The role of the JSE sponsor in assisting the company secretary

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Role of company secretary

S88 of the Companies Act prescribes certain core duties of a company secretary which include:

- Providing guidance to directors &
- Making directors aware of any law relevant to or affecting the company

Central source of guidance to the board
Role of company secretary

As company secretary of a *listed* company, it is incumbent on you to ensure that the entity & its directors remain aware of & compliant with the JSE Listings Requirements (LR)

Gatekeeper of corporate governance
How should the sponsor assist?
Symbiotic relationship

The company secretary is entitled to rely heavily on the sponsor in assisting and advising him/her on compliance with the LR.

But the sponsor needs the company secretary to keep it informed to enable the sponsor to provide the company secretary with appropriate advice & assistance.

An interdependent & mutually beneficial relationship
Relationship of parasitism?

Some may view the sponsor as an irritant or grudge purchase.
Or mutualism?

Should be a relationship of mutual benefit to both
Understanding the role of the sponsor
Who needs a sponsor?

Any entity with or seeking a listing on:

- JSE Main Board
- Alternative Exchange (AltX) or
- Interest Rate Market (IRM)
## Types of JSE sponsor

<table>
<thead>
<tr>
<th>Sponsor Type</th>
<th>Responsibilities</th>
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</thead>
<tbody>
<tr>
<td><strong>Equity Sponsor</strong></td>
<td>• Equity listings on Main Board</td>
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<tr>
<td><strong>Designated Advisor (DA)</strong></td>
<td>• Listings on AltX</td>
</tr>
<tr>
<td><strong>Debt Sponsor</strong></td>
<td>• Listings on the Interest Rate Market (IRM) or</td>
</tr>
<tr>
<td></td>
<td>• Debt security listings on Main Board</td>
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Who can be a sponsor?

- Only sponsors recorded on the JSE's Register of Sponsors may act as sponsors
  - Three different registers for the different types of sponsor
- The authority to act as a sponsor is reviewed annually by the JSE
The regulatory framework

- **Equity sponsor**
  - JSE Listings Requirements (LR)
  - AltX requirements in Section 21 of the LR

- **DA**

- **Debt sponsor**
  - Debt Listings Requirements
Upfront and ongoing

Assist with bringing an entity to listing on the JSE

Provide advice on continuing basis on application of the LR, including:

- in particular the continuing obligations of issuers, directors and company secretaries
- but also the spirit of the LR &
- upholding the integrity of the JSE
The regulatory role

Advising company secretary & directors on their & the company’s responsibilities & obligations in terms of the LR

Advising on what is required so that shareholders & the public are able to appraise the position of the issuer & avoid the creation of a false market

Guiding interpretation of LR & related statutes as they apply to the company & its continuing obligations & corporate actions

Advising on interpretation & application of the LR
Liaison with the JSE

Advise the JSE of any breach of the LR

Be present at all formal discussions between issuer & JSE & submission of all docs to the JSE obo issuer

Providing JSE with info re compliance by an issuer with LR
Ongoing…

Annual report review & submission
Ongoing...

Signing off on credentials of reporting accountants, auditors, valuers, competent persons & independent experts
Ensure there are no other material matters that have not been disclosed to the JSE that should be taken into account by the JSE.
Ongoing…

For new listings, review working capital statement & report to the JSE in writing that issuer has discharged all responsibilities in terms thereof.
Ongoing…

Handle and consent to release of all SENS announcements
Continuing obligations

- Dealing
- Change to the board
- Trading update & profit forecast
- Annual returns
- Results
- Share scheme
Corporate actions

- Cautionary announcements
- Categorisation of mergers, disposals & acquisitions
- Material price sensitive info
- Related party transactions
- Buy-backs & share issues
Not just satisfying a regulatory requirement

- Confidante (sponsor is subject to strict confidentiality)
- First port of call for initial advice
- The sponsor is on retainer – so make best use of this without abusing the relationship
The 2014 JSE LR amendments
Effective 30 September 2014
Motivation for review

- Greater reliance placed on sponsors
- Removal of requirements that no longer add regulatory value or are duplication or are already addressed via compliance with Companies Act or IFRS
- Align LR with significant changes in the Companies Act
Sponsor independence – issuer must appoint an independent sponsor if the sponsor is (i) part of same group or (ii) JSE exercises its discretion to require appointment on basis that sponsor not able to exercise independence & objectivity

Working capital: Sign-off by sponsor no longer required except for new listings

Profit forecast: Sign-off by sponsor no longer required
New listings on main board

- Subscribed capital R25m to R50m
- Historical profit R8m to R15m
- If don’t meet profit test can list if have subscribed capital of R500m & in existence for at least 12 months
- Reasonable spread of direct interests in majority of assets & right to actively participate in management over a majority of them

Profit R15m, subscribed capital R50m
Related party definition

“Material shareholder”

No longer includes shareholders of subsidiaries

Continues to apply to the Listco and its holding company
Transactional

Removal of repetitive disclosures if in annual report (unless it has changed since publication of the annual report)

Inclusion by reference
Category 1 trigger

Was 25% of market cap

Now 30%

AltX remains at 50% of market cap
Revised listing particulars

Increase of RLP trigger

Main board: from 25% to 50%

AltX: from 50% to 100%
Rights offers

No more need for RLP for rights offer
<table>
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<td>No more audits of subsidiaries</td>
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<tr>
<td>No distribution of interims &amp; provisionals, SENS &amp; short form press only</td>
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<td>Interim comparatives – no longer required</td>
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Pro forma’s

Category 2 – no pro forma’s
Instead must disclose profit & value of subject matter

Category 1
Pro forma’s only in the circular

Rights & clawback offers, issue for cash, repurchase – no pro forma’s
Narrative of effects must be disclosed
Resolutions

Main Board

Certain administrative resolutions of Main Board Issuers may be passed via written resolutions

- Change of name
- Increase in authorised share capital
- Odd lot offers
- Approval of MOI

AltX

- All resolutions may be passed via written resolutions – no meeting requirement (except for AGMs)
- Alignment with Section 60 of Companies Act
General amendments

- **New:** Disclosure of voting results & Updates on Schedule 21s
- Fast track secondary listing if primary listing on NYSE, TSX, ASX or LSE
- Pre-approval of independent experts (valid for 2 years)
- Directors dealings – increased period for disclosure by director – 1 day to 3 days
Amendments to AltX LR
General

Summary circulars replace full circulars (JSE approval)

Announce on SENS only (no website)

Audit committee meetings – DA must attend for 1st year

DA must continue to attend all board meetings
Related party transactions

- **>50% of market cap**: Shareholder approval always required
- **Between 10% & 50%**: Fair: no shareholder approval; Unfair: need shareholder approval
- **Below 10%**: not a RP transaction