



INVITATION FOR COMMENTS ON THE BOTSWANA TAKEOVER CODE

This Code is issued to regulate takeovers involving regulated companies in Botswana, with the objective of ensuring the fair and equal treatment of shareholders, transparent and orderly markets, and confidence in the integrity of the Botswana capital markets.

The Code is intended to provide a coherent framework governing change of control, to protect minority shareholders, to prevent abusive or coercive conduct, ensure that shareholders are given adequate information and sufficient time to reach properly informed decisions, and promote certainty and predictability in takeover transactions.

This Code is issued pursuant to the Securities Act, which provides for the regulation of takeovers and mergers and empowers the Regulatory Authority to make rules governing affected transactions.

For regulated companies, the Regulatory Authority delegates the day-to-day administration and supervision of this Code to the BSEL, which shall act as the Panel contemplated in the Listings Requirements (including clause 6.14) for affected transactions, subject to the Regulatory Authority's statutory oversight and enforcement powers.

The Code can be accessed at: <https://www.bse.co.bw/wp-content/uploads/2026/04/BotswanaTake-Over-Code-Market-Consultation-.pdf>

All submissions and comments should be submitted to corporate@bse.co.bw on or before the **May 18, 2026**. For further clarity on the matter kindly contact the Legal Department at: corporate@bse.co.bw

DRAFT BOTSWANA TAKEOVER CODE

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INTRODUCTION

This Code is issued to regulate takeovers involving regulated companies in Botswana, with the objective of ensuring the fair and equal treatment of shareholders, transparent and orderly markets, and confidence in the integrity of the Botswana capital markets. The Code is intended to provide a coherent framework governing change of control, to protect minority shareholders, to prevent abusive or coercive conduct, ensure that shareholders are given adequate information and sufficient time to reach properly informed decisions, and promote certainty and predictability in takeover transactions.

This Code is issued pursuant to Part VII of the Securities Act, which provides for the regulation of takeovers and mergers and empowers the Regulatory Authority to make rules governing affected transactions. For regulated companies, the Regulatory Authority delegates the day-to-day administration and supervision of this Code to the BSEL, which shall act as the Panel contemplated in the Listings Requirements (including clause 6.14) for affected transactions, subject to the Regulatory Authority's statutory oversight and enforcement powers.

The regulation of takeovers and mergers under the Securities Act is separate and independent from the merger control regime established under the Competition Act (Cap 46:09). While a transaction may be subject to both regimes, each framework applies for different regulatory purposes and must be complied with independently.

The Competition Act, as amended from time to time, is administered by the Competition and Consumer Authority (CCA), which is responsible for assessing mergers from the perspective of competition, including their effect on market structure, efficiency and consumer welfare. By contrast, BSEL, acting under delegation from the Regulatory Authority, regulates "Affected Transactions" as defined in section 44 of the Securities Act in relation to listed companies. In this capacity, the BSEL is concerned with ensuring fair and equal treatment of shareholders, market transparency and the integrity of the securities market.

Compliance with this Code does not exempt any person from the obligation to comply with any other applicable law, or to obtain any approval, consent, or clearance required under any such law. Approval, clearance, or non-objection granted by the BSEL shall not be construed as satisfying any requirement of any other regulatory authority.

In developing this Code, the BSEL has had regard to international best practice, including takeover and merger regulation in the United Kingdom, South Africa, Ghana, Kenya and Nigeria, adapted to Botswana's legal and market context.

PART I – PRELIMINARY

Short title

This Code may be cited as the Botswana Takeover Code and shall apply to all takeover and merger transactions involving regulated companies.

Application of the Code

This Code applies to the following:

- a) All Takeover Offers, merger and amalgamation transactions involving companies listed on the BSEL; and
- b) Any transaction, arrangement, or series of transactions which results in, or may result in, a change of Control or Effective Control of a Company listed on the BSEL, including, without limitation:
 - (i) Acquisitions by unlisted or private entities of listed companies;
 - (ii) Reverse takeovers or transactions resulting in a fundamental change in the business, board of directors, or voting control of a listed company;
 - (iii) Any transaction classified as an Affected Transaction; and
 - (iv) Any amalgamation, merger, scheme or similar corporate action involving a listed company or its subsidiaries.

This Code shall apply irrespective of whether the Offeror or acquiring party is a listed or unlisted company.

PART II - DEFINITIONS

Interpretation

In this Code, unless the context otherwise requires:

“Acting In Concert” means co-operating for a common purpose by two or more persons pursuant to an agreement, arrangement or understanding (whether formal or informal) between them; and Associates shall be deemed to be so cooperating.

“Acquisition” includes the direct or indirect acquisition of voting securities or control of voting securities of a company, whether through a single transaction or a series of transactions.

“Affected Transactions” has the meaning given in section 44 of the Securities Act and, for listed issuers, includes any transaction (including one that forms part of a series of transactions) or scheme, whatever form it may take, which:

- (a) taking into account any securities held before the transaction or scheme, has or will have the effect of vesting Control of any company in any person, or in two or more persons Acting In Concert, in whom Control did not vest prior to the transaction or scheme; or
- (b) results in any person, or two or more persons Acting In Concert, acquiring or becoming the sole holder(s) of all the securities, or all the securities of a particular class, of any company; or
- (c) involves the Acquisition by any person, or two or more persons Acting In Concert, who is interested in voting securities carrying [35%] or more but less than fifty percent (50%) of the voting rights of a company, of any additional voting securities in that company (other than in circumstances permitted under this Code or with the BSEL’s prior approval).

Where there is any inconsistency between this definition and the Securities Act, the Securities Act shall prevail.

“Announcement” means any public disclosure required under this Code made through X-News and, where required, in newspapers of national circulation.

“Applicant” means any person who submits documentation to the BSEL or applies for a determination, approval, consent, or waiver under this Code.

“Associate” means:

- (i) in relation to an individual:
 - (1) that individual's spouse, children and dependents;
 - (2) the trustees, acting as such, of any trust in which the individual's spouse and children and dependents are beneficiaries (other than a trust which is either an occupational pension scheme, or an employees' share scheme which does not, in either case, have the effect of conferring benefits on the individual or the individual's spouse and children);
 - (3) the trustees of any trust in which the individual and/or the individual’s family individually or taken together have the ability to Control 35% of the votes of the trustees or appoint 35% of the trustees, or to appoint or change 35% of the beneficiaries of the trust; AND
 - (4) any company in whose equity securities the individual or any person or trust contemplated in items (1) to (3) above (taken together) are directly or indirectly beneficially interested and would be able to:
 - (a) exercise or control the exercise of 35% or more of the voting rights at general meetings on all, or substantially all, matters; or

- (b) appoint or remove directors holding 35% or more of the voting rights at board meetings on all, or substantially all, matters; or
- (c) exercise or control the exercise of 35% or more of the voting rights at board meetings on all, or substantially all, matters;

(ii) in relation to a company, “Associate” has the same meaning as given in IFRS.

“**BSEL**” means the Botswana Stock Exchange Limited, acting under delegation from the Regulatory Authority for the administration and supervision of this Code in respect of listed issuers.

“**Business Day**” means any day other than a Saturday, Sunday or public holiday in Botswana on which banks and the BSEL are open for business. Where a time period is expressed in Business Days, the day of the event from which the period runs shall be excluded and the last day included, unless the last day falls on a non-Business Day, in which case the period shall end on the next Business Day.

“**Closing Date**” means the date on which the Offer Period ends unless extended in accordance with this Code.

“**Code**” means this Botswana Takeover Code.

“**CSDB**” means Central Securities Depository Company of Botswana.

“**Control**” means the right or entitlement to exercise or control the exercise of 35% or more of the voting rights of a company, whether directly or indirectly, including through persons Acting In Concert. For listed issuers, this definition shall be applied consistently with the Listings Requirements.

“**Competing Takeover Offers**” shall mean a situation where there are competing offers from independent Offerors at the same time.

“**Convertible Securities**” means securities which are convertible into or exchangeable for other securities or warrants or options to subscribe for or purchase other securities and "conversion" and "convertible" shall be construed accordingly.

“**Corporate Finance Adviser**” means a person approved under the Listings Requirements to advise on corporate finance transactions.

“**Effective Control**” means the ability to exercise, or control the exercise of, a majority of the voting rights of a company, or the ability to appoint or remove a majority of the board of directors, or otherwise to control the strategic financial and operating policies of the company, whether directly or indirectly, including through any agreement, arrangement or understanding. Where a person has acquired Effective Control without acquiring Control, the BSEL may determine that a Mandatory Offer is required only where the circumstances demonstrate that shareholders have, in substance, lost the ability to determine the outcome of ordinary or special resolutions. In making such determination, the BSEL shall have regard to (i) dispersion of shareholdings, (ii) board appointment/removal rights, (iii) shareholder agreements or voting undertakings, (iv) patterns of attendance and voting at meetings,

and (v) any other relevant factors; and shall give the affected person a reasonable opportunity to make representations.

“General Offer” means an offer made to all shareholders of a Target Company for the purchase of their shares.

“Independent Adviser” shall have the same meaning ascribed to Corporate Finance Adviser above.

“Information Statement” means the shareholder communication required under Rule 42.1 and approved by the BSEL.

“IFRS” means International Financial Reporting Standard acceptable to the BSEL.

“Insider Trading” has the definition assigned under the Securities Act.

“Listing Requirements” means the BSEL Equity Listings Requirements as from time to time amended by the BSEL contained herein (including the "introduction"), save that the chapter headings, section headings and the introductory text to each chapter headed "Scope of Chapter" do not form part of the listings requirements, and are for guidance and ease of reference only and are not to be construed as affecting the substance or interpretation of the listings requirements.

“Mandatory Offer” means the obligation to make an offer to all shareholders of the same class on equivalent terms when a person (alone or Acting In Concert) acquires Control or Effective Control of a Target Company.

“Minimum Offer Price” means the minimum price at which a takeover offer must be made, determined in accordance with Rule 29.

“Offer” means a takeover offer or proposal to acquire Control or Effective Control.

“Offer Period” means the period commencing at the earlier of:

- (a) the first public announcement of a firm intention to make an offer made in accordance with Rule 5 (including on X-News); and
- (b) the first public announcement required under the Listings Requirements in relation to the same transaction,

and ending on the date on which the offer:

- (i) becomes or is declared unconditional in all respects;
- (ii) lapses; or
- (iii) is withdrawn with the approval of the BSEL (with notice to the Regulatory Authority),

whichever occurs first.

“Offeree” or **“Target Company”** means a company that is the subject of an Offer.

“Offeree’s Statement” means the statement issued by the board of directors of the Offeree to its shareholders in response to an Offer containing the information specified in Schedule IV.

“Offeror” means any person who makes or proposes to make an offer.

“Offeror’s Statement” means the statement submitted by the Offeror to the Offeree and the BSEL under Rule 8 containing the information specified in Schedule II.

“Partial Offer” means an Offer in which a person offers to acquire less than 100% of any class of the voting shares of a company.

“Registered Adviser” means an adviser approved by the BSEL and recorded on the ‘BSEL Register for Registered Advisers’.

“Regulatory Authority” means the Non-Bank Financial Institutions Regulatory Authority, the capital markets regulator of Botswana.

“Reverse Takeover” means a transaction which, under the Listings Requirements, would be classified as a Reverse Takeover, including any transaction resulting in a fundamental change in the business, board, or voting control of a listed issuer.

“Takeover Offer Document” means the formal disclosure document issued by an Offeror containing the full terms and conditions of an Offer and all information required under this Code, including the information specified in Schedule III, which document shall be submitted to the BSEL for approval and circulated to shareholders of the Offeree in accordance with Part IV of this Code, and includes any amended, revised, or supplementary offer document issued during the Offer Period.

“Tribunal” means the Non- Bank Financial Institutions Tribunal established under section 85 of the Non-Bank Financial Institutions Regulatory Authority Act.

“Securities Act” means the Securities Act of 2014 (Act No. 26 of 2014) as may be amended from time to time.

“Substantial Shareholder” means a person who holds, directly or indirectly, five percent (5%) or more of the voting rights of the Offeree (or such other percentage as the Listings Requirements may prescribe).

“Voting Rights” means voting rights exercisable at a general meeting of a company in respect of Voting Securities. **“Voting Securities”** or **“Voting Shares”** means shares or other securities carrying voting rights in general meeting (including where voting rights arise on conversion).

“X-News” means the Exchange News Service, the BSEL regulatory news distribution service.

PART III - ADMINISTRATIVE PROVISIONS

1. Competent Authority

- 1.1 This Code shall be administered by the BSEL. The Board of the BSEL is the competent authority responsible for:
 - (a) regulating the conduct of takeover transactions involving listed companies;
 - (b) overseeing compliance with the procedural and disclosure requirements of this Code;
 - (c) approving, releasing, and monitoring market announcements; and
 - (d) issuing practice notes or guidance for the effective implementation of this Code.

2. Delegation and supervisory role of the Regulatory Authority
 - 2.1 The Regulatory Authority remains the statutory regulator under the Securities Act and the NBFIRA Act and retains ultimate supervisory and enforcement authority over affected transactions.
 - 2.2 For listed issuers, the Regulatory Authority delegates to the BSEL the day-to-day administration and supervision of this Code, including acting as the decision-making body (Panel) contemplated in the Listings Requirements for affected transactions.
 - 2.3 Nothing in this Code derogates from the powers of the Regulatory Authority to protect investors and the public interest, to issue directives or impose conditions where necessary, or to take enforcement action under applicable law.

3. Administration of the Code

Decisions of the BSEL shall be administrative and regulatory in nature. In performing its functions, the BSEL shall:

 - (a) act expeditiously;
 - (b) not be bound by formal rules of evidence; and
 - (c) have regard to market integrity and fairness rather than technical form.

4. Interpretation and spirit of the Code
 - (a) This Code shall be interpreted in accordance with its general principles.
 - (b) In applying this Code, the BSEL shall interpret its provisions purposively so as to give effect to its objectives and general principles.

(c) Market participants shall cooperate with the BSEL in good faith.

5. Indemnity

(a) Where the BSEL publishes, disseminates, or releases any document, announcement, circular, offer document, ruling, or any other information on behalf of an Applicant or any party to a transaction under this Code, the BSEL shall not be responsible for verifying the accuracy, completeness, or fairness of the contents thereof.

(b) The BSEL shall not be liable for any loss, damage, cost, or expense of any nature whatsoever, whether direct or indirect, howsoever arising from the publication, dissemination, or release of such information.

(c) The applicant or relevant party to the transaction shall indemnify and hold harmless the BSEL against any loss, damage, cost, or expense incurred by the BSEL arising out of or in connection with such publication or dissemination, including any liability arising from claims instituted by third parties, except to the extent that such loss or damage arises from the gross negligence or wilful misconduct of the BSEL.

6. General principles

(a) The board of the Offeree Company shall act in the best interests of the Target Company as a whole and shall not deny shareholders the opportunity to decide on the merits of an Offer.

(b) All shareholders of the same class of securities of an Offeree Company shall be afforded equivalent treatment.

(c) Shareholders shall be given sufficient information, time, and opportunity to reach a properly informed decision on an Offer.

(d) False markets shall not be created in the securities of the Offeree Company or the Offeror.

7. Relationship with the Listings Requirements

7.1 Where a transaction constitutes an Affected Transaction under this Code and is also regulated under the Listings Requirements (including as a Category 1 transaction, Reverse Takeover, related party transaction or otherwise), the issuer and parties to the transaction shall comply with both frameworks.

7.2 In the event of any inconsistency between this Code and the Listings Requirements, the Securities Act prevails; and, subject to the Securities Act, the BSEL shall interpret and apply this Code and the Listings Requirements in a manner that promotes market integrity and investor protection. Where procedural requirements differ, the BSEL may direct which procedure applies to ensure an orderly market.

- 7.3 Nothing in this Code derogates from the Listings Requirements relating to pyramid companies and unbundlings, including any requirement to make comparable offers or obtain irrevocable undertakings where applicable.

PART IV - TAKEOVER PROCEDURES

8. Mandatory offer

8.1 No person shall make an Offer to acquire shares or voting rights in a Target Company which, taken together with any shares or voting rights already held by that person or by persons Acting In Concert with that person, would entitle that person to exercise Control or Effective Control over the Target Company, unless such Offer is made in compliance with the takeover procedures set out in Rule 9.

8.2 Where:

- (a) a person or persons Acting In Concert acquires or intends to acquire Control person shall be obliged to make an Offer of such Target Company and shall be required to comply with the takeover procedures set out under Rule 9.
- (b) the BSEL determines that a person has acquired Effective Control of a Target Company (without acquiring Control), the BSEL may direct that a Mandatory Offer be made to all shareholders of the same class on equivalent terms, in accordance with this Code.

8.3 A person who acquires Effective Control of a Target Company shall make an Offer to all shareholders of the same class on equivalent terms, in accordance with these Rules.

8.4 The Mandatory Offer requirement may not apply to situations including the following:

- (a) any purchase of shares from an increase in authorized share capital;
- (b) acquiring of shares through inheritance;
- (c) purchase in connection with foreclosure proceedings involving a duly constituted pledge or security arrangement where the acquisition is made by the debtor or creditor;
- (d) purchases in connection with privatization undertaken by the Government of Botswana; and
- (e) purchases in connection with liquidation or insolvency under court supervision.

8.5 The BSEL may exempt a transaction from the Mandatory Offer requirement where the Acquisition of Control arises from circumstances that do not undermine shareholder

protection or market integrity, including Acquisitions by operation of law or pursuant to government policy.

9. Notification: Takeover Offer Announcement and Statement:

9.1 A person who intends or proposes to acquire Control of a Target Company shall, not later than [two (2) days¹ after the relevant board resolution or decision, announce the proposed offer by way of a press Announcement on X-News and in at least two (2) newspapers of national circulation; provided that no such Announcement shall be made unless and until the Offeror has the resources available to implement the Offer in full.

9.2 The person who intends or proposes to acquire Control of a Target Company shall also submit a written notice of intention containing the particulars set out in Rule 9.3 to the:

- (a) Proposed Offeree's Board of Directors at its registered office;
- (b) BSEL;
- (c) other stock exchange at which the Offeree's voting shares are listed, if applicable; and
- (d) [Regulatory Authority]².

9.3 The Announcement referred to in Rule 9.2 above shall:

- (a) be made in at least two (2) English language newspapers of national circulation;
- (b) state that the person intends to acquire or has acquired Control in the Target Company and has at a stated date served a notice of intent to make an Offer to the Target Company or has made an application to the BSEL[, and shall file a copy with the Regulatory Authority,]³ for exemption from the takeover requirements, in compliance with these Rules; and
- (c) include the information as detailed in Schedule I, where applicable.

9.4 The Offeror shall, within [twenty (20)] Business Days from the date of the announcement of intention, submit to the Offeree and the BSEL a statement detailing the Offer (the **Offeror Statement**), containing the information specified in Schedule II of these Rules[, and shall file a copy with the Regulatory Authority]⁴.

9.5 Where an announcement of an intention to make an Offer under Rule 9.1, or a statement under Rule 9.4, has been submitted to the Offeree, the proposed Offeror shall not amend

¹ Timelines to be reviewed.

² To be confirmed whether NBFIRA should also be notified.

³ Inclusion to be confirmed.

⁴ Inclusion to be confirmed.

or withdraw such announcement or statement without the prior written consent of the BSEL [(and notification to Regulatory Authority)]⁵.

9.6 The BSEL shall on application of the Offeror, permit the Offeror at any time prior to the Offeror serving the takeover statement upon the Offeree, to:

- (a) amend in writing any notice or statement lodged by the Offeror pursuant to Rules 9.2 and 9.4; or
- (b) substitute in writing a fresh announcement or statement of an earlier announcement or statement lodged with the Offeree pursuant to Rules 9.2 or 9.4 in such manner and subject to such terms as the Offeror may consider as justified by the circumstances of the case and such announcement or statement shall require approval of the BSEL.

10. Obligations of Offeree

10.1 Upon receipt of the Offeror's Statement in accordance with Rule 9.4, the Board of Directors of the Offeree shall, within [twenty-four (24)] hours, notify the BSEL [and Regulatory Authority]⁶, and make an Announcement of the proposed Offer through notices on X-News and newspapers of national circulation.

10.2 The notices referred to in Rule 10.1 shall be made in at least two English language newspapers of national circulation and shall include all material information contained in the Offeror's Statement.

11. Takeover Offer Document

11.1 The Offeror shall, within [twenty (20)] Business Days from the date of submitting the Offeror's Statement pursuant to Rule 9.4, submit to the BSEL, for approval, the Takeover Offer Document [and shall file a copy with the Regulatory Authority]⁷.

11.2 The Takeover Offer Document shall be signed by the individual, if the Offeror is an individual, or by two (2) authorized directors if the Offeror is a company, certifying that:

"To the best of our knowledge and belief, after making proper enquiry, the information contained in the Takeover Offer Document is, in all material respects, true and correct and not misleading, whether by omission or otherwise, and includes all information required to be disclosed by the Offeror under the Takeovers Code."

11.3 The BSEL shall approve the Takeover Offer Document and advise the Offeror of such within [thirty (30)] days where the document is in compliance with the requirements of

⁵ Inclusion to be confirmed.

⁶ Inclusion to be confirmed.

⁷ Inclusion to be confirmed.

this Code or within such other time as may be determined by the BSEL provided that where the BSEL has determined it is not possible to grant approval within thirty days, it shall advise the Offeror of this fact.

11.4 Approval of the Takeover Offer Document by the BSEL signifies compliance with procedural requirements only and does not constitute an endorsement of the merits of the Offer.

11.5 The Offeror shall submit the Takeover Offer Document to the Offeree within [five (5)] days of its approval by the BSEL. The Offeree shall, within [twenty-five (25)] Business Days of receiving the approved Takeover Offer Document, circulate to shareholders (i) the Takeover Offer Document, (ii) the Independent Adviser's Statement (Rule 16), and (iii) the Offeree's Statement (Rule 13.1).

12. Requirements for Takeover Offer

12.1 The Takeover Offer Document shall be dated and shall, unless varied under Rule 21, state that it will remain open for acceptance by the Offeree for [forty-five (45) days]⁸ from the date of submission of the Takeover Offer Document by the Offeror to the Offeree.

12.2 The Offer shall not be conditional upon the Offeree approving or consenting to any payment or other benefit being made or being given to any director of the Offeree or to any other person that is deemed to be related to the Offeree, as compensation for loss of office or as consideration for, or in connection with, his retirement from the office.

12.3 The Offer shall state:

- (a) Whether the Offer is conditional upon acceptance of the Offer being received in respect of a minimum number of issued voting shares of the Offeree and if so, the percentage;
- (b) Where the shares are to be acquired in whole or in part for cash, the period within which payment will be made and the method of such payment;
- (c) Where the shares are to be acquired through a share swap, the proportion of the share swap and the period within which the Offeree's shareholders shall receive the new shares;
- (d) Whether the Offeror is engaged in the same line of business as the Offeree;
- (e) Whether the Offer is conditional upon receiving approval under any applicable law in Botswana or any applicable foreign jurisdiction, where relevant;

⁸ Timelines to be confirmed.

- (f) Whether the Offer is conditional upon maintenance of a minimum percentage of shareholding by the general public to satisfy the continuing eligibility requirements for listing; and
- (g) the circumstances that shall apply in the event the conditions in Rules 12.3. (a) through (f) are not fulfilled.

12.4 Every Takeover Offer Document shall contain the following words which shall be prominently displayed on the first page of the Takeover Offer Document:

"To better understand the merits of this Offer, you should consult the independent adviser appointed by your Board of Directors, or your Broker/Dealer, investment bank, or other professional investment adviser".

13. Responsibilities of the Board of Directors of the Target Company

- 13.1 Subject to the independent advice required under Rule 14, the Board of Directors of the Offeree shall within [twenty (20)]⁹ Business Days after the receipt of the Takeover Offer Document and, in any event, in time for the dispatch of the documents under Rule 10.5.
- 13.2 The Statement referred to in Rule 13.1 above shall include the information contained in Schedule IV.
- 13.3 The Board of Directors of the Offeree shall disclose in the statement referred to in Rule 13.1 above to every holder of the voting shares to which the Offer relates all such information as the holders of such voting shares and their professional advisers would reasonably require or expect to find in such a Statement or for the purpose of making an informed assessment as to the merits of accepting or rejecting the Offer and the extent of the risks involved in such action.
- 13.4 Without prejudice to the generality of Rule 13.1, the statement shall include, but shall not be limited to information on:
 - (a) the Offeror's stated intentions regarding the continuation of the business of the Offeree;
 - (b) the Offeror's stated intentions regarding major changes to be introduced in the business, including plans to liquidate the Offeree, sell its assets, re deploy the fixed assets of the Offeree or make any other major change in the structure of the Offeree;
 - (c) the Offeror's stated long term commercial justification for the proposed Offer;
 - (d) the Offeror's stated intentions with regard to the continued employment of the management and employees of the Offeree and of its subsidiaries;

⁹ Timelines to be confirmed.

- (e) the reasonableness of the Offer, including, the reasonableness and accuracy of profit forecasts for the Offeree, if such forecast is included by the Offeror in the Takeover Offer Document; and
- (f) any other information relevant for the informed assessment of the holders of voting shares and their professional advisers.

13.5 Two Directors of the Target Company shall sign the Statement and certify:

“To the best of our knowledge and belief, after making proper enquiry, the information contained in or accompanying this statement is, in all material respects, true and correct and not misleading, whether by omission of any information or otherwise, and includes all the information required to be disclosed by the Target Company under this Takeover Code.”

PART V - INDEPENDENT ADVICE

14. Independent Adviser of the Offeree

- 14.1 The Board of Directors of the Offeree shall appoint an independent adviser, within five (5) days of receipt of the Offeror's Statement under Rule 9.4 in relation to the Offer.
- 14.2 The independent adviser appointed under Rule 14.1 above shall be a Registered Adviser approved by the BSEL.
- 14.3 The substance of the independent adviser's advice must be made known to the holders of the class of the voting shares to which the Offer relates, in a statement by the Offeree to its shareholders.

15. Independent Adviser of the Offeror

- 15.1 The Board of Directors of the Offeror shall appoint an independent adviser where the Offer being made is a Reverse Takeover or where the Board of Directors of the Offeror is faced with a conflict of interest situation.
- 15.2 The advice given to the Board of Directors of the Offeror under Rule 15.1 above shall be made known to all the holders of voting shares of the Offeror.
- 15.3 In the case of a Reverse Takeover, the Board of Directors of the Offeror shall obtain approval of the holders of voting shares of the Offeror to which the Reverse Takeover relates prior to serving the Takeover Offer Document to the Offeree under Rule 11.5.
- 15.4 Where the Offeror has convertible securities outstanding, the appointed independent adviser shall make known its advice to the holders of such securities, together with the views of the Board of Directors of the Offeror or of the Offeree, as the case may be, on the Offer or proposal.

16. Independent Advisers' Statements

- 16.1 The independent advisers appointed by the Board of Directors of the Offeree shall send a Statement to the Board of Directors of the Offeree and the BSEL prior to the Statement being served on the Offeree's holders of voting shares to which the Takeover offer relates.
- 16.2 The Statement required to be sent by the Board of Directors of the Offeree to the Offeree's shareholders under Rule 11 and the independent adviser's statement shall be finalised and provided to the Offeree and the BSEL in time for dispatch to shareholders together with the Offeree's Statement under Rule 11.5 (and no later than the dispatch date under Rule 11.5).
- 16.3 The independent adviser shall disclose all such information in the independent adviser's Statement to the holders of the voting shares of the Offeree, the Board of Directors of the Offeree and all holders of voting shares to which the Offer relates as well as advice that professional advisers would reasonably require or expect to be informed about, in an independent advice or for the purpose of making an informed assessment as to the merits of accepting or rejecting the Offer and the extent of the risks involved in such action.
- 16.4 The information required to be disclosed under Rule 16.3 above shall be that which:
- (a) is within the knowledge of the Board of Directors and of the independent adviser; and
 - (b) the independent adviser would be able to obtain by making such enquiries as were reasonable in the circumstances.
- 16.5 For the purposes of Rule 16.3 above, a person shall, unless the contrary is proved, be presumed to have been aware at a particular time of a fact or occurrence of which an employee or agent of the person having duties or acting on behalf of the employer or principal was aware of at the time.
- 16.6 Without prejudice to the generality of Rule 16.3 above, an independent adviser shall include in the Statement to the Board of Directors of the Offeree and the Offeree shareholders all the information and Statements specified in Schedule V of these Rules.

17. Requirements for Independent Adviser

- 17.1 No person shall be eligible to be appointed as an independent adviser under Rules 14 and 15 where such a person:
- (a) has an interest in ten percent (10%) or more of the voting shares of an Offeror or Offeree at any time during the twelve months preceding the date of announcement of the Offeror's intention of the takeover scheme;

- (b) has a director on its Board of Directors who is also a director on the Board of Directors of the Offeror if the Offeror is a company or on the Board of Directors of the Offeree, as the case may be;
- (c) is involved in financing the offer by the Offeror;
- (d) is an Associate;
- (e) is a substantial creditor of either the Offeror or the Offeree;
- (f) is not registered under the BSEL as an advisor;
- (g) has a material financial interest in the outcome of the Offer other than that specified in paragraphs (a) to (e) above; or
- (h) has been an adviser in planning or restructuring of the Offeror or Offeree including acquisitions, at any time during the period of twelve months preceding the date of Announcement of the Offeror's intention of the Offer.

17.2 A person is deemed a "substantial creditor" if:

- (a) the credit extended represents more than ten percent (10%) of the credit outstanding in the Offeror or the Offeree; or
- (b) the credit extended to either the Offeror or the Offeree represents more than ten percent of the shareholders' funds of the person based on the latest audited accounts; or
- (c) the person is a lead banker in a syndicated loan extended to either the Offeror or the Offeree in the preceding three years.

PART VI - GENERAL PROVISIONS REGARDING THE OFFER

18. Offer to Dissenting Shareholders

18.1 Where a takeover results in the Offeror acquiring ninety percent (90%) or more of the Offeree's voting shares, the Offeror shall offer the remaining shareholders a consideration that is equal to the prevailing market price of the voting shares or the price offered to the other holders, whichever is higher. For purposes of this Rule, 'prevailing market price' means the volume-weighted average price (VWAP) of the Offeree's voting shares over the thirty (30) trading days immediately preceding the date on which the offer becomes unconditional as to acceptances, or such other method as the BSEL may approve.

18.2 Where a takeover results in the Offeror acquiring ninety percent (90%) or more of the Offeree's voting shares, the remaining shareholders can accept or decline the proposed Offer.

18.3 Where the Offeror acquires 90% or more of the voting shares, the Offeror shall be entitled to exercise any squeeze-out rights available under the Companies Act, subject to compliance with that Act

19. Competing Takeover Offer

19.1 Where a decision has been reached to make a Competing Takeover Offer, all provisions in this Code relating to the takeover procedures shall apply including necessary changes except the notice period to the Competing Offer.

19.2 The Competing Offeror shall serve a competing Takeover Offer Document required under Rule 11.5 at least ten (10) days prior to the closure of the original Offer Period and this period shall also apply to revisions that may be made to the competing offer.

19.3 Any information given to any Offeror, including particulars of shareholders shall be furnished equally and promptly on request to any other competing Offeror who has made a Competing offer in terms of these Rules.

20. Offer Period, Lapsing of an Offer, and Extension of Offer Period

20.1 An Offeror must keep a Offer open for acceptances for a period of [forty-five (45) days] from the date the Takeover Offer Document is first served in accordance with Rule 11.5.

20.2 An Offer Period shall be deemed to have lapsed:

- (a) in the event of the non-fulfilment of any obligations by the Offeror under these Rules; or
- (b) where all conditions to which the Offer is subject are not fulfilled within [twenty-one (21) days]¹⁰ of the first closing date of the Offer or on the date the Offer becomes or is declared unconditional as to acceptances; or
- (c) upon the non-acceptance of the Offer after the expiry of the Offer Period.

20.3 In the case of an Offer which lapses in terms of the provisions of Rule 20.2(a), the Offeror shall be prohibited from making any offer for the acquisition of shares of any listed company for a period of twelve (12) months from the date of failure to fulfil the obligation.

20.4 No Offer may be extended beyond the Offer Period without the approval of the BSEL.

¹⁰ Timelines to be confirmed.

20.5 Where an extension of an Offer is allowed by the BSEL under Rule 20.2 above, the Offeror shall inform the shareholders of the Target Company of the next closing date by Announcement on X-News and in at least two (2) newspapers of national circulation.

21. Conditional Offer

Where the Offer is conditional upon acceptances in respect of a minimum percentage of shares being received, the Offer shall specify a date not being more than [thirty (30) days]¹¹ from the date of service of the Offer or such later date as the BSEL may allow as the latest date on which the Offeror can declare the Offer to have become free from that condition.

22. Variations of the Takeover Offer

22.1 An Offeror may vary the terms and conditions of an Offer, including increasing the consideration offered in relation to the whole or part thereof provided such variation shall be made at least [ten (10) days]¹² prior to the closure of the Offer Period. The BSEL shall be notified of variation to the Offer.

22.2 The Offeror may vary the Offer only if the variation is to do with any of the following:

- (a) to increase an existing component or components of the consideration;
- (b) to add a cash component to the consideration;
- (c) to include in the Offer a cash alternative; or
- (d) to extend the Offer Period, but not beyond the maximum Offer Period permitted.

22.3 If a variation to an Offer 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 variation was made.

22.4 If a variation to an Offer includes a cash alternative in the Offer, the Offeror must give all acceptors, including those who have accepted the Offer before the variation is made, the opportunity to take the cash alternative as consideration.

22.5 The varied Takeover Offer Document shall set out in an appropriate form the particulars of such modification of the Offeror's Statements and information required under Schedule II as are necessary regarding the variations.

22.6 The Offeror shall after notification to the BSEL submit the varied Takeover Offer Document to the Offeree, and the BSEL within twenty-four (24) hours of making the decision to vary the Offer, and simultaneously make an Announcement in English language in at least two (2) newspapers of national circulation disclosing material variations to the Offer.

¹¹ Timelines to be confirmed.

¹² Timelines to be confirmed.

23. Withdrawal of the Takeover Offer

- 23.1 An Offeror shall not withdraw an Offer without the prior written approval of the BSEL.
- 23.2 Where an Offer has been withdrawn, the Offeror and all persons Acting In Concert with the Offeror shall not, within twelve (12) months from the date on which the Offer was withdrawn:
- (a) make an Offer for the voting shares that had been the subject of the Offer that has been withdrawn; or
 - (b) acquire any additional voting shares of the Offeree.
- 23.3 The Offeror and all persons Acting In Concert or Associated with the Offeror shall furnish the BSEL with details of any Acquisition by the Offeror and persons Acting In Concert or Associated with the Offeror of any share of the Offeree including any option to acquire any share in the Offeree each month for a period of twelve (12) months from the date on which the Offer was withdrawn.
- 23.4 Withdrawal of an Offer may occur where:
- (a) the Offeree's shareholders have rejected the Offer;
 - (b) events, occur, rendering either the Offeror or Offeree or both incapable of fulfilling their obligations under the Offer; or
 - (c) a counteroffer is accepted by the Offeree.
- 23.5 In the event of the BSEL's approval of and withdrawal of the Offer, the Offeror shall within 24 hours:
- (a) inform the Board of Directors of the Target Company;
 - (b) inform the securities exchange on which the shares of the Offeror and/or Target Company are listed, if applicable; and
 - (c) make a public announcement in the same newspapers in which the public Announcement of the Offer was made, indicating the reasons for the withdrawal of the Offer.

24. Closing of the Takeover Offer

- 24.1 An Offer shall be deemed to close at the end of the last day of the Offer Period.
- 24.2 A holder of the voting shares in the Target Company may refuse acceptance at any time before the closing of the Offer.

PART VII - ACCEPTANCES OF THE OFFER

25. Pro-Rata Acceptances of the Offer

25.1 Where an Offeror receives acceptance by shareholders of the Offeree which are in excess of the total number of shares to which the Offer relates, the Offeror shall undertake a pro-rata acceptance.

25.2 For the purposes of this Rule, "pro-rata acceptance" means an allocation of acceptance by the Offeror in proportion to the total number of shares accepted by each Offeree shareholder in relation to the percentage upon which the Offer was conditional.

26. Announcement of Acceptances of the Offer

26.1 The Offeror shall inform the BSEL [and the Regulatory Authority]¹³, within ten (10) days of the closure of the Offer.

26.2 The Offeror shall issue a press notice, on the same day as the Announcement made to the BSEL in relation to Rule 25.1 above, in X-News and (at least) the same English language newspapers of national circulation on the total number of voting shares to which the Takeover Offer relates:

- (a) for which acceptances of the Offer have been received after having been served with the Takeover Offer Document by the Offeror to Offeree shareholders in accordance with Rule 11.4;
- (b) held by the Offeror and all persons Acting In Concert with the Offeror at the time of serving the Takeover Offer Document to the Offeree shareholders in accordance with Rule 11.4;
- (c) acquired or agreed to be acquired during the Offer Period; and
- (d) the shareholding structure of the Offeree subsequent to the Takeover Offer.

PART VIII - OBLIGATIONS OF THE OFFEROR

27. Identity of the Offeror

No person shall initiate discussions or negotiations with any person in relation to a Takeover Offer without disclosing the identity of the proposed Offeror and all related companies or persons Acting In Concert with the proposed Offeror, where applicable.

28. Evidence of the Ability of the Offeror to Implement the Takeover

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- 28.1 An Offeror shall ensure, and the Offeror's financial adviser shall be reasonably satisfied that the Offer:
- (a) would not fail due to insufficient financial capability of the Offeror; and
 - (b) every shareholder of the Offeree who wishes to accept the Offer will be paid in full.
- 28.2 A person who has no intention of completing an Offer in the nature of a Takeover Offer shall not give notice or publicly announce the intention to make an Offer.
- 28.3 A person shall not make an Offer or give notice or publicly announce that it intends to make such an Offer if it has no reasonable or probable grounds for believing that it will be able to perform its obligations if the Offer is accepted.
29. Fair and Equal Treatment to Shareholders of Offeree
- 29.1 The Offeror shall not enter into any agreement, deals, arrangement or understanding to deal in or make purchases or sales of voting shares of the Offeree, either during an Offer or when such an Offer is reasonably in contemplation by the Offeror where the agreement, arrangement or understanding contains favourable conditions which are not being extended to all shareholders of the same class of the Offeree.
- 29.2 Where the Offeror makes a Partial Offer, i.e., the Offer may be made under this Code for less than all the voting shares of a Target Company, it must be extended to all holders of voting shares of the Target Company other than the Offeror.
30. Minimum Offer Price and Revisions to Offer Price
- 30.1 The minimum offer price (**Minimum Offer Price**) shall be the highest of the following:
- (a) the highest once paid by the Offeror or persons Acting In Concert for Acquisitions, including through an allotment in a public or rights issue, if applicable, during a period of [26 weeks]¹⁴ prior to the date of the Announcement of the Offer; or
 - (b) the price paid by the Offeror under a preferential allotment, if applicable, made to the Offeror or persons Acting In Concert, at any time during the [twelve-month]¹⁵ period immediately prior to the date of the closure of the offer; or
 - (c) the average of the highest weekly prices realized by the shares of the Target Company in the [6-month]¹⁶ period immediately prior to the date of the public Announcement of the offer.

¹⁴ Period to be confirmed.

¹⁵ Period to be confirmed.

¹⁶ Period to be confirmed.

31. Convertible Securities

- 31.1 Where an Offer is made for the voting shares of an Offeree and the Offeree has issued convertible securities, the Offeror shall make an Offer to purchase the Convertible Securities and shall make appropriate arrangements to ensure that the interests of holders of Convertible Securities are safeguarded.
- 31.2 The Offeror shall serve the Takeover Offer Document to purchase the securities referred to in Rule 31.1 above to the holders of the convertible securities at the same time as when the Takeover Offer Document is served on the Offeree shareholders in accordance with Rule 11.4.
- 31.3 The Takeover Offer to holders of Convertible Securities referred to in Rule 31.1 above may be effected by way of a takeover scheme approved at a meeting of the holders of the Convertible Securities.

32. Sales and Disclosures During Offer Period

- 32.1 The Offeror shall not sell any voting shares to which the Offer relates during the Offer Period.
- 32.2 A related company or a person Acting In Concert with the Offeror shall not sell any voting shares to which the Offer relates other than to the Offeror.
- 32.3 The following persons shall disclose the total number and price of all voting shares of the Offeror and the Offeree which are dealt in for their own account, to the extent such dealings are permitted under this Code:
- (a) the Offeror and all related companies or persons Acting In Concert with the Offeror;
 - (b) the chief executive, a director, or an officer of the Offeror who occupies or acts in a senior managerial position in the Offeror;
 - (c) a person who is an Associate in relation to persons referred to in paragraphs (a) and (b) above; and
 - (d) a person who is accustomed to act in accordance with directions or instructions of the persons referred to in paragraphs (a), (b) or (c) above.
- 32.4 The disclosure under Rule 32.3 above shall be made to the BSEL within twenty-four (24) hours of the transaction.
- 32.5 All dealings in voting shares of the Offeror and Offeree made by an Associate for the account of clients who are not themselves Associates shall be disclosed to the BSEL at such time and in such manner as is specified in Rules 32.3 and 32.3 above.

PART IX - OBLIGATIONS OF THE OFFEREE

33. Information Provided by the Offeree

33.1 An Offeree shall provide the Offeror with the following information:

- (a) a list and addresses of the Offeree's holders of voting shares in the Target Company to which the Offer relates;
- (b) published annual reports and financial statements including the latest half-yearly results of the Offeree and its subsidiaries; and
- (c) a copy of the competing Offeror's Statement, if applicable.

34. Restrictions of the Offeree after Offer is made

34.1 The Offeree shall not during the Offer Period:

- (a) issue any authorized shares of the Target Company; issue or grant options in respect of any un-issued shares of the Offeree;
- (b) create or issue or permit the creation or subscription of any shares of the Offeree;
- (c) sell, dispose of or acquire or agree to sell, dispose of or acquire assets of the Offeree or of any of its subsidiaries; or
- (d) enter into or allow contracts for or on behalf of the Offeree to be entered into otherwise than in the ordinary course of business of the Offeree.

34.2 Rule 34.1 above shall not apply where a bona fide contract has been entered into prior to contact with the Offeror or its agent or on receipt of the notice of intention of the Takeover Announcement under Rule 9.2 which is not designed to defeat a takeover offer or change the activity of the Offeree, and if such transaction has the approval of shareholders in a general meeting or, where special circumstances exist, and the BSE's approval has been obtained.

34.3 Nothing in Rule 33.1 shall prohibit the Offeree from entering into transactions in the ordinary course of business, provided that any transaction that is material or is reasonably likely to frustrate the offer shall require prior approval of shareholders in general meeting or such approval of the BSE as may be required under the Listings Requirements

35. Disclosure by an Offeree

35.1 During the Offer Period, the total number and price of all voting shares of the Offeror and the Offeree which are dealt in by the following persons shall be disclosed by them respectively:

- (a) the Offeree;
- (b) substantial shareholders of the Offeree;
- (c) any chief executive, or a director of the Offeree;
- (d) any officer of the Offeree who occupies or acts in a senior managerial position in the Offeree;
- (e) a person who is an associate in relation to persons referred to in paragraphs (a), (b), (c) and (d) above; and
- (f) a person who is accustomed to act in accordance with directions or instructions of the persons referred to in paragraph (a), (b), (c), (d) or (e) above.

35.2 The disclosure under Rule 35.1 above shall be made outside of exchange trading hours to the relevant securities exchange within twenty-four (24) hours of the transaction.

35.3 All dealings of voting shares of the Offeror or the Offeree made by an Associate for the account of clients who are not themselves associate shall be disclosed to BSEL, as provided in Rules 35.1 and 35.1 above.

36. Transfer to the Offeror

On completion of the Offer, the Offeree shall ensure prompt (i.e., within five (5) Business Days) transfer of the accepted voting shares to the Offeror in the register of members maintained as required under the Listings Requirements or the CSDB Rules.

PART X - PROHIBITED CONDUCT

37. Prohibition on Preventing Disclosure

37.1 No person shall prevent or attempt to prevent the Board of Directors of a Target Company from:

- (a) making a disclosure as required by these Rules; or
- (b) request the BSEL, if applicable, to grant a temporary suspension of trading in its shares at any time the Board of Directors thinks appropriate.

38. Prohibited Actions

38.1 It shall be a fraudulent, deceptive or manipulative act or practice, in connection with any Offer:

- (a) to employ any device, scheme, or pretense to defraud any person;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or
- (d) to publicly announce that the person (or a party on whose behalf the person is acting) plans to make an Offer that has not yet been commenced, if the person:
 - i. is making the announcement of a potential Offer without the intention to commence the Offer within a reasonable time and complete the Offer;
 - ii. intends, directly or indirectly, by the announcement to manipulate the market price of the stock of the bidder or subject company; or
 - iii. does not have the reasonable belief that the person will have the means to purchase securities to complete the Offer.

38.2 No person shall announce or act on information relating to the Offer, including trading in the securities of the Offeror or Offeree, until a disclosure or announcement is made in accordance with this Code.

38.3 Dealings by the Offeror during the Offer Period

38.3.1 Subject to the Securities Act, the Listings Requirements and any conditions imposed by the BSEL, the Offeror and persons Acting In Concert with it may purchase voting shares of the Target Company during the Offer Period, provided that:

- (a) such purchases are disclosed to the BSEL (and, where required, the Regulatory Authority) within twenty-four (24) hours;
- (b) the offer consideration is not less than the highest price paid by the Offeror (or any concert party) for the Target Company's voting shares during the Offer Period; and
- (c) such purchases do not result in unequal treatment of shareholders or create a false market.

38.3.2 The BSEL may prohibit or restrict such dealings where necessary to protect market integrity or orderly trading.

- 38.4 No person privy to confidential price sensitive information concerning an Offeror contemplated offer shall act or pass on that information or make a recommendation related to that information to any other person unless it is necessary to do so for the purpose of preparing any document in connection with the Offer.
- (a) A person who shall become aware of a potential Offer before the Offer has been publicly announced shall not directly or indirectly buy or sell, or pass on non-public information about, the securities of the Target Company until the Offer is publicly announced.
- (b) Such buying, selling, passing on, or use of non public information shall constitute insider trading under Section 36 of the Securities Act.
- 38.5 No person who is privy to confidential price sensitive information concerning the Offer shall engage in dealings of any kind, including options to purchase ordinary shares, in the securities of the Target Company or of the Offeror.
- 38.6 During the Offer Period, the Offeror, the Offeree or any person Acting In Concert with the Offeror or Offeree shall not sell any shares in the Target Company except with the prior written consent of the BSEL and in compliance with the Listings Requirements..
- 38.7 If during the takeover period a director of the Offeree is offered a job or position with the acquiring company, then that director is obliged to make disclosure of such and to excuse himself in decision making of the Offeree's Board of Directors.
- 38.8 The Offeror or persons Acting In Concert with the Offeror shall not enter into any agreement, arrangement, or understanding to deal in or make purchases or sales of any securities of the target company, either during an Offer or when an Offer is in contemplation if such agreement or arrangement to deal in or make purchases or sales of securities would have the effect of attaching thereto any favourable conditions to such purchases or sales, which are not being extended to all shareholders of the Target Company.
39. False and Misleading Information
- 39.1 No person shall:
- (a) provide or cause to be provided to the holders of voting shares or their professional advisers any document or information in an Offer that is false or misleading;
- (b) provide or cause to be provided to holders of voting shares or their professional advisers any document or information in an Offer in which there is a material omission; or

- (c) engage in conduct relating to an Offer that is misleading or deceptive or is likely to mislead or deceive holders of voting shares or their professional advisers.

39.2 Where information or a document has been circulated or provided to holders of voting shares or their professional advisers and the person who provided the information or document, or engaged in the conduct becomes aware that the document or information was false or misleading or contains a material omission or the conduct in question was misleading or deceptive, the person shall immediately disclose the fact to the BSEL and make an Announcement by way of press notice on X-News and in at least two English language newspapers of national circulation containing such matters as are necessary to correct the false or misleading information, omission, or conduct.

PART XI - MISCELLANEOUS PROVISIONS

40. Submission of Information to the BSEL.

A person involved in a Takeover, merger, consolidation, or mandatory acquisition, shall submit such information to the BSEL as it may from time to time require.

41. Suspension of Trading During a Takeover

41.1 The trading of shares of the security of the Offeree shall not be suspended unless for the purpose of enabling the Offeree to disclose information on the takeover offer or as may be directed by the BSEL for the purpose of obtaining material information on the Offer.

41.2 The trading of shares of the Target Company, and where appropriate, in the shares of the Offeror, may be suspended by the BSEL until the required actions are complied with and the relevant information is provided, as per this Code.

41.3 The BSEL shall make this determination for the suspension of trading as well as the resumption of trading, whether on an exchange or in the over-the-counter market, as related to Rules 41.1 and 41.1 above.

42. Issuance of Shares of a Subsidiary

42.1 No issuance of shares of a subsidiary of a Target Company comprising:

- (a) [twenty-five percent (25%)] or more of the share capital of that subsidiary; or
- (b) [fifteen percent (15%)] or more of the share capital of the subsidiary, that has contributed [twenty-five percent (25%)] or more to the average turnover in the latest three financial years of the Target Company (preceding the proposed issuance of shares),

shall be made without full disclosure through an information Statement to the shareholders of the Target Company, of all relevant information relating to the transaction

for which the shares are being issued subject to the prior approval of the issuance of such shares by the BSEL.

42.2 The Information Statement referred to in rule 41.1 above shall:

- (a) be subject to prior approval by the BSEL and,
- (b) comply with the directives of the BSEL from time to time in force.

PART XII - POWERS OF THE BSEL

43. Enforcement

43.1 The BSEL shall administer and enforce this Code in respect of listed issuers, subject to the Securities Act and the Regulatory Authority's supervisory and enforcement powers.

43.2 Where the BSEL determines that a person has contravened this Code, it may issue such directions and impose such administrative measures as are permitted under the Listings Requirements and the Securities Act (including requiring corrective disclosures, granting or refusing approvals, and taking steps to ensure orderly markets), and may refer the matter to the Regulatory Authority for investigation or enforcement action under applicable law.

44. Power to Give Instructions

44.1 The BSEL may, in the interest of the securities market and for the protection of investors, give such instructions in respect of transactions governed by these Rules, as it deems fit, including:

- (a) instructing any person to refrain from dealing in securities that are the subject of such transactions;
- (b) prohibiting any person from disposing of any of the securities acquired in violation of these Rules;
- (c) instructing any person to sell the securities acquired in violation of the provisions of these Rules; and
- (d) taking any other action available to the Regulatory Authority under Law against any person concerned in any such transactions.

45. Power to Grant Exemptions and Withdrawals from Offer

45.1 The BSEL may grant such waivers or exemptions from the application of these Rules as it deems appropriate in the interest of the public or the protection of investors.

- 45.2 Any person seeking a waiver or an exemption from the operations of the provisions of these Rules or desiring to withdraw an Offer shall seek written approval from the BSEL following provisions of Rule 22.
- 45.3 The application for approval shall state the waiver or exemption sought and the grounds on which the waiver or exemption is being sought.
- 45.4 The BSEL shall make a determination either granting or refusing the application in line with the Procedure for Approval in section 48 .
- 45.5 The determination of the BSEL may be disseminated to the parties to the transaction and the general public by such means as the BSEL may consider appropriate.

PART XIII - FEES PAYABLE

46. At the time of filing with the BSEL of any Statement required under Rule 8, for any takeover, consolidation, or merger offer, the BSEL shall require payment of a fee as may be determined by the BSEL from time to time.
47. A copy of the latest fee schedule is available from the BSEL and the BSEL website at www.bse.co.bw

PART XIV - GENERAL

48. Procedure for approval

48.1 The procedure for approval of documentation is as follows:

48.1.1 Informal comments

- (a) a copy of the documentation required to be approved should be submitted to the BSEL as early as possible for informal comments (the first submission);
- (b) if documents are received by the BSEL on or before 10h00 on a business day, they will be deemed to have been submitted at 10h00 on such business day; and if they are received after 10h00 on a business day, they will be deemed to have been submitted at 10h00 on the following business day (the deemed submission time); and
- (c) within five (5) business days of the deemed submission time of the first submission,)the BSEL will provide the Applicant with informal comment. The BSEL may insist on a further informal comment submission where additional corporate actions or transactions are inserted after the initial submission of the documentation.

48.1.2 Informal approval

- (a) once the informal comment amendments have been incorporated into the documents by the Applicant, such amended documents may be submitted to the BSEL for informal approval;
- (b) within three (3) business days of the deemed submission time for approval, the BSEL may:
 - (i) once the informal comment amendments have been incorporated into the documents by the Applicant, such amended documents may be submitted to the BSEL for informal approval;
 - (ii) refuse informal approval and return the documents to the Applicant with comments or without comments (if an incomplete set of documents was submitted or the inspection fee was not paid) (omission);
- (c) refuse informal approval and return the documents to the Applicant with comments (if they are found not to be in accordance with the Code) or without comments (if an incomplete set of documents was submitted or the inspection fee was not paid) (omission);
- (d) the procedures under section 47.1(d) to (f) will apply until the BSEL grants informal approval, provided that, if the documents are returned to the Applicant after a third submission, the BSEL will charge an additional inspection fee equal to 100% of the original inspection fee for every subsequent submission;

48.1.3 Formal approval

- (a) once informal approval has been granted by the BSEL, the final documents must be submitted for formal approval;
- (b) upon submission for formal approval, the BSEL may:
 - (i) within two (2) business days of the deemed submission time for formal approval, grant formal approval (if necessary, subject to conditions); or
 - (ii) within two (2) business days of the deemed submission time for formal approval, refuse formal approval (with comment, if the documents are capable of repair);

- (c) in the event of 47.1(i)(i)&(ii), the Applicant may re-submit the documents after incorporating the BSEL's comments or after repairing the documents, whereupon 16.4(h) and (i) will again apply; and
- (d) the procedures under 47.1(h) to (j) will apply until the BSEL grants formal approval, provided that if the documents are returned to the Applicant after a third submission, the BSEL will charge an additional inspection fee equal to 100% of the original inspection fee for every subsequent submission.

48.1.4 Applications for waiving of Requirements

- (a) In cases which require the BSEL Regulatory Committee (the **Regulatory Committee**) to consider waiving certain provisions of this Code, as per applications from issuers, the Regulatory Committee shall take 5 business days to consider the application. The BSEL shall then communicate the Regulatory Committee's ruling to the Applicant issuer within 2 business days.
- (b) It is the responsibility of the applicant to ensure that the above procedure regarding the approval of documents can be accommodated within the timetables set out in this Code. In addition, applicants are advised to structure their timetables relating to extremely complex or voluminous submissions, in order to allow the BSEL, upon notification to the sponsor and applicant issuer, an additional 2 business days, per submission (informal or formal submissions), to consider the relevant documents.
- (c) Applicants must not assume approval of any aspect of a transaction, including documentation relating thereto, until formal approval has been formally granted by the BSEL.

49. Appeal Process

- 49.1 The Board of the BSEL has delegated its authority in relation to the application of this Code, to the BSEL Takeover & Mergers Committee.
- 49.2 A party aggrieved by a decision made by the BSEL Takeover & Mergers Committee may appeal the decision to the BSEL Regulatory Committee within 30 calendar days of the written ruling. The appeal shall be made in writing and shall set out the grounds of appeal and include all relevant supporting documentation.
- 49.3 Unless the BSEL determines otherwise, the lodging of an appeal shall not suspend the operation of the decision appealed against.
- 49.4 The BSEL Regulatory Committee shall consider the appeal and may, in its discretion, request further information or submissions from the parties and determine whether the matter will be decided on the papers or following an oral hearing.

49.5 The BSEL Regulatory Committee shall issue a reasoned written decision within [15] business days of receipt of the appeal, or such longer period as it may determine having regard to the complexity of the matter.

49.6 A party aggrieved by the decision of the BSEL Regulatory Committee may, in accordance with section 86 of the NBFIRA Act, refer the matter to the Tribunal.

49.7 A party aggrieved by a decision of the Tribunal may apply to the High Court for judicial review.

50. Revisions and Guidance Notes

50.1 The Regulatory Authority reserves the right to publish revisions of this Code as may be required to provide for more effective regulation of the matters provided for herein.

50.2 The Regulatory Authority also reserves the right to issue Guidance Notes from time to time to establish or clarify procedures for the effective implementation of the provisions of this Code.

50.3 In the event of any conflict between this Code and the Securities Act, the Securities Act shall prevail.

50.4 In the event of any conflict between this Code and the Listings Requirements, the BSEL shall, subject to the Securities Act, determine the appropriate interpretation and procedure consistent with market integrity and investor protection, and may issue guidance notes to clarify such interaction.

SCHEDULE I - OFFEROR'S ANNOUNCEMENT

The Announcement of a firm intention to make a takeover offer shall contain at minimum:

1. Identity of the Offeror
 - 1.1 Full legal name of the Offeror.
 - 1.2 Registered office and jurisdiction of incorporation.
 - 1.3 Names of directors of the Offeror.
 - 1.4 Names of persons Acting In Concert with the Offeror.
 - 1.5 Terms of the Offer

2. The Offer
 - 2.1 Whether the Offer is mandatory or voluntary.
 - 2.2 The class of securities to which the Offer relates.
 - 2.3 The consideration offered (cash, shares, combination).
 - 2.4 The Offer price per share.
 - 2.5 Any minimum acceptance condition.
 - 2.6 Any material regulatory or other conditions.

3. Existing Shareholdings
 - 3.1 Number and percentage of voting shares already held by the Offeror.
 - 3.2 Number and percentage held by persons acting in concert.
 - 3.3 Details of any irrevocable undertakings received.

4. Financing
 - 4.1 Confirmation that sufficient financial resources are available to satisfy full acceptance of the Offer.
 - 4.2 Identity of financial adviser providing confirmation (for cash offers).

5. Intentions
 - 5.1 Intentions regarding continuation of the business.
 - 5.2 Intentions regarding employees and management.
 - 5.3 Intentions regarding listing status.

6. Timetable
 - 6.1 Expected date of dispatch of the Takeover Offer Document.
 - 6.2 Expected Offer closing date (subject to regulatory approval).

SCHEDULE II - OFFEROR'S STATEMENT TO OFFEREE

The Offeror's Statement submitted under Rule 8.4 shall include:

1. Detailed Terms
 - 1.1 Full terms and conditions of the Offer.
 - 1.2 Method of acceptance.
 - 1.3 Settlement mechanics and timing.
 - 1.4 Conditions and circumstances of lapse.

2. Financial Information
 - 2.1 Summary financial information of the Offeror (latest audited financial statements).
 - 2.2 Source of funds for cash consideration.
 - 2.3 Confirmation of financial capability.

3. Interests and Dealings
 - 3.1 Number and percentage of shares held by Offeror and concert parties.
 - 3.2 Details of dealings in the Offeree's securities during the preceding six months.
 - 3.3 Any arrangements, indemnities or side agreements relating to the Offer.

4. Strategic Rationale
 - 4.1 Commercial justification for the transaction.
 - 4.2 Strategic benefits expected.
 - 4.3 Intended operational integration plans (if any).

5. Post-Acquisition Intentions
 - 5.1 Board composition changes.
 - 5.2 Material restructuring or asset disposals.
 - 5.3 Changes in dividend policy (if contemplated).
 - 5.4 Continued listing or delisting intentions.

6. Regulatory Matters
 - 6.1 Required regulatory approvals.
 - 6.2 Status of any Competition Authority filings (if applicable).
 - 6.3 Expected timeline for regulatory clearance.

SCHEDULE III – TAKEOVER OFFER DOCUMENT

The Offeror shall submit the Takeover Offer Document to the BSEL for approval prior to submission to the Offeree, [and file a copy with the Regulatory Authority]

1. The document shall contain the following information:
 - 1.1. the identity of the Offeror as required under Rule 8.3;
 - 1.2. information regarding the Offeror including the names of its directors and the names of shareholders, who hold 5% or more of the voting shares of the offeror and the extent of their holdings;
 - 1.3. whether the Offeror has any intentions regarding the continuation of the business of the Offeree and if so, stating the Offeror's intentions;
 - 1.4. the Offeror's stated intentions regarding major changes to be introduced in the business, or strengthening the financial position of the Offeree, whether such plans include a merger, or liquidating the Offeree, selling its assets or re-deploying its fixed assets or making any other major change in the structure of the Offeree or its subsidiaries and if so, stating the Offeror's intentions;
 - 1.5. whether there are any long-term commercial justifications for the proposed takeover offer, and if so, stating the long-term commercial justifications;
 - 1.6. whether the Offeror has any intentions with regard to the continued employment of the employees of the Offeree company and of its subsidiaries and if so, stating the Offeror's intentions;
 - 1.7. the maximum number of shares the Offeror company proposes to acquire;
 - 1.8. the price and other terms of the offer in respect of those shares; and
 - 1.9. details of the offer and timetable of the offer.
 - 1.10. Information as required by section 4.2 of the BSEL Equity Listings Requirements on the General Contents of the Disclosure Document
2. Where the takeover offer is for cash, either in part or in whole, the Takeover Offer Document must include a confirmation by a financial adviser of the Offeror that the Offeror has the financial capability to accept and carry out the takeover offer in full.
3. In addition, the Takeover Offer Document should also include a declaration that the Offeror and the Offeror's financial advisers are satisfied that:
 - 3.1. the Takeover Offer would not fail due to insufficient financial capability the Offeror; and
 - 3.2. every shareholder who wishes to accept the Takeover Offer will be paid in full.
4. The Takeover Offer Document shall contain statements as to whether:
 - 4.1. an agreement, arrangement or understanding exists between the Offeror or any person acting in concert with it and any of the directors, past directors, holders of voting shares or past holders of voting shares having any connection with or dependence upon the takeover offer, and full particulars of any such agreement, arrangement or understanding.

"Past directors" or "past holders of voting shares" means such person who during the period of six months immediately prior to the date of the written Announcement of the Takeover Offer, was a director or a holder of the voting shares, as the case may be;

- 4.2. any voting shares acquired in pursuance of the Takeover Offer will be transferred within a foreseeable period from the date of the Takeover Offer Document to any other person, together with the names of the parties to any such agreement, arrangement or understanding and the particulars of all securities in the Offeree held by such persons, or a statement that no such securities are held; and
- 4.3. any settlement of the consideration to which any holder is entitled under the Takeover Offer will be implemented in full in accordance with the terms of the Takeover Offer without regard to lien, right of set off, counterclaim, or other analogous rights to which the Offeror may otherwise be or claim to be entitled as against the holder.
5. The Takeover Offer Document shall state as at the latest practical date, the number of and percentage holding of voting shares and convertible securities (if any) which:
 - 5.1. the Offeror and directors of the Offeror hold, directly or indirectly, in the Offeree;
 - 5.2. persons associated or acting in concert with the Offeror hold directly or indirectly in the Offeree together with the names of such persons acting in concert; and
 - 5.3. persons who, prior to the sending of the Takeover Offer Document, have irrevocably committed themselves to accept the Takeover Offer hold directly or indirectly in the Offeree together with the names of such persons.
6. In the event that there are no holdings of nature required to be stated under paragraph (5) above, the Takeover Offer Document shall contain a statement to this effect.
7. The Takeover Offer Document shall state the names and shareholdings of the shareholders, if any, of the persons acting in concert with the Offeror.
8. Where any party whose holdings are required to be disclosed has dealt in the voting shares in question during the period commencing six months prior to the beginning of the Offer Period and ending with the latest practicable date prior to the sending of the Takeover Offer Document, the details, including the number of shares, dates and prices, must be stated. If no such deals have been made this fact should be so stated.
9. The Takeover Offer Document shall state, whether the emoluments of the Offeror's directors shall be affected by the acquisition of the Offer, except in the case of an Offeror making a cash offer only.
10. The Offeror shall state whether the Offeree's securities shall continue to be listed at the relevant securities exchange, if applicable, after the Takeover offer has been successfully concluded.

11. The Takeover Offer Document shall contain details of all service contracts of any directors or proposed director of the Offeror or any of its subsidiaries (unless expiring or determinable by the employing company without payment of compensation within twelve months) and where there are no such contracts, this fact should be so stated.
12. Where the contracts under paragraph (II) above have been entered into or amended within six months of the date of the documents, the particulars of the contracts amended or replaced should be given and where there have been no new contracts or amendments this fact should be so stated.

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SCHEDULE IV - OFFEREE'S STATEMENT TO SHAREHOLDERS

The Statement of the Offeree to its shareholders shall include:

1. the date of the Offeree's Statement;
2. the number, description, and amount of marketable securities in the Offeree company held by or on behalf of each director of the Offeree company, or in the case where no such securities are held, a statement to that effect;
3. in respect of each director of the Offeree company by whom or on whose behalf shares to which the takeover offer relates are held whether the:
 - 3.1. present intention of the director is to accept any Takeover Offer that may be made in pursuance of the Takeover Offer in respect of the Shares; or
 - 3.2. director has decided not to accept such a Takeover Offer;
4. whether any marketable securities of the Offeror company are held by, or on behalf of, any director of the Offeree company and, if so, the number, description and amount of the marketable securities so held;
5. whether it is proposed in connection with the Takeover Offer that any payment or other benefit shall be made or be given to any director of the Offeree or of any other company related to the Offeree as consideration, or in connection with, retirement from office and if so, particulars of the proposed payment or benefit;
6. whether there is any other agreement or arrangement made between the director or the Offeree and any other person in connection with or conditional upon the outcome of the Takeover Offer and if so the particulars of such agreement or arrangement;
7. whether a director of the Offeree has a direct or indirect interest in any contract entered into by the Offeror and if so, the details of the nature and extent of such interest;
8. whether there has been any material change in the financial position of the Offeree since the date of the last balance sheet laid before the company in general meeting, and if so, the particulars of such change;
9. a recommendation:
 - 9.1. either:
 - (a) a recommendation by the directors to accept or reject the offer and the reasons for such recommendation; or

- (b) a declaration that the directors are unable to make, or are not making, a recommendation and the reasons for not making a recommendation;
- 9.2. if any of the directors dissent from a recommendation or from any statement under sub clause 9.1(b) above made by the directors or abstain from making a recommendation or any statement under sub-clause 9.1(b) above, their names and their reasons for dissenting or abstaining;
- 9.3. if no recommendation is made, but all or any of the directors propose to make a recommendation, or to reconsider their decision not to make a recommendation, a declaration to that effect and, if the directors consider it appropriate, a declaration to the effect that shareholders should not accept the offer in the meantime.
- 9.4. the identity of the independent adviser who has provided a Statement under Rule 13 and a copy of the independent adviser's Statement under Rule 13 including details as provided for in Schedule V of this Code.

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SCHEDULE V – INDEPENDENT ADVISER'S STATEMENT

1. The Independent Adviser's Statement must include comments and advice on the:
 - 1.1. Offeror's stated intentions regarding the continuation of the business of the Offeree;
 - 1.2. Offeror's stated intentions regarding any major changes to be introduced in the business, including any plans to liquidate the Offeree, sell its assets, re- deploy its fixed assets or make any other major change in the structure of the Offeree;
 - 1.3. Offeror's stated long-term commercial justification for the proposed Takeover Offer;
 - 1.4. Offeror's stated intentions with regard to the continued employment of the employees of the Offeree and of its subsidiaries; and
 - 1.5. Merits of the takeover offer, including the reasonableness and accuracy of profit forecasts and underlying assumptions for the Offeree, if any, contained in the Takeover Offer Document.
2. The Independent Adviser's Statement shall, in so far as is possible, contain comments on the:
 - 2.1. outlook, for the next twelve months, of the industry in which the Offeree has its core or major business activities;
 - 2.2. prospects, for the next twelve months, of the Offeree in terms of financial performance as well as positioning in the industry including competitive advantage, threats and opportunities; and
 - 2.3. risk factors associated with the Offeree's business and the reasonable probability of such risks materializing for the next twelve months.
3. The Independent Adviser's Statement shall also state:
 - 3.1. whether the Offeree holds directly or indirectly, any voting shares or convertible securities in the Offeror and if so, the number and percentage holding of such voting shares and convertible securities;
 - 3.2. whether the directors of the Offeree hold, directly or indirectly any voting shares or convertible securities in the Offeror or the Offeree and if so, the number and percentage holding of such voting shares and convertible securities so held; and
 - 3.3. whether the directors of the Offeree intend, in respect of their own beneficial holdings to accept or reject the takeover offer.
4. In the event that there are no holdings of the nature required to be stated under paragraph (3) above, the Independent Adviser's Statement shall contain a statement to this effect.
5. The Independent Adviser's Statement must also contain a declaration from the directors of the Offeree stating any other interest held by them in the Offeror and in the Offeree.
6. Where any party whose holdings are required to be disclosed pursuant to the Law has dealt in the voting shares in question during the period commencing six months prior to the beginning of the Offer Period and ending with the latest practical date prior to the sending of the Takeover

Offer Document, the details, including the number of shares, dates and prices, must be stated and where such deals have been made, this fact should be so stated.

7. The Independent Adviser's Statement shall contain particulars of all service contracts of any director or proposed director with the Offeree or any of its subsidiaries (unless expiring or determinable by the employing company without payment of compensation within twelve months from the date of the Takeover Offer Document) and where there are no such contracts, this fact shall be so stated.
8. Where the service contracts referred to in paragraph (7) above have been entered into or amended within [six (6)] months of the date of the Document, the particulars of the contracts or amendments shall be given and where there have been no new service contracts amendments, this fact shall be so stated.
9. The Statement must state the qualifications and expertise of the adviser as well as include a declaration that the adviser has no conflict of interest that could affect the adviser's ability to provide an unbiased report and statement.

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