships over the past five (5) years including details of any censure, public or otherwise, by statutory or regulatory authorities;
- 17.26.8 details of the Company's promoters;
- 17.26.9 names of Substantial Shareholders and their respective holding; and
- 17.26.10 in the case of Debt Securities, full details of the collateral, if any;
- 17.26.11 the purpose of the offer (see listing Rule 6.M.10 to 6.M.12)

or an appropriate negative statement, where applicable.

- 17.27 In addition, the document must :

- 17.27.1 contain a statement by the Applicant that in its opinion, having made due and careful enquiry, the fixed and/or working capital available to the Applicant and its Group will be sufficient for their requirements at least for the next twelve (12) months;
- 17.27.2 contain an earnings forecast, estimate or projection which includes any form of words which expressly or by implication states a minimum or maximum for the likely level of profits or losses for a period subsequent to that for which audited accounts have been published, or contains data from which a calculation of an approximate figure for projected profits or losses may be made, even if no particular figure is mentioned and the word "profit" is not used:
  - 17.27.2.1 contain a statement by the Issuer that such forecast, estimate or projection has been made after due and careful enquiry by the Issuer;
  - 17.27.2.2 contain a report thereon prepared by independent Accountants who are qualified to act as Auditors to include confirmation that the forecast, estimate or projection has been properly compiled on the basis stated and that it is presented on a basis consistent with the accounting policies of the Issuer or Group in question; and

- 17.27.2.3 contain a statement of the principal assumptions for each factor which could have a material effect on the achievement of the forecast, estimate or projection. The assumptions must be readily understandable by investors and be specific and precise.
- 17.27.3 on the first page of the document (which excludes the cover, if any), contain the following notice set out with greater prominence than any other lettering on that page (save for lettering employed in the name of the Issuer, the description of the nature of the transaction to which the document relates and the name of the Sponsor):
- “Application has been made to the [insert name/s of the relevant Recognised Investment Exchange ] for the Issuer [insert reference to the Securities] to be listed and for dealings to commence on the said exchange(s) once the Securities are authorised as Admissible to Listing by the Listing Authority. Second Tier Market are markets designed primarily for companies to which a higher investment risk than that associated with established companies tends to be attached. A prospective investor should be aware of the potential risks in investing in such companies and should make the decision to invest only after careful consideration and consultation with his or her own independent financial adviser.”
- “The Listing Authority accepts no responsibility for the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this document.”
- 17.27.4 Where the Applicant Company has as its main activity a business which has not been independent and earning revenue for at least two (2) years, ensure that the document contains a statement that all persons who, at the time of the application for authorisation for Admissibility to Listing on a STM, are Directors or employees of the Issuer have agreed not to dispose of any interest in the Securities of that Issuer for a period of one (1) year from the date of their authorisation for Admissibility to Listing on a STM, save in the event of an intervening court order, a takeover offer relating to that Issuer’s shares becoming or being declared unconditional or the death of a Director or employee;
- 17.27.5 contain the name of any person (excluding professional advisers otherwise disclosed in the Admission Document and trade suppliers) who has either:
- 17.27.5.1 received, directly or indirectly, from the Issuer within the twelve (12) months preceding the application for authorisation for Admissibility to Listing on a STM; or
- 17.27.5.2 entered into contractual arrangements (not otherwise disclosed in the Admission Document) to receive, directly or indirectly, from the Issuer on or after authorisation for Admissibility to Listing on a STM any of the following:
- 17.27.5.2.1 fees totalling five thousand Malta Liri (Lm5,000) or the equivalent value in any other convertible currency or more;

17.27.5.2.2 Securities in the Issuer with a value of five thousand Malta Liri (Lm5,000) or the equivalent value in any other convertible currency or more calculated by reference to the issue price or, in the case of an introduction, the expected opening price; or

17.27.5.2.3 any other benefit with a value of five thousand Malta Liri (Lm5,000) or the equivalent value in any other convertible currency or more at the date of Admission

giving full details of the relationship of such person with the Issuer and of the fees, Securities or other benefit received or to be received;

17.27.6 contain the name and address of the Sponsor; and

17.27.7 contain the name of any person referred to under Listing Rule 17.23.5

17.28 The Admission Document must also contain any other factual information which the Issuer reasonably considers necessary for investors to form a full understanding of the matters contained in the Admission Document.

17.29 An Admission Document need not be prepared by an Issuer applying for authorisation for Admissibility to Listing on a STM of Securities of a Class already authorised as Admissible to Listing, unless the Issuer is required to publish a Prospectus pursuant to Article 89 of the CA.

*Omissions from Admission Documents*

17.30 The Listing Authority may authorise the omission of information that would otherwise be required in the Admission Document in the same circumstances as information may be omitted from a Prospectus under Article 90 of the CA.

*Publication of Admission Document*

17.31 The Admission Document must be published by making copies of it available free of charge to the public for not less than fourteen (14) days from the date of authorisation for Admissibility to Listing at an address specified in the document.

*Directors' Responsibilities*

17.32 An Issuer must:

17.32.1 ensure that its Directors accept full responsibility, collectively and individually, for the Issuer's compliance with this Chapter.

17.32.2 require each of its Directors to disclose to it all information which the Issuer needs in order to comply with Listing Rule 17.26 (so far as that information is known to the Director or could with reasonable diligence be ascertained by the Director) before the expiration of the period of five (5) Business Days beginning with the day following that on which the existence of the interest to which the information relates comes to the Director's knowledge; and

17.32.3 adopt a code of dealing by board resolution and take all proper and reasonable steps to ensure compliance by its Directors and relevant employees with the said code of dealing (see Appendix 8.1).

*Continuing Obligations*

- 17.33 An Issuer shall be responsible for ensuring compliance with any continuing obligations under these Listing Rules for as long as it is quoted on a STM.

*Publication of Information*

- 17.34 The Listing Authority may, at any time:
- 17.34.1 require an Applicant to provide to the Listing Authority such information in such form and within such time limits as the Listing Authority may require;
  - 17.34.2 require an Applicant to publish such information in such form and within such time limits as it considers appropriate; and
  - 17.34.3 itself publish such information if an Issuer fails to comply with paragraph 17.34.2.

*Sanctions against the Issuer*

- 17.35 Without prejudice to the generality of its rights and powers in terms of the FMA or other applicable law, the Listing Authority may suspend or discontinue the listing of Securities on a STM where:
- 17.35.1 dealings in those Securities are not being conducted in an orderly manner; or
  - 17.35.2 protection of investors so requires, or
  - 17.35.3 the integrity and reputation of the market has been or may be impaired by dealings in those Securities;

and will discontinue the listing of those Securities where those securities have been suspended for six (6) months or more.

*Sanctions against a Director*

- 17.36 If the Listing Authority considers that a contravention of these Listing Rules by an Applicant is due to a failure by all or any of its Directors to discharge their responsibilities, it may do one or more of the following:
- 17.36.1 censure the relevant Directors;
  - 17.36.2 publish the fact that those Directors have been censured;
  - 17.36.3 in the case of wilful or persistent failure by a Director to discharge his responsibilities, state publicly that in its opinion the retention of office by the Director is prejudicial to the interest of investors; and
  - 17.36.4 if the Director remains in office following a public censure by the Listing Authority under paragraph 17.36.3 above, suspend trading in or discontinue the listing of the Securities, or any Class of Securities.

*Sanctions against a Sponsor*

- 17.37 If the Listing Authority considers that a contravention of these Listing Rules is due to a failure by the Sponsor to discharge its responsibilities, the Listing Authority may report such contravention to the competent authority for appropriate procedures to be adopted in relation to the Sponsor.

## CHAPTER 18

### Takeover Bids

This Chapter applies in relation to takeover bids when all or some of the securities of the offeree Company are admitted to trading on a regulated market.

*Introduction*

- 18.1 This Chapter applies in relation to takeover bids when all or some of the securities of the offeree company are admitted to trading on a regulated market.
- 18.1.1 The objective of this chapter is to implement the relevant provisions of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, other than article 10 of the Directive which is transposed in Chapter 8.
- 18.1.2 In the event that any of these Listing Rules are in conflict with the provisions of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, the Directive shall prevail.
- 18.2 The provisions of this Chapter shall not apply to takeover bids:
- 18.2.1 for securities issued by companies, the object of which is the collective investment of capital provided by the public, which operate on the principle of risk-spreading and the Units of which are, at the holders' request, repurchased or redeemed, directly or indirectly, out of the assets of those companies. Action taken by such companies to ensure that the stock exchange value of their Units does not vary significantly from their net asset value shall be regarded as equivalent to such repurchase or redemption;
- 18.2.2 for securities issued by the central banks of the Member States or States.
- 18.3 In this Chapter, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them:
- ‘Acting In Concert’ means any person who cooperates with the offeror or the offeree company on the basis of an agreement, either express or tacit, either oral or written, aimed either at acquiring control of the offeree company or at frustrating the successful outcome of a bid. Subsidiary undertakings of any person cooperating with the offeror or the offeree company shall be deemed to be persons acting in concert with that other person and with each other.
- ‘Announce’ means publish or make ‘available to the public’.
- ‘Control’ or ‘Controlling Interest’ means the acquisition by a person or the acquisition by persons acting in concert with him which, when added to any existing holdings of those securities of the person and/or to holdings of those securities of persons acting in concert with him, directly or indirectly give him fifty percent plus one of the voting rights of a company.
- ‘Multiple-Vote Securities’ means securities included in a distinct and separate class and carrying more than one vote each.

‘Offeree Company’ means a company, the securities of which are the subject of a bid.

‘Offeror’ means any natural or legal person making a bid.

‘Parties To The Bid’ means the offeror, the board of directors if the offeror is a company, the offeree company, holders of securities of the offeree company and the board of directors of the offeree company, and persons acting in concert with such parties.

‘Securities’ mean transferable securities carrying voting rights in a company.

‘Takeover Bid’ or ‘Bid’ means a public offer, other than by the offeree company itself, made to the holders of the securities of a company to acquire all or some of those securities, whether mandatory or voluntary, which follows or has, as its objective, the acquisition or control of the offeree company.

“Target company” means an Issuer of securities for which the offeror is obliged to make or has made a takeover bid.

“Voluntary bid” means a bid made to all the holders of securities of a company for all their holdings when the person making such a bid does not have a controlling interest in the company.

18.4 The Listing Authority shall be the authority competent to supervise a bid where:

18.4.1 the offeree company is an Issuer whose securities are admitted to trading in Malta and which has its registered office in Malta; or

18.4.2 the offeree company is registered in another Member State or State but has its securities admitted to trading solely on a Recognised Investment Exchange in Malta:

Provided that if securities of the offeree company are admitted to trading on regulated markets in more than one Member State or State, including Malta, the Listing Authority shall be the authority competent to supervise the bid if the securities of the offeree company were first admitted to trading on a Recognised Investment Exchange in Malta.

18.5 The Listing Authority shall supervise the bid if the securities of the offeree company were first admitted to trading on regulated markets in more than one Member State or EEA State simultaneously, including Malta, and the offeree company has determined that the Listing Authority shall be the authority competent to supervise the bid and has notified the Listing Authority accordingly on the first day of trading:

Provided that where, on the coming into force of this Chapter, the securities of an offeree company were already admitted to trading on a Recognised Investment Exchange in Malta and on the Regulated Market of another Member State or EEA State simultaneously, the Listing Authority together with the regulatory authority of the other Member State or EEA State shall, within four weeks of the coming into force of this Chapter, determine which of the authorities shall supervise the bid. Otherwise, the

offeree company shall determine which of the authorities shall supervise the bid on the first day of trading following the four week period referred to herein.

18.6 Where the Listing Authority has been designated as the authority competent to supervise the bid, such a decision shall be made public.

18.7 In the cases referred to in Listing Rule 18.4.2, 18.5 and 18.6 above:

18.7.1 matters relating to the consideration offered in the case of a bid and procedures applicable to the bid shall be regulated by the laws of the Member State or EEA State of the regulatory authority supervising the bid: and

18.7.2 matters relating to the information to be provided to the employees of the offeree company and any issues relating to the percentage of voting rights required to confer control as well as any defensive action taken to frustrate a bid shall be regulated by the laws of the Member State or EEA State where the offeree company is registered.

*Mandatory Bid*

18.8 Where a person acquires a controlling interest as a result of his own acquisition or the acquisition by persons acting in concert with him, such a person shall make a bid as a means of protecting the minority shareholders of that company. Such a bid shall be addressed at the earliest opportunity to all the holders of those securities for all their holdings at the equitable price as determined in accordance with the provisions of Listing Rule 18.39:

Provided that where control has been acquired following a voluntary bid made to all the holders of securities for all their holdings the obligation to launch a mandatory bid shall not apply.

18.9 To calculate the threshold required to acquire a controlling interest, the following shall, *inter alia*, be included and added to the voting rights held by the offeror:

18.9.1 voting rights held by persons acting in their own name but on behalf of the offeror;

18.9.2 voting rights held by persons acquired and controlled directly by the offeror or through intermediaries;

18.9.3 voting rights attached to securities held by the offeror which are lodged by way of security, except where the holder of the security controls the voting rights and declares his intention of exercising them, in which case they shall be regarded as his voting rights.

18.10 Where acquisition of control takes place as a result of acquisition of holdings by persons acting in concert, the obligation to make a bid shall lie with the person having the highest percentage of voting rights.

- 18.11 The obligation to make a bid to all the holders of securities shall not apply to those controlling holdings already in existence on the date on which this Chapter enters into force:
- Provided that any further acquisitions after this date shall trigger off the obligation to launch a mandatory bid.
- 18.12 Notwithstanding anything contained in this Chapter, where the offeree company is a regulated company registered in Malta, a person must obtain the written consent of the competent authority before:
- 18.12.1 acquiring directly or indirectly a controlling interest in the offeree company;
- 18.12.2 increasing directly or indirectly, an existing holding which is not a controlling interest but which results in that person acquiring a controlling interest in the offeree company;
- 18.12.3 reducing, directly or indirectly, a controlling interest so as to cause it to cease to be a controlling interest;
- 18.12.4 divesting itself, directly or indirectly, of a controlling interest.
- 18.13 Upon becoming aware that any person intends taking any of the actions set out in Listing Rule 18.12, it shall also be the duty of the offeree company and of its board of Directors to notify the competent authority forthwith.
- 18.14 In Listing Rules 18.12 and 18.13, the expressions:
- 18.14.1 “regulated company” means an offeree company which is authorised, licensed or otherwise supervised in terms of the Banking Act, the Financial Institutions Act, the Investment Services Act, the Insurance Business Act and the Insurance Brokers and Other Intermediaries Act, the Trusts and Trustees Act and the Special Funds (Regulation) Act;
- 18.14.2. “competent authority” means the Malta Financial Services Authority.
- Obligation to announce*
- 18.15 An offeror shall inform the Listing Authority of a bid and shall announce his decision to launch the bid within seven days of acquiring a controlling interest.
- 18.16 The bid must be announced only after the offeror ensures that he can fulfil in full any cash consideration, if such is offered, and after taking all reasonable measures to secure the implementation of any other type of consideration.
- 18.17 By way of consideration the offeror may offer securities, cash or a combination of both:
- Provided that a cash consideration must be offered as an alternative in all cases.
- 18.18 As soon as the bid shall have been announced, the board of Directors of the offeree Company and the offeror shall inform the representatives of

their respective employees or, where there are no such representatives, the employees themselves.

*Offer Document*

- 18.19 An offeror shall draw up and make public, not later than twenty one calendar days from announcing his decision to launch a bid, an offer document containing the information necessary to enable the holders of the offeree company's securities to reach a properly informed decision on the bid, which offer document shall be communicated to the Listing Authority prior to it being made available to the public.
- 18.20 When the offer document is published, the board of Directors of the offeree company and of the offeror shall communicate the offer document to the representatives of their respective employees or, where there are no such representatives, to the employees themselves.

*Exemptions concerning mandatory bids*

- 18.21 The Listing Authority may grant exemptions from the obligation to make a mandatory bid on the basis of a written application in the following circumstances:
- 18.21.1 control of the target company was obtained as a result of reduction of the offeree company's share capital;
- 18.21.2 control of the target company was acquired as a result of a merger or division;
- 18.21.3 control of the target company was obtained through the acquisition of securities with the intention to sell within a short term;
- 18.21.4 control has been obtained by an existing shareholder acquiring securities following an increase in capital as a result of executing his right of pre-emption and not through the purchase of securities acquired from other persons;
- 18.21.5 control was obtained following a transmission of securities 'causa mortis' as a result of which the person's number of voting rights in the target company increased.

*Details of offer document*

- 18.22 The offer document shall specify at least the following information:
- 18.22.1 the terms of the bid;
- 18.22.2 the identity of the offeror and, where the offeror is a company, the status, name and registered office of that company;
- 18.22.3 the securities or, where appropriate, the Class or Classes of securities for which the bid is made;
- 18.22.4 the consideration offered for each security or Class of securities and, in the case of a mandatory bid, the method employed in determining it, with particulars of the way in which that consideration is to be paid;

- 18.22.5 the compensation offered for the rights which might be removed as a result of the “breakthrough rule” laid down in Listing Rules 18.51 to 18.56 , with particulars of the way in which that compensation is to be paid and the method employed in determining it;
  - 18.22.6 the maximum and minimum percentages or quantities of securities which the offeror undertakes to acquire;
  - 18.22.7 details of any existing holdings of the offeror, and of persons acting in concert with him, in the offeree company;
  - 18.22.8 all the conditions to which the bid is subject;
  - 18.22.9 the offeror’s intentions with regard to the future business of the offeree company and, in so far as it is affected by the bid, the offeror company and with regard to the safeguarding of the jobs of their employees and management, including any material change in the conditions of employment, and in particular the offeror’s strategic plans for the two companies and the likely repercussions on employment and the locations of the companies’ places of business;
  - 18.22.10 the time allowed for acceptance of the bid;
  - 18.22.11 where the consideration offered by the offeror includes securities of any kind, information concerning those securities;
  - 18.22.12 information concerning the financing for the bid;
  - 18.22.13 the identity of persons acting in concert with the offeror or with the offeree company and, in the case of companies, their status, names, registered offices and relationships with the offeror and, where possible, with the offeree company;
  - 18.22.14 the national law which will govern contracts concluded between the offeror and the holders of the offeree company’s securities as a result of the bid and the competent courts to settle any disputes.
- 18.23 A report on the consideration offered, drawn up by one or more experts who are independent of the offeror or offeree company, shall be appended to the offer document.
- 18.24 The expert’s report must confirm that the offeror has sufficient resources to meet the consideration to be provided on full acceptance of the offer and to pay any debts incurred in connection with the offer.
- 18.25 The Listing Authority may request that the parties to a bid shall provide the Authority with all the information in their possession concerning the bid at any time on request.
- Sufficient time and information for acceptance*
- 18.26 The holders of the securities of an offeree company must have sufficient time and information to enable them to reach a properly informed decision on the bid.

- 18.27 The time allowed for the acceptance of a bid shall be determined in the offer document and shall be not less than four weeks nor more than ten weeks from when the offer document is made available to the public.
- The opinion of the board of Directors of the offeree company on the bid*
- 18.28 The board of Directors of the offeree company must advise and give its views to the holders of securities on the effects of implementation of the bid on employment, conditions of employment and the locations of the company's places of business.
- 18.29 In this respect, the board of Directors of the offeree company shall draw up and make available to the public a document setting out its opinion of the bid and the reasons on which it is based, including its views on the effects of implementation of the bid on all the company's interests and specifically employment, and on the offeror's strategic plans for the offeree company and their likely repercussions on employment and the locations of the company's places of business as set out in the offer document in accordance with Listing Rule 18.22.9.
- 18.30 The board of Directors of the offeree company shall at the same time communicate that opinion to the representatives of its employees or, where there are no such representatives, to the employees themselves.
- 18.31 Where the board of Directors of the offeree company receives in good time a separate opinion from the representatives of its employees on the effects of the bid on employment, that opinion shall be appended to the document.
- Board of Directors to call general meeting*
- 18.32 During the period referred to in Listing Rule 18.34 below, the board of Directors of the offeree company shall obtain the prior authorisation of the shareholders in general meeting given for this purpose before taking any action, which may result in the frustration of the bid and in particular before issuing any shares which may result in a lasting impediment to the offeror's acquiring control of the offeree company.
- 18.33 Notice of the meeting convened for the approval of the action referred to above must contain, or be accompanied by, full particulars of the proposed action and a statement explaining the reasons for and significance of such action.
- 18.34 Such authorisation shall be mandatory at least from the time the board of Directors of the offeree company receives the information that a decision has been taken to make a bid until the result of the bid is published or the bid lapses:
- Provided that seeking alternative bids does not require such authorisation.
- 18.35 In the case of decisions taken before the beginning of the period referred to in Listing Rule 18.34 above and not yet partly or fully implemented, the shareholders in general meeting shall approve or confirm any decision which does not form part of the normal course of the company's business and the implementation of which may result in the frustration of the bid.

- 18.36 For the purpose of obtaining the prior authorisation, approval or confirmation of the shareholders referred to in Listing Rules 18.32 and 18.35 a general meeting can be convened at shorter notice than that stipulated in the Memorandum or Articles of Association provided that the meeting does not take place within two weeks of notification.

*Defensive tactics*

- 18.37 If a target company has received a takeover notice or has reason to believe that a bona fide offer is imminent, the board of Directors of the company must not take or permit any action, in relation to the affairs of the target company that could effectively result in :

18.37.1 an offer being frustrated; or

18.37.2 the holders of securities of the target company being denied an opportunity to decide on the merits of an offer:

Provided that the board of Directors of a target company may take or permit the kind of action referred to above if:

18.37.3 the action has been approved by an ordinary resolution of the target company; or

18.37.4 the action is taken or permitted under a contractual obligation entered into by the target company, or in the implementation of proposals approved by the board of Directors of the target company, and the obligations were entered into, or the proposals were approved, before the target company received the takeover notice or became aware that the offer was imminent; or

18.37.5 if Listing Rules 18.37.3 and 18.37.4 above do not apply, the action is taken or permitted for reasons unrelated to the offer with the prior approval of the Listing Authority.

Provided that the notice of the meeting containing the proposed resolution for the approval of the action referred to in Listing Rule 18.37.3 above must contain, or be accompanied by:

18.37.6 full particulars of the proposed action; and

18.37.7 the reasons for it; and

18.37.8 a statement explaining the significance of the resolution under these rules.

*Equitable price*

- 18.38 The purchase price for securities that are the object of a mandatory bid must be equitable.

- 18.39 The equitable price to be paid for securities is the highest price determined by the following criteria:

18.39.1 the price offered for the security should not be below the weighted average price of the security or the security transactions made on a Recognised Investment Exchange during the previous six (6) months;

- 18.39.2 the price offered for the security should not be below the highest price paid for the security by the offeror or persons acting in concert with the offeror during the previous six (6) months;
  - 18.39.3 the price offered for the security should not be below the weighted average price paid for the security by the offeror or persons acting in concert with the offeror during the previous six (6) months;
  - 18.39.4 the price of the security should not be lower than ten percent (10%) below the weighted average price of the security within the previous ten trading days.
- 18.40 If, after the bid has been announced and before the offer closes for acceptance, the offeror or any person acting in concert with him purchases securities that are priced higher than the offer price, the offeror shall increase his offer so that it is not less than the highest price paid for the securities acquired.
- Squeeze-out rights*
- 18.41 Following a bid made to all the holders of the offeree company's securities for all of their securities, Listing Rules 18.42 to 18.45 shall apply.
- 18.42 Where the offeror holds securities representing not less than ninety percent of the capital carrying voting rights and ninety per cent of the voting rights in the offeree company, or where, following acceptance of the bid, the offeror has acquired or has firmly contracted to acquire securities representing not less than ninety percent of the offeree company's capital carrying voting rights and ninety per cent of the voting rights comprised in the bid, the offeror has the right to require all the holders of the remaining securities to sell him those securities at a fair price and shall take the same form as the consideration offered in the bid or, alternatively, in cash.
- 18.43 In order to establish a fair price the offeror must appoint an independent Expert to draw up a report determining the price considered to be a fair and reasonable value of those securities, which price must however be equivalent to or higher than the equitable price.
- 18.44 To calculate the threshold referred to in Listing Rule 18.42, the voting rights indicated in Listing Rules 18.9.1 to 18.9.3 shall be included and added to the voting rights of the offeror.
- 18.44.1 Where the securities of the offeree company are divided into different Classes, the offeror shall exercise the right of squeeze-out only in the Class in which the threshold laid down in Listing Rule 18.42 has been reached.
- 18.45 If the offeror wishes to exercise the right of squeeze-out he shall do so within three months at the end of the time allowed for acceptance of the bid.

*Sell-out rights*

- 18.46 Following a bid made to all the holders of the offeree company's securities for all of their securities, Listing Rules 18.47 to 18.49 shall apply.
- 18.47 A holder of remaining securities may require the offeror to buy his securities from him at a fair price under the same circumstances as provided for in Listing Rule 18.42.
- 18.48 In order to establish a fair price the holders of the remaining securities must appoint an independent expert to draw up a report determining the price considered to be a fair and reasonable value of those securities, which price must however be equivalent to or more than the equitable price.
- 18.49 Listing Rules 18.43 to 18.45 shall apply *mutatis mutandis*.

*Opting in and Opting out*

- 18.50 By decision taken in General Meeting, the holders of securities of an offeree company registered in Malta and whose securities are admitted to trading in Malta may:
- 18.50.1 where the restrictions laid down in Listing Rules 18.51 to 18.56 below do not exist, the holders of the securities may opt to apply any or all of the restrictions (an "opting-in resolution"); or
- 18.50.2 where the restrictions laid down in Listing Rules 18.51 to 18.56 below exist, the holders of the securities may opt not to apply any or all of the restrictions ( an "opting-out resolution").
- 18.50.3 An opting-in resolution or an opting-out resolution must specify the date from which it is to have effect (the "effective date")
- 18.50.4 The effective date of an opting-in resolution may not be earlier than the date on which the resolution is passed and the effective date of an opting-out resolution may not be earlier than the first anniversary of the date on which the opting-in resolution was registered with the Registrar.
- 18.50.5 An opting-in or opting-out resolution can only be taken after prior written authorisation has been sought and obtained from the Listing Authority:

Provided that if the securities of the offeree company are admitted to trading on regulated markets in other Member States or EEA States, or the offeree company has requested such admission, the relevant regulatory authority of that Member State or EEA State must be notified of the decision taken in accordance with Listing Rule 18.50.

- 18.51 Any restrictions on the transfers of securities provided for in the articles of association of the offeree company shall not apply vis-à-vis the offeror during the time allowed for acceptance of the bid laid down in Listing Rule 18.27.

- 18.52 Any restrictions on the transfer of securities provided for in contractual agreements between the offeree company and holders of its securities, or in contractual agreements between holders of the offeree company's securities entered into after the coming into force of this Chapter, shall not apply vis-à-vis the offeror during the time allowed for acceptance of the bid laid down in Listing Rule 18.27.
- 18.53 Restrictions on voting rights provided for in the articles of association of the offeree company shall not have effect at the general meeting of the holders of the securities which decides on any defensive measures in accordance with Listing Rule 18.32.
- 18.54 Restrictions on voting rights provided for in contractual agreements between the offeree company and holders of its securities, or in contractual agreements between holders of the offeree company's securities entered into after the coming into force of this Chapter, shall not have effect at the general meeting of the holders of the securities which decides on any defensive measures in accordance with Listing Rule 18.32.
- 18.55 Multiple-vote securities shall carry only one vote each at the general meeting of the holders of the securities which decides on any defensive measures in accordance with Listing Rule 18.32.
- 18.56 Where, following a bid, the offeror holds 75% or more of the capital carrying voting rights, no restrictions on the transfer of securities or on voting rights referred to in Listing Rules 18.51 and 18.52 nor any extraordinary rights of the holders of securities concerning the appointment or removal of board members provided for in the articles of association of the offeree company shall apply; multiple-vote securities shall carry only one vote each at the first general meeting of the holders of securities following closure of the bid, called by the offeror in order to amend the articles of association or to remove or appoint board members.
- To that end, the offeror shall have the right to convene a general meeting of the holders of securities at short notice, provided that the meeting does not take place within two weeks of notification.
- 18.57 Where rights are removed on the basis of any one of Listing Rules 18.51 to 18.56, equitable compensation shall be provided for any loss suffered.
- 18.57.1 The amount of equitable compensation to be granted to the person who suffers loss as a result of any act or omission that would, but for the provisions of Listing Rules 18.51 to 18.56, be a breach of agreement, shall be determined by the offeror in the offer document as required by Listing Rule 18.22.5.
- 18.57.2 Where the holder of the rights removed on the basis of any one of Listing Rules 18.51 to 18.56 feels that the compensation offered by the offeror in accordance with Listing Rule 18.57.2 above is insufficient, such person may apply to the court for the court to determine the amount of compensation it considers just and equitable against any person who would, but for Listing Rules 18.51 to 18.57, be liable to the holder of such rights for committing or inducing the breach.

18.58 Listing Rules 18.53 to 18.56 shall not apply to securities where the restrictions on voting rights are compensated for by specific pecuniary advantages.

18.59 Listing Rules 18.50 to 18.58 shall not apply when the Government of Malta holds securities conferring special rights in the offeree company.

*Competing bids*

18.60 Any person may, during the acceptance period, launch a bid to compete with the initial bid made by the offeror. Such bids are called competing bids.

18.60.1 Where competing bids are made for the securities of the offeree company, the provisions of this Chapter shall apply to each such bid.

18.61 A person shall announce his decision to launch a competing bid and must inform the Listing Authority of the bid.

18.62 The person making a competing bid shall, not later than twenty one calendar days from announcing his decision to bid, draw up an offer document as provided for in Listing Rule 18.22.

18.63 The holders of securities of the offeree company shall have the right to choose between the initial bid and any competing bid.

18.64 Where there are competing bids and the initial offeror does not withdraw his bid, the period for acceptance of the initial bid shall be extended automatically to the time allowed for acceptance of the competing bid as provided for in the offer document:

Provided that the time allowed for the acceptance period of the competing bid shall be not less than four weeks from when the offer document of the competing bid was made available to the public;

Provided further that the time allowed for the acceptance period of the initial bid and the competing bid together must not exceed ten weeks from when the offer document of the initial offer was made available to the public.

18.65 The extension of the acceptance period shall be communicated to the Listing Authority and made public.

*Revision of a bid*

18.66 *Intentionally left blank*

18.67 An offeror may revise a bid only in the following circumstances:

18.67.1 to increase the consideration;

18.67.2 to increase an existing component to the consideration;

18.67.3 to add a cash component to the consideration;

18.67.4 to extend the time allowed for the acceptance of a bid but not beyond the maximum period of ten weeks as provided in Listing Rule 18.27

- 18.68 The offeror may revise the terms of the bid at any time not later than fourteen calendar days before the end of the period allowed for acceptance of a bid.
- 18.69 The offeror shall communicate to the Listing Authority his intention to revise the bid prior to the revised bid being made public.
- 18.70 Notwithstanding the provision of Listing Rule 18.27, where a bid has been revised, the time allowed for the acceptance of the revised bid shall be automatically extended by fourteen days:  
Provided that the extension does not go beyond the maximum period of ten weeks as provided in Listing Rule 18.27.
- 18.71 On announcing his intention to revise a bid, the offeror shall without delay draw up and make public a supplementary document setting out the amendments to the offer document, which revised document shall be communicated to the Listing Authority prior to it being made public.
- 18.72 Where the revision of a bid increases the consideration offered, the offeror must provide the increased consideration to each person whose securities are taken up, whether or not the person accepted the offer before or after the revision was made.
- 18.73 The conditions of the revised bid shall also stipulate that shareholders who have made an offer to the offeror have the right to withdraw their acceptances or offers.  
*Lapsing of a bid*
- 18.74 The takeover bid automatically lapses if, at the end of the acceptance period, none of the holders of securities of the offeree company have taken up the offer. In the event that the offer was not successful the offeror is not authorised to make a new offer for the same offeree company during a period of one year from when the bid lapses.
- 18.75 The offeror and the offeree company shall without delay inform the Listing Authority and announce the lapsing of the bid.  
*Disclosure of the results of bids*
- 18.76 The offeror and the offeree company shall inform the Listing Authority and make public the necessary, relevant and complete results of the takeover by not later than ten calendar days from the closing of the acceptance period.
- 18.77 The Announcement about the results shall contain at least the following information:
- 18.77.1 the absolute number of securities of every kind of securities acquired by the offeror during the acceptance period;
  - 18.77.2 the ratios of the different Classes and types of securities that were included in the takeover bid;
  - 18.77.3 separate calculations for the participation and voting rights acquired by the offeror and persons acting in concert.

*Irrevocability of bids*

- 18.78 When a bid has been announced in accordance with Listing Rule 18.15, it may be withdrawn or declared void only in the following circumstances:
- 18.78.1 where there are competing bids and the offeror decides to withdraw his bid as provided for in Listing Rule 18.64;
  - 18.78.2 where a condition of the bid announced in the offer document in accordance with Listing Rule 18.22.8 is not fulfilled;
  - 18.78.3 in exceptional circumstances and with the authorisation of the Listing Authority, explaining why the bid cannot be put into effect for reasons beyond the control of the parties to the bid.
- 18.79 The offeror shall without delay announce the decision to withdraw the bid.