

Innovations in Social and Environmental Disclosure Outside the United States

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Section One: Summary and Overview

Introduction

This background paper highlights various noteworthy developments worldwide on environmental and social reporting requirements by regulatory bodies and stock exchanges. The growth in increasingly nuanced reporting requirements mirrors the rise in importance of corporate social responsibility reporting in today's financial markets. The initiatives in the five case studies presented provide models for similar regulatory action by U.S. agencies or stock exchanges to promote transparency and efficiency in U.S. markets.

This paper focuses only on issues relating to transparency in financial markets. Questions of the materiality of social and environmental data as it relates to publicly traded corporations and of the enhancement in the technologies of financial reporting are beyond the scope of this paper.

Mandatory Environmental and Social Disclosure by Regulatory Bodies

In recent years, disclosure of corporate social responsibility data has been mandated by a number of governments throughout the world including those of Sweden, France, Malaysia, the UK, and the city of Buenos Aires. France was the first country to require companies to report on non-financial information in 1977, when it mandated that companies employing more than 300 people report annually on 134 issues relating to employees and the workplace.¹ France expanded its requirements in 2001 under Article 116 of the *Nouvelles Regulations Economiques* which mandates that companies publicly listed on the Paris Stock Exchange's Primary Market include a report on social and environmental issues in their annual reports.²

In an effort to increase the transparency of Malaysian corporations and rebound from the 1997 Asian financial crisis, the Malaysian government has taken up

¹ For more details and sources, see the accompanying case study on France.

² For a list of the information companies are required to disclose under Decree n. 2002-221, which elaborates on the requirements of Article 116, see Appendix A.

mandatory corporate social responsibility reporting as an important part of its overall plan to strengthen the Malaysian economy. In 2007, the Prime Minister of Malaysia announced that all companies listed on Bursa Malaysia—the Malaysian stock exchange—would be required to disclose information on corporate social responsibility activities in their annual financial reports.³

The government of the United Kingdom requires companies to report on their business activities in an annual Business Review. The British Companies Act of 2006 mandates that companies listed on the London Stock Exchange disclose in their annual Business Review information on environmental, workplace, social and community matters “to the extent that they are important to understanding the company’s business.”⁴

Corporate social responsibility is also a fundamental part of trade, investment, foreign, and domestic policy in Sweden. The Swedish government decided in late 2007 to promote good business practices by requiring all 55 fully or partially state-owned companies to produce annual sustainability reports in accordance with the Global Reporting Initiative’s G3 Guidelines.⁵ Similarly, China’s influential State-Owned Assets Supervision and Administration Commission (SASAC) released a directive on January 4, 2008, strongly encouraging state-owned enterprises to follow sound CSR practices and report on their CSR activities. While this is not yet a requirement, a directive from the SASAC carries substantial weight in the Chinese business community and signals the intention of the SASAC to focus heavily on CSR.⁶

Also in 2008, the Buenos Aires City Council passed Law 2598, requiring all companies with at least 300 employees to generate annual sustainability reports. The reports have to comply at minimum with the Ethos Principles, but companies have been encouraged to use the Global Reporting Initiative’s G3 guidelines when preparing their reports.⁷

More recently, Denmark has proposed legislation that would require the country’s 1000 largest businesses, as well as state-owned companies and institutional investors, to state in their annual reviews whether they have corporate responsibility policies, and if they do, what they are and how they implement them.⁸ The Australian government has also recently unveiled a three-year, \$2m project to expand

³ For more details and sources, see the accompanying case study on Malaysia.

⁴ “Policy & Legislation, UK,” *csr.gov.uk*, no date. Available at: <http://www.csr.gov.uk/ukpolicy.shtml> Last visited: July 9, 2008.

⁵ “Sweden leads by example in reporting and investment,” *Ethical Performance* Newsletter, Vol. 10 Issue 2, June 2008. See case study on Sweden for details on CSR disclosure in Sweden as well as sources.

⁶ “CSR as ‘No. 1’ Issue for state-owned enterprises in China,” *Global Links Initiative* article from CSR Asia, January 9, 2008. Available at: <http://www.glinet.org/standard.asp?id=4955> Last visited: July 9, 2008

⁷ “Buenos Aires mandates sustainability reporting,” *The International Corporate Sustainability Reporting Site*, March 7, 2008. Available at: http://www.enviroreporting.com/detail_press.phtml?act_id=948&username=guest@enviroreporting.com&password=9999&publish=Y&username=guest@enviroreporting.com&password=9999&groups=ENVREP Last visited: July 9, 2008.

⁸ “Danish firms face new disclosure requirements,” *Ethical Performance* Newsletter, Vol 10 Issue 3, July 2008. Page 8.

responsible business practices across the country. Run by the non-profit St. James Ethics Center, the project aims to expand corporate networking on best practices of corporate social responsibility and update the nation's Corporate Responsibility Index.⁹

Efforts by Stock Exchanges to Increase Environmental and Social Disclosure

In recent years stock exchanges, often working in tandem with government agencies, have also advanced the disclosure of corporate social responsibility (CSR) information by revising their listing requirements to require disclosure of social and environmental data from listed companies and by creating socially responsible investment (SRI) indices. JSE Limited (the Johannesburg Stock Exchange), Bursa Malaysia, the London Stock Exchange, Bovespa and the Tel Aviv Stock Exchange have all been influential in increasing the disclosure of CSR information.

In an effort to increase investment in listed companies, JSE Limited has strengthened its listing requirements to mandate that companies listed on JSE disclose CSR information in their annual reports.¹⁰ Bursa Malaysia has been central to the enforcement of government policies regarding CSR disclosure in Malaysia. In accordance with government regulations, Section 9C.A of Bursa Malaysia's listing rules have been revised to require that companies listed on the exchange include in their annual report a description of their CSR activities and policies.¹¹

As a co-owner of the FTSE Group, the London Stock Exchange was involved early on in the development of SRI indices when it helped launch the FTSE4Good Index Series in 2001. Since then, SRI indices worldwide have looked towards FTSE4Good's example for guidance.¹² In 2004, the JSE also launched a socially responsible investment (SRI) index, the first by a stock exchange and the first in an emerging market. Following in the footsteps of the JSE, Bovespa launched a Corporate Sustainability Index (ISE) in late 2005, which includes up to 40 of the Bovespa's highest ranked stocks in terms of sustainability and social responsibility.¹³

The Tel Aviv Stock Exchange launched its own SRI index, the Maala SRI Index, in 2005. Maala tracks the shares of the 20 highest-rated public companies listed on the Tel Aviv-100 index who have been ranked by Israeli non-profit Maala based on their level of community involvement and contribution to society.¹⁴

⁹ Ibid. Page 2.

¹⁰ For more details and sources, see the accompanying case study on South Africa. See Appendix B for Section 7 of JSE's updated listing requirements.

¹¹ See Appendix C for Bursa Malaysia's listing rules.

¹² "FTSE4Good Index Series 5 Year Review," *FTSE*, 2006. Available at: http://www.ftse.com/Indices/FTSE4Good_Index_Series/Downloads/F4G_5Year_Review.pdf Last visited: July 10, 2008.

¹³ For more details and sources, see the case study on Brazil.

¹⁴ "Tel-Aviv Stock Exchange launches Socially Responsible Index," *Tel Aviv Stock Exchange*, February 14, 2005. Available at: http://www.tase.co.il/TASEEng/NewsandEvents/PRArchive/2005/PReng_20050214.htm Last visited: July 10, 2008.

OMX, Northern Europe's stock exchange, has not mandated CSR disclosure but retains the right to review and remove from listings those companies whose actions seriously or systemically violate human rights or other international ethical norms. It has also launched a Nordic Sustainability Index.¹⁵

United States Markets Falling Behind

In comparison with some of the more systematic and deliberate efforts to direct companies toward comprehensive commitments to corporate social responsibility profiled in this paper, efforts in the United States appear to be sporadic and anecdotal, leaving U.S. markets and exchanges at a potential future competitive disadvantage.

For example, the U.S. Securities and Exchange Commission does require disclosure of certain hazardous waste liabilities and environmentally related regulatory fines and settlements.¹⁶ Legislation over the past decades has mandated that companies in certain industries disclose their releases and transfers of toxic chemicals,¹⁷ and that banks disclose data on the patterns of their community-related lending.¹⁸ Large companies doing business with the U.S. government must disclose to the government their records on the hiring and promotion of women and minorities, although this information is considered confidential and is not necessarily available to the public, or if so, only through the filing of Freedom of Information Act requests.¹⁹ In 2003 the New York Stock Exchange adopted corporate governance rules requiring that list companies "adopt and disclose a code of business conduct and ethics."²⁰

These efforts at disclosure, which have typically arisen in response to particular crises (*i.e.*, Love Canal and hazardous waste sites, Bhopal and toxic releases, bankruptcy of savings and loan institutions and community lending, Enron and accounting scandals), are sporadic and anecdotal, and the information disclosed is often difficult to assemble, analyze and interpret. Little effort is currently being made by the U.S. government or stock exchanges to assure that corporations commit

¹⁵ OMX's Wholeheartedly Proud Policy. For more details and sources, see the case study on Sweden.

¹⁶ "Disclosure Requirements for Environmental Liabilities Under US Securities Laws," O'Melveny and Myers LLP, February 7, 2008. Last accessed: October 19, 2008. Available at: <http://www.omm.com/newsroom/publication.aspx?pub=590>

¹⁷ "Corporate Environmental Reporting: Review of Policy Action in Europe," *IIIEE*, February 2002. Last accessed: October 19, 2008. Available at: http://www.enviroreporting.com/others/ceer_europe.pdf

¹⁸ The Home Mortgage Disclosure Act was originally passed in 1975. See <http://www.ffiec.gov/hmda/> for further details. (Last accessed December 2, 2008)

¹⁹ Details on which companies must file an EEO-1 form and the confidentiality of this data are available at <http://www.ffiec.gov/hmda/> (Last accessed December 2, 2008)

²⁰ Final corporate governance rules of the New York Stock Exchange approved by the SEC on November 4, 2003. Available at <http://www.nyse.com/pdfs/finalcorpgovrules.pdf> (Last accessed December 2, 2008)

themselves to systematic, broadly disseminated CSR disclosure, or to assure that investors, employees, consumers and community organizations have access to such data comprehensively.

Conclusion

The following case studies demonstrate the move towards increased reporting standards by regulatory bodies and stock exchanges in five countries around the world. These strategies have been largely driven by governmental goals to increase investment and to keep markets competitive. Given the increase of transparency in these foreign markets and the growth in funds directed towards socially responsible investing, U.S. financial markets are at risk of losing their competitive edge. As the importance of environmental and social data continues to become apparent to the financial community, U.S. markets are likely to fall further behind their competitors if regulatory agencies or stock exchanges do not make concerted efforts to encourage such disclosure.

Section Two: Case Studies

TABLE 1: Summary of Mandated Disclosure in Five Case Studies

The table below provides a summary of the efforts by governments and stock exchanges in Brazil, France, Malaysia, Sweden, and South Africa to encourage corporate disclosure of social and environmental information. See the following case studies for a more in-depth discussion of disclosure efforts.

Country	Disclosure Efforts by Government	Disclosure Efforts by Stock Exchange
Brazil		<p>2000 Bovespa launches special listing segments for companies who choose to adopt more stringent corporate governance codes.</p> <p>2005 Bovespa creates a Corporate Sustainability Index of the highest ranked stocks in terms of sustainability and social responsibility.</p>
France	<p>1977 Companies with more than 300 employees required to file <i>bilan social</i> that report on 134 labor and employment related indicators.</p> <p>2001 New Economic Regulations Act is passed, requiring publicly listed companies to disclose data on 40 social and environmental criteria in their annual reports to shareholders.</p> <p>2001 Law on Public Pension Reserve Funds requires disclosure on how investment policy guidelines have addressed social, ethical, and environmental considerations</p>	
Malaysia	<p>2007 Malaysian government requires all listed companies to publish corporate social responsibility information in their annual reports.</p>	<p>2007 Bursa Malaysia updates its listing requirements to implement government policy mandating disclosure of corporate social responsibility</p>

	<p>2007 Government announces that the Malaysian Employee Provident Fund, with assets of \$79 billion, will strive to invest in companies with good corporate social responsibility practices.</p>	<p>data in annual reports.</p> <p>2007 Bursa Malaysia creates and publishes a framework for corporate social responsibility reporting and practices for listed companies.</p>
South Africa	<p>2004 Broad-Based Black Economic Empowerment Act requires disclosure on corporate initiatives regarding black empowerment.</p>	<p>2003 JSE updates listing rules to mandate reporting on compliance with King II Codes</p> <p>2004 JSE launches its SRI Index, composed of the top performing companies on the exchange with regards to economic, social, and environmental issues.</p>
Sweden	<p>2000 Public Pension Funds Act prompts national pensions funds draw up annual business plans that describe how environmental and ethical issues are considered in investment decisions.</p> <p>2007 Swedish government announces that by 2009 all state-owned companies will be required to produce an annual sustainability report in accordance with G3 guidelines.</p>	<p>2007 The OMX publishes its Wholeheartedly Proud Policy, reserving the right to delist companies who violate ethical norms.</p> <p>2008 The OMX launches OMX GES Nordic Sustainability Index, consisting of the 50 leading sustainability Nordic companies.</p>

Brazil

Introduction

Among the most rapidly growing nations in the developing world, Brazil has proven fertile ground for the promotion of corporate social responsibility. The nationwide business-driven rise of CSR and CSR reporting in Brazil since the 1990s has taken place within the context of social and economic transition, poverty, and social unrest.²¹

Background

Brazil's transition from military dictatorship to civilian rule has not been smooth. Since 1985, Brazil's economy has been in flux. The Brazilian business community has enjoyed international success alongside a national poverty rate of 30% and heavy public debt.²² Corporate social responsibility in Brazil, largely targeted at the health and education of local communities, has been driven by corporations and Bovespa, with the indirect support of the Brazilian government.

In a country with a multitude of social and environmental challenges, the Brazilian business community has taken up CSR as part of an effort to improve its corporate reputation globally.²³ By publishing reports on their socially responsible actions, corporations have worked to increase corporate transparency and attract international institutional investors.²⁴

CSR reporting has been so widely embraced by Brazil's corporations over the last two decades that it has virtually become the status quo. Of the 34 Brazilian companies listed on the 2008 Forbes Global 2000,²⁵ 75% publish an annual social

²¹ Paola Cappellin and Gian Mario Giuliani, "The Political Economy of Corporate Responsibility in Brazil: Social and Environmental Dimensions" Abstract, UN Research Institute for Social Development, October 1, 2004. Available at:

<http://www.unrisd.org/unrisd/website/document.nsf/0/400751A2D48E8DDDC1256F80003DA9CE?OpenDocument> Last visited: June 17, 2008.

²² 2004 and 2005 numbers, respectively. "Brazil," The CIA World Factbook, CIA, June 10, 2008. Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html> Last visited: June 17, 2008.

²³ Ibid. Paola Cappellin and Gian Mario Giuliani, "The Political Economy of Corporate Responsibility in Brazil: Social and Environmental Dimensions" Abstract, UN Research Institute for Social Development, October 1, 2004. Available at: <http://www.unrisd.org/unrisd/website/document.nsf/0/400751A2D48E8DDDC1256F80003DA9CE?OpenDocument> Last visited: June 17, 2008.

²⁴ Ana Paula M. do Nascimento, "Corporate Social Responsibility in Brazil: A Comparative Analysis of Two Paper Companies," *Department of Urban Studies and Planning, MIT*, September 2004. Available at: <dspace.mit.edu/bitstream/1721.1/28800/1/60250011.pdf> Last visited: June 17, 2008.

²⁵ The Global 2000 is a ranking of public companies based on composite scores from rankings for sales, profits, assets and market value.

report.²⁶ Corporate social responsibility has virtually become a part of many Brazilian corporations' business plans, with over a thousand companies representing 35% of Brazilian GDP in the process of working with Brazil's Ethos Institute to improve their CSR reporting and practices.²⁷

The main actor for corporate social responsibility activity and reporting in Brazil has been and remains the private sector, but innovative efforts by Bovespa and by the Brazilian government to support CSR are leading towards national CSR policies and practices.²⁸

Bovespa

BM&F Bovespa (BVSP) is a São Paulo-based stock exchange with a market capitalization of almost \$1.5 trillion.²⁹ Founded in 1890, Bovespa encourages changes in corporate governance and corporate social responsibility by providing incentives to companies willing to pursue higher standards.

Bovespa has been a crucial actor in the process of changing corporate governance and social responsibility practice in Brazil. Within its stock exchange, Bovespa has created three special listing segments for companies who opt to adhere to corporate governance standards above and beyond those required by the Brazilian Securities and Exchange Commission (CVM). Each segment corresponds to a different level of additional standards, with Level 1 at the lowest end, Level 2 in the middle, and Novo Mercado at the highest level of corporate governance standards. Of the 397 companies traded on Bovespa,³⁰ 163 have chosen to improve their corporate governance standards in the hope of realizing economic gains.³¹

In addition, following in the footsteps of the Johannesburg Stock Exchange, Bovespa launched a Corporate Sustainability Index (ISE) in December of 2005. The Index includes up to 40 of the highest ranked stocks in terms of sustainability and social responsibility, according to criteria approved by the Corporate Sustainability Index Advisory Board. The Board is made up of governmental and nongovernmental

²⁶ "The Global 2000," *Forbes*, April 2, 2008. Available at: http://www.forbes.com/lists/2008/18/biz_2000global08_The-Global-2000_Rank.html Last visited: June 17, 2008.

²⁷ Zara Maung, "Latin America: Brazil's private sector -What community service really means," *Ethical Corporation*, December 14, 2006. Available at: <http://www.ethicalcorp.com/content.asp?ContentID=4743> Last visited: June 17, 2008.

²⁸ Susanne Schaller and Alexander Kocks, "The CSR Navigator: Country Profile—Brazil," Institute for Development and Peace, University of Duisburg-Essen. Available at: http://www.bertelsmann-stiftung.org/cps/rde/xchg/SID-0A000F0A-3C26D05A/bst_engl/hs.xsl/prj_5982_5988.htm Last visited: June 17, 2008.

²⁹ World Federation of Exchanges, "Domestic Market Capitalization (in millions of US dollars)," *Focus*, May 2008. Accessible at: <http://www.world-exchanges.org/publications/Focus508.pdf> Last visited: June 12, 2008.

³⁰ June 16, 2008 numbers, "Market Capitalization of the Stocks traded on Bovespa," *Bovespa*. Available at: <http://www.bovespa.com.br/InstDados/Negociacao/bursdiai.asp> Last visited: June 17, 2008.

³¹ "For Investors, Listed Companies, Corporate Governance," and Number 10, "Corporate Governance: FAQ," *Bovespa*. Available at: <http://www.bovespa.com.br/indexi.asp> Last visited: June 17, 2008.

organizations as well as corporate associations including the United Nations Development Program, the Ethos Institute, the Brazilian Ministry of the Environment, and the National Association of Investment Banks.³²

One hundred and twenty-one of the top 150 performing stocks listed on Bovespa were sent a questionnaire that analyzed their performance on social, environmental, and economic issues as well as corporate governance, product suitability, and criteria relating to social responsibility generally. The questionnaire was created by the Center for Sustainability Studies at the Getúlio Vargas Foundation, and completion of the document was voluntary.³³

After the Advisory Board reviews all the replies, questionnaires are run through a statistical model using a cluster analysis that groups together businesses exhibiting similar performance in each of the above named criteria. The ISE portfolio is thus comprised of a “cluster” of corporations who demonstrate outstanding performance on all criteria.³⁴ The portfolio is revised annually, but companies can be removed throughout the year if they no longer meet the requirements of the index. As of mid-2008, there were 31 companies in the portfolio.

By providing good governance and socially responsible indicators for investors, Bovespa’s corporate governance listings and Corporate Sustainability Index increase the likelihood that listed companies will attract investors concerned with social responsibility.³⁵ Bovespa gives companies a potential financial benefit for choosing to act in a sustainable and ethical fashion. While Bovespa has no CSR reporting listing requirements the exchange is taking substantial steps to promote corporate governance and social responsibility.

Brazilian Government

Government agencies have been involved with CSR activities both domestically and internationally. For example, the Brazilian Ministry of the Environment is a member of the advisory board overseeing Bovespa’s Corporate Social Responsibility Index. Brazil adheres to the OECD Guidelines for Multinational Enterprises, which were formally implemented in Brazil in 2003 and are overseen by the Ministry of Finance. The Brazilian government has taken a number of steps to indirectly support CSR.

In addition, Brazil has seen efforts towards the development of national standards on corporate social responsibility in recent years. Bishop Rodrigues, a member of the Chamber of Deputies, introduced legislative proposal 1305/2003 that would require all Brazilian companies to publish a “social balance sheet,” instate

³² “Corporate Sustainability Index Introduction,” *Bovespa*. Available at: <http://www.bovespa.com.br/indexi.asp> Last visited: June 17, 2008.

³³ “Bovespa Corporate Sustainability Index,” *IFC*. Available at: [http://www.ifc.org/ifcext/home.nsf/AttachmentsByTitle/Brazil_Corp_Sus_Index/\\$FILE/Brazil_Corp_Sus_Index.pdf](http://www.ifc.org/ifcext/home.nsf/AttachmentsByTitle/Brazil_Corp_Sus_Index/$FILE/Brazil_Corp_Sus_Index.pdf) Last visited: June 17, 2008.

³⁴ *Ibid.*

³⁵ Number 10, “Corporate Governance: FAQ,” *Bovespa*. Available at: <http://www.bovespa.com.br/indexi.asp> Last visited: June 17, 2008.

social responsibility codes, and create a national regulatory body to oversee CSR performance and sanction non-compliers.³⁶ In December 2004, the Brazilian Association of Technical Norms (ABNT) launched NBR 16001, Brazil's Social Responsibility Norm, establishing nation-wide minimum requirements for a social responsibility management system. The norm is not obligatory nor does it include specific performance criteria, but it considers companies' legal requirements, ethical commitments, transparency, and the promotion of sustainable development and incorporates them into a national standard.³⁷

Conclusion

A combination of endeavors by the Brazilian business community and Bovespa has brought corporate social responsibility into the mainstream in Brazil. The sheer number of corporations that voluntarily report their CSR activities indicates that the Brazilian business community recognizes the social and environmental benefits of good corporate citizenship.

³⁶ Page 73, Lewis van Leeuwen, "Brazil: Forever the Country of the Future?," *Erasmus University*, December 2005. Available at: <http://www.basisboekmvo.nl/images/mvo-scriptie/22%20Lewis%20van%20Leeuwen.pdf> Last visited: June 17, 2008.

³⁷ "About Ethos > Activities," *Ethos Institute*. Available at: <http://www.ethos.org.br/DesktopDefault.aspx?TabID=3892&Alias=EthosEnglish&Lang=pt-BR> Last visited: June 17, 2008.

France

Introduction

France has taken several strong initiatives to promote reporting on social and environmental issues by corporations in that country, dating back to 1977. CSR reporting requirements in France, expanded in 2002, are the most extensive and detailed of those mandated by government in the world at the current time. This mandated CSR disclosure is intended to keep French companies on the cutting edge of international development and balance economic growth with social and environmental concerns. Integrated with financial reporting, corporate social responsibility reporting in France is part of a larger national plan for sustainable development.

Background

Since the 1990s, France has attempted extensive economic reforms in an effort to transition the country's economy from one of extensive government intervention and ownership to one of privatization and openness to market forces.³⁸ Labor reforms have met with widespread opposition and unemployment remains at rates upwards of 8%, particularly affecting young and minority populations.³⁹ For the French government, investment has been an important way to stimulate the economy and increase employment.⁴⁰

The government sees CSR as a way to promote social and environmental issues as well as increase competitiveness and attract investors. Worldwide developments towards socially responsible investing and corporate social responsibility reporting occurred as the French government worked to integrate CSR more closely into existing discussions of sustainable development.⁴¹

By promoting CSR, the government hopes to improve corporate transparency, encourage corporations to meet triple bottom line stakeholder expectations, and put French companies at the front of the social disclosure

³⁸ "CIA World Factbook—France," *CIA*, June 19, 2008. Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/fr.html> Last visited: June 23, 2008.

³⁹ "CIA World Factbook—France," *CIA*, June 19, 2008. Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/fr.html> Last visited: June 23, 2008.

⁴⁰ "2005 Investment Climate Statement France," *US Department of State*, 2005. Available at: <http://www.state.gov/e/eeb/ifd/2005/42036.htm> Last visited: June 23, 2008.

⁴¹ Pages 446-447. Lucien Dhooge. "Beyond Voluntarism: Social Disclosure and France's Nouvelles Regulations Economiques," *Arizona Journal of International and Comparative Law*, Vol 21 No 2, 2004. Available at: <http://www.law.arizona.edu/journals/ajicl/AJICL2004/Vol212/Dhooge.pdf> Last visited: June 23, 2008.

movement.⁴² A decision by French Parliament ultimately to mandate reporting instead of resorting to voluntary measures is partly attributable to French beliefs that the government should take an active role in encouraging corporate social responsibility disclosure.⁴³

French Government

Since 1977, French companies employing more than 300 people have had to file a *bilan social* or social balance sheet with their local works councils, firm level components of national trade unions.⁴⁴ These annual reports contained data on 134 indicators regarding work and employment situations as well as evaluations of changes that had been made over the last three years.⁴⁵ While these documents were not required to be disclosed publicly outside the works councils, social balance sheets were the first step towards mandated CSR disclosure.

In 2001, the French Parliament passed the *Nouvelles Regulations Economiques* (NRE) or New Economic Regulations Act. Embedded in the NRE is Article 116, mandating that companies listed publicly on Paris Stock Exchange's Primary Market include social and environmental information in their annual reports.⁴⁶ By having such information published in annual reports, Article 116 makes CSR data publicly available to investors and the public.⁴⁷

Article 116 is elaborated in Decree n. 2002-221, passed in 2002, which explains in detail the specific social and economic indicators that companies are required to report on, in three areas: human resources, community involvement, and the environment.⁴⁸ By law, companies are required to produce missing information if asked by shareholders, and shareholders have the ability to sue if they have been harmed by a company's failure to disclose certain information.⁴⁹ However, without

⁴² Pages 447-448. Ibid.

⁴³ Susanne Schaller, "The CSR Navigator: Country Profile—France," *Institute for Development and Peace, University of Duisburg-Essen*. Available at: http://www.bertelsmann-stiftung.org/cps/rde/xchg/SID-0A000F0A-3C26D05A/bst_engl/hs.xsl/prj_5982_5988.htm Last visited: June 23, 2008.

⁴⁴ "Social Balance Sheet," European Foundation for the Improvement of Living and Working Conditions, October 31, 2007. Available at: <http://www.eurofound.europa.eu/emire/France/SOCIALBALANCESHEET-FR.htm> Last visited: June 23, 2008.

⁴⁵ Ibid. Susanne Schaller, "The CSR Navigator: Country Profile—France," *Institute for Development and Peace, University of Duisburg-Essen*. Available at: http://www.bertelsmann-stiftung.org/cps/rde/xchg/SID-0A000F0A-3C26D05A/bst_engl/hs.xsl/prj_5982_5988.htm Last visited: June 23, 2008.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ See Appendix A for full indicator requirements. "Mandatory Sustainability Reporting for French Corporations," press release, *Arese*, March 5, 2002. Available at: http://www.asria.org/news/press/lib/NRE_Press_Release.pdf Last visited: June 23, 2008.

⁴⁹ Pages 489-490. Lucien Dhooze. "Beyond Voluntarism: Social Disclosure and France's Nouvelles Regulations Economiques," *Arizona Journal of International and Comparative Law*, Vol 21 No 2, 2004. Available at: <http://www.law.arizona.edu/journals/ajicl/AJICL2004/Vol212/Dhooze.pdf> Last visited: June 23, 2008.

sanctions or specifications on form, length, or depth, the reporting performance of French companies has varied greatly.⁵⁰

In addition, the French government requires employees' savings funds and public pension funds to define and disclose the social, ethical, and environmental criteria they use when investing. The 2001 Law on the Generalization of Employee Saving Plans mandates that employee saving funds "specify the social, environmental or ethical considerations the fund management company must take into account when buying or selling stocks and securities" and indicate in the annual report how such considerations have been addressed.⁵¹ The Law on Public Pension Reserve Funds, also passed in 2001, requires pension funds' management board to regularly report to the supervisory board on how investment policy guidelines have addressed social, ethical, and environmental considerations.⁵²

Conclusion

France's legal requirement for disclosure of CSR indicators by publicly listed companies is an important step towards greater transparency. Government legislation has kept French corporations competitive in SRI markets. Given the 88% growth of socially responsible investment in France between 2005 and 2006, it seems that France has made a sound business decision by mandating corporate social responsibility reporting.⁵³

⁵⁰ Mary Lou Egan et al, "France's Nouvelles Regulations Economiques: Using Government Mandates for Corporate Reporting to Promote Environmentally Sustainable Economic Development," November 2003. Available at: <http://www.bendickegan.com/pdf/EganMauleonWolffBendick.pdf> Last visited: June 23, 2008.

⁵¹ Page 24. "Corporate Social Responsibility: National Public Policies in the European Union," *European Commission on Employment & Social Affairs*, January 2004. Available at: http://ec.europa.eu/employment_social/soc-dial/csr/national_csr_policies_en.pdf Last visited: June 24, 2008.

⁵² Ibid.

⁵³ "Socially Responsible Investment in France up 88% in One Year," *CSR Europe*, June 8, 2007. Available at: http://www.csreurope.org/news.php?type=&action=show_news&news_id=304 Last visited: June 24, 2008.

Malaysia

Introduction

Bursa Malaysia, Malaysia's stock exchange, and the Malaysian government have teamed up to make Malaysia one of the more advanced countries in the world with regards to corporate social responsibility (CSR) reporting. In the wake of the 1997 Asian financial crisis, a working group of industry members, NGOs, and government agencies embarked upon a decade-long effort to make Malaysia more investor-friendly and prevent future financial disasters. CSR is an important component of these macro-level plans to strengthen the structures of the Malaysian economy.

Background

Currently the world's 31st largest economy, Malaysia has been growing at a healthy clip since the 1970s.⁵⁴ Deft handling by the government of the Asian financial crisis in July of 1997 enabled Malaysia to rebound from a -7% GDP growth rate in 1997 to a 2007 GDP growth rate of 6.3 %.⁵⁵

The 1997 crisis drew attention to weaknesses in the existing corporate governance regulations in Malaysia. In March of 1998, a Finance Committee on Corporate Governance was organized to pinpoint problem areas and recommend solutions. Committee membership reflected the collaborative nature of the project. Participants included the Ministry of Finance, the Securities Commission, Bank Negara Malaysia, Bursa Malaysia, and the Federation of Publicly Listed Companies, among others. The Committee's work culminated in the publication in 1999 of the Finance Committee Report on Corporate Governance.⁵⁶

As of December 2004, 90.4% of the Report's recommendations had either been successfully implemented or were partially completed.⁵⁷ Malaysian laws and regulations governing companies have been overhauled to protect shareholders, ensure transparency, and support good governance practices. Bursa Malaysia has

⁵⁴ Rankings are by 2007 GDP purchasing power parity. CIA Factbook, "Malaysia." Accessible at: <https://www.cia.gov/library/publications/the-world-factbook/geos/my.html#Econ> Last visited: June 12, 2008.

⁵⁵ State Department, Bureau of East Asian and Pacific Affairs, "Background Note: Malaysia." No date. Accessible at: <http://www.state.gov/r/pa/ei/bgn/2777.htm> Last visited: June 12, 2008.

⁵⁶ Securities Commission, Malaysia, "Overview of the Corporate Governance Reform Agenda." No date. Accessible at: <http://www.sc.com.my/> Last visited: June 12, 2008.

⁵⁷ Securities Commission, Malaysia, "Implementation Reporting." No date. Accessible at: <http://www.sc.com.my/> Last visited: June 12, 2008.

been an important part of the implementation process as well as operating as a key enforcement mechanism for new requirements.⁵⁸

Extensive corporate governance reform was the first step towards making Malaysian companies attractive to investors as strong, effective, and competitive corporations. Corporate social responsibility, for the Securities Commission, was the next important step in Malaysia's national plan for attracting investment through improved corporate citizenship.⁵⁹

Government Initiatives

At a conference on corporate social responsibility in 2004, the Malaysian government came out publicly supporting *voluntary* CSR reporting and standards so as not to “interfere with the private sector’s progress and initiatives within a voluntary framework.”⁶⁰ At that time, the Securities Commission supported an “industry-driven” initiative to put together a Malaysian CSR organization to facilitate progress on CSR and participated in a working group on a “National Integrity Plan—Strategy 1” that dealt in part with CSR development.⁶¹

Then, in the 2007 Budget speech, Prime Minister Yab Dato’ Seri Abdullah Bin HJ. Ahmad Badawi announced that publicly listed companies would be required to disclose their corporate social responsibility activities in their annual financial reports, saying “To inculcate the culture of corporate social responsibility PLCs are required to disclose their CSR activities... It can be expected that PLCs which practice CSR are likely to attract investors, particularly large domestic and international institutional investors.”⁶² The government also increased corporate tax deductions for charitable contributions from 5% to 7% of aggregate income.⁶³

In addition, the Prime Minister announced that the Malaysian Employee Provident Fund (EPF) would “consider favorably PLCs with good CSR practices” when making investment decisions.⁶⁴ The EPF provides retirement planning and social security for legally employed workers in Malaysia, and is mandatory for all

⁵⁸ Securities Commission, Malaysia, “Overview of the Corporate Governance Reform Agenda.” No date. Accessible at: <http://www.sc.com.my/> Last visited: June 12, 2008.

⁵⁹ Securities Commission, Malaysia, “Corporate Social Responsibility (CSR).” No date. Accessible at: <http://www.sc.com.my/> Last visited: June 12, 2008.

⁶⁰ Tan Sri Nor Mohamed Yakcop, “CSR & SRI: The Way Forward for Malaysia, Special Address,” delivered June 22, 2004. Available at: <http://www.treasury.gov.my/index.php?WebsiteId=1&ch=36&pg=126&ac=379&lang=eng&act=srch> Last visited: June 13, 2008.

⁶¹ Securities Commission, Malaysia, “Corporate Social Responsibility (CSR).” No date. Accessible at: <http://www.sc.com.my/> Last visited: June 12, 2008.

⁶² Pages 22-23, paragraphs 88-90, Prime Minister Yab Dato’ Seri Abdullah Bin HJ. Ahmad Badawi, “The 2007 Budget Speech,” delivered September 1, 2006. Available at: <http://www.epu.ipm.my/bajet/engbajet2007.pdf> Last visited: June 13, 2008.

⁶³ Page 23, paragraph 90, Ibid.

⁶⁴ Page 22, paragraph 88. Ibid.

working citizens and permanent residents. At year-end 2006, EPF had 11.4 million members⁶⁵ and stood at over \$79 billion.⁶⁶

The following year, the government announced in the 2008 Budget speech requirements for PLCs to disclose their employment data by race and gender, as well as their efforts (or lack thereof) to use local and Bumiputra⁶⁷ vendors.⁶⁸ The government also announced the creation of a \$15 million fund to help finance selected CSR projects, targeting the poorest sections of the population.⁶⁹

Exchange Initiatives

Bursa Malaysia has been heavily involved in Malaysian efforts to improve corporate governance and social responsibility standards. Formerly known as the Kuala Lumpur Stock Exchange, Bursa Malaysia (MYX/KLSE) was founded in 1930. As of April 2008, Bursa Malaysia's market capitalization stood just over \$300 billion.⁷⁰

Bursa Malaysia was a member of the Finance Committee that drafted recommendations for improving Malaysian corporate governance in 1999 as well as the Implementation Team that executed the recommendations.⁷¹ The majority of legislation and regulation designed to improve corporate governance in Malaysia centered on strengthening Bursa Malaysia's listing requirements in accordance with the Malaysian Code on Corporate Governance.⁷²

In tandem with requiring corporate governance disclosure, Bursa Malaysia has also been on the forefront of CSR reporting in Malaysia. Bursa Malaysia as an organization has committed to practicing good CSR and setting an example for companies listed on its exchange. Its Corporate Responsibility Mission Statement states that its officials "view CSR as an integral part towards being an internationally competitive marketplace" and assume "a leadership role in developing CSR in Malaysia."⁷³

⁶⁵ EPF, "About EPF—Corporate Information," No date. Available at: http://www.kwsp.gov.my/index.php?ch=p2corporateinfo&pg=en_p2corporateinfo_geninfo&ac=1856 Last visited: June 13, 2008.

⁶⁶ 260 billion ringgit, converted into US dollars. Tan Sri Nor Mohamed Yakcop, "Malaysia's Response to Globalization," delivered November 30, 2006. Available at: <http://www.treasury.gov.my/index.php?ch=36&pg=126&ac=1771&lang=eng> Last visited: June 13, 2008.

⁶⁷ Bumiputra is a term used to denote descendants of the ethnic indigenous peoples of Malaysia.

⁶⁸ Pages 22-23, paragraphs 104-108, Prime Minister Yab Dato' Seri Abdullah Bin HJ. Ahmad Badawi, "The 2008 Budget Speech," delivered September 7, 2007. Available at: <http://www.lawnet.com.my/lawnetpublic/Speech2008.pdf> Last visited: June 13, 2008.

⁶⁹ Ibid.

⁷⁰ World Federation of Exchanges, "Domestic Market Capitalization (in millions of US dollars)," *Focus*, May 2008. Accessible at: <http://www.world-exchanges.org/publications/Focus508.pdf> Last visited: June 12, 2008.

⁷¹ Securities Commission, Malaysia, "Overview of the Corporate Governance Reform Agenda." No date. Accessible at: <http://www.sc.com.my/> Last visited: June 12, 2008.

⁷² Chapter 15, Part E, Paragraph 26, page 282. See Appendix B for Bursa Malaysia listing requirements.

⁷³ Bursa Malaysia, "Corporate Social Responsibility Mission Statement," No date. Accessible at: http://www.bursamalaysia.com/website/bm/about_us/the_organisation/csr/mission_statement.html Last Visited: June 12, 2008.

In response to the aforementioned government requirements that PLCs disclose their CSR activities, Malaysia's Finance Minister Tan Sri Nor Mohamed Yakcop gave a speech in 2007 in which he called upon Bursa Malaysia's "regulatory" capacity to shape the way PLCs "view, adopt, and integrate CSR" and praised the Bursa's prominence as a role model for other PLCs.⁷⁴ Bursa Malaysia, like other stock exchanges, has a capacity to influence the way CSR is practiced by publicly listed companies.

The CSR framework for PLCs is coordinated with national goals, drawing some CSR "focus areas" from sectors of the nation that need the most help. It is intended to be a guide and suggest ways that companies could practice good corporate social responsibility. The framework focuses on four areas: the environment, the community, the marketplace and the workplace, and encourages companies to think critically about the implications of their business models.⁷⁵ For companies interested in acting more socially responsible, the framework highlights possible areas of improvement such as the protection of endangered species, increased employee volunteerism, and workplace diversity.⁷⁶ Bursa Malaysia's framework allows companies to prioritize their CSR activities by their resources and inclinations, while still encouraging a comprehensive and innovative approach to ethical business practices.

The framework itself does not include any requirements, and acts as a resource for voluntary action only. However, in accordance with government policy, Bursa Malaysia's listing rules require that companies listed on their exchange include in their annual report:

9C.A.

(29) A description of the corporate social responsibility activities or practices undertaken by the listed issuer and its subsidiaries or if there are none, a statement to that effect.⁷⁷

By requiring a CSR report, Bursa Malaysia reinforces government initiatives in this area and calls corporate attention to how their CSR practices are affecting the environment and society. In providing a framework, Bursa Malaysia guides corporations to better practice.

Conclusion

⁷⁴ Tan Sri Nor Mohamed Yakcop, "Launch of Bursa Malaysia's CSR Framework in Conjunction with the Rat Race 2006," delivered September 5, 2007. Available at:

<http://www.treasury.gov.my/index.php?ch=36&pg=126&ac=1696> Last visited: June 13, 2008.

⁷⁵ Bursa Malaysia, "Bursa Malaysia's CSR Framework for Malaysian PLCs," powerpoint by Yusli Mohamed Yusof, CEO Bursa Malaysia. Created 5 September 2006, accessible at:

http://www.bursamalaysia.com/website/bm/about_us/the_organisation/csr/downloads/csr_framework_slide_s.pdf Last visited: June 12, 2008.

⁷⁶ Ibid.

⁷⁷ Appendix 9C part A paragraph 29, page 204. See Appendix B for Bursa Malaysia's listing requirements.

For Bursa Malaysia and the Malaysian government, good governance and corporate social responsibility practices are key to “cross[ing] the finish line ahead of the competition.”⁷⁸ Malaysian CSR is not just about ethical business, but about making Malaysia an economic powerhouse by tapping into the \$3 trillion of socially responsible investment funds worldwide.⁷⁹ Teamwork between the government and Bursa Malaysia has helped to create a burgeoning system for CSR reporting that is enforceable and simultaneously allows for creative innovation and expression.

⁷⁸ Tan Sri Nor Mohamed Yakcop, “Launch of Bursa Malaysia’s CSR Framework in Conjunction with the Rat Race 2006,” delivered September 5, 2007. Available at: <http://www.treasury.gov.my/index.php?ch=36&pg=126&ac=1696> Last visited: June 13, 2008.

⁷⁹ 2006 numbers. Ibid.

South Africa

Introduction

South Africa's corporate social responsibility activities have taken place in a context of national economic progress. Government efforts to expand economic participation have led to the Broad-Based Black Economic Empowerment Act of 2003, legislation intended to "facilitate growth, development, and stability" in the South African economy.⁸⁰ In an effort to increase investment in listed companies, the Johannesburg Stock Exchange, JSE Limited, has strengthened its listing requirements to include CSR disclosure and launched a socially responsible investment (SRI) index.⁸¹ Commitment to economic advancement by way of corporate social responsibility underpins CSR disclosure efforts in South Africa.

Background

South Africa held its first multi-racial election in 1994, ending 46 years of apartheid.⁸² Apartheid left South Africa with a heavily racialized economic system as well as high unemployment and poverty rates. Whites, 10% of South Africa's population, controlled nearly the entire economy when apartheid ended.⁸³ The poverty rate in South Africa currently stands at 50% and the unemployment rate at 24%, with the top 10% of the population receiving 45% of national income.⁸⁴

After decades of international divestments and trade sanctions, the South African business community had to rebuild its image as well as investor confidence. Efforts to meet requirements of international investors and signal socially responsible companies led to the creation of stronger listing requirements in 2003 and the establishment of the first SRI index by a stock exchange in 2004.

Since apartheid, the government has tried to de-segregate the country by increasing multi-racial participation in the economy. For the government, racially-

⁸⁰ "South Africa's Economic Transformation: A Strategy for Broad-Based Black Economic Empowerment," *the dti*, no date. Available at: http://bee.sabinet.co.za/charters/bee_strategy_document.pdf Last visited: June 19, 2008.

⁸¹ William Meyer, "The JSE's new listing requirements help to make the shareholder king," *Personal Finance*, September 6, 2003. Available at: <http://www.persfin.co.za/index.php?fSectionId=585&fArticleId=222669> Last visited: June 19, 2008. "JSE SRI Index Background and Selection Criteria," *JSE*, October 6, 2003. Available at: <http://www.jse.co.za/sri/docs/criteria/Background%20and%20Criteria.final.06%2010%2003.pdf> Last visited: June 19, 2008.

⁸² "CIA World Factbook—South Africa," *CIA*, June 10, 2008. Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> Last visited: June 19, 2008.

⁸³ Vernon Wessels, "South Africa lures Overseas Banks to Help undo Apartheid's Sins," *Bloomberg*, July 30, 2006. Available at: <http://www.bloomberg.com/apps/news?pid=20601109&sid=aTWhmgrwPRWI> last visited: June 19, 2008.

⁸⁴ 2000 and 2007 numbers, respectively. *Ibid.*

based disparity in wealth “acts as a deterrent to growth, economic development, employment creation and poverty eradication.”⁸⁵ To get South Africa’s economy growing at its full potential, the government instituted the Broad-Based Black Economic Empowerment Act in 2003. Essentially, all companies that want to do business in South Africa have to report what they are doing in compliance with specific black empowerment indicators as set forth by a Code of Best Practices.⁸⁶

In addition, the Institute of Directors of South Africa has put forth two King Codes on Corporate Governance: King I in 1994 and King II in 2002. King II is followed by many corporations in South Africa, and JSE’s listing requirements include reporting on compliance with King II.

CSR reporting requirements are an important component of South Africa’s economic revitalization. While government requirements are mostly concerned with black economic empowerment, JSE has taken a leading role in mandating CSR reporting and facilitating a consensus on what CSR means in South Africa.

JSE Limited

Established in 1887, JSE Limited is the largest stock exchange in Africa with a market capitalization of almost \$790 billion.⁸⁷ In 2003, it became the first stock exchange to require CSR disclosure when it mandated that listed companies adhere to the King II Code on Corporate Governance.⁸⁸

The King II Code on Corporate Governance goes beyond standard governance regulations such as the composition and compensation of a company’s Board of Directors and processes for publicizing shareholder meetings to require “integrated sustainability reporting.” King II explicitly follows a “triple bottom line” policy that stresses strong economic, social and environmental performance. Companies are asked to examine the structure and depth of their social, ethical, health, and environmental practices. In addition, companies are asked to create and codify, with stakeholder input, a standard of corporate ethical behavior.⁸⁹

The JSE incorporates King II into its listing requirements by mandating that companies comply with the principles in the code or explain their non-compliance in both their pre-listing statements and annual reports. The JSE listing requirements read as follows:

⁸⁵ Paragraph 1.5. “South Africa’s Economic Transformation: A Strategy for Broad-Based Black Economic Empowerment,” *the dti*, no date. Available at: http://bee.sabinet.co.za/charters/bee_strategy_document.pdf Last visited: June 19, 2008.

⁸⁶ *Ibid.*

⁸⁷ World Federation of Exchanges, “Domestic Market Capitalization (in millions of US dollars),” *Focus*, May 2008. Accessible at: <http://www.world-exchanges.org/publications/Focus508.pdf> Last visited: June 12, 2008.

⁸⁸ “Corporate Governance Report 2003,” *JSE*. Available at: http://www.jse.co.za/docs/arep/2003ann/gen_com/corp_gov_main.htm Last visited: June 19, 2008.

⁸⁹ “Executive Summary of the King Code,” Institute of Directors of South Africa, 2002. Available at: http://www.ecgi.org/codes/documents/executive_summary.pdf Last visited: June 19, 2008.

7.F.5 Applicant issuers must include the following in its pre-listing statement:

- (a) a narrative statement of how it has applied the principles set out in the King Code, providing explanation that enables its shareholders and potential investors to evaluate how the principles have been applied; and
- (b) a statement addressing the extent of the company's compliance with the King Code and the reasons for each and every instance of non-compliance.

8.63 ...issuers are required to disclose the following information in the annual report

- (a) the King Code:
 - (i) a narrative statement of how it has applied the principles set out in the King Code, providing explanation(s) that enable(s) its shareholders to evaluate how the principles have been applied; and
 - (ii) a statement addressing the extent of the company's compliance with the King Code and the reasons for non-compliance with any of the principles in the King Code, specifying whether or not the company has complied throughout the accounting period with all the provisions of the King Code, and indicating for what part of the period any non-compliance occurred⁹⁰

On May 19, 2004, JSE launched its SRI Index, the first by a stock exchange and the first in an emerging market. The index was created to “meet the emerging requirements of investors and civil society for companies to demonstrate more socially responsible behavior,” since “many large investment institutions have already announced policies to assess the social responsibility of the companies in which they invest.”⁹¹ The Index was a way for JSE to mark for investors those companies that integrate SRI and sustainability into their business models.⁹²

The Index's criteria measure the policy, strategy, management systems, performance, and reporting of companies with respect to each of the three pillars of the triple bottom line. For each criterion, companies are scored across a number of indicators on a 0-3 scale. EIRIS, a UK-based SRI research firm, is in charge of researching and scoring company performance with regard to the indicators. Certain

⁹⁰ JSE Listing Requirements, Sections 7 and 8. See Appendix C for section 7 of the JSE's listing requirements.

⁹¹ Page 2. “JSE SRI Index Background and Selection Criteria,” *JSE*, October 6, 2003. Available at: <http://www.jse.co.za/sri/docs/criteria/Background%20and%20Criteria.final.06%2010%2003.pdf> Last visited: June 19, 2008.

⁹² *Ibid.*

indicators are non-negotiable, and companies must score at least a 1 in 50% of non-negotiable indicators per criterion to be eligible. In addition, companies must meet minimum scores in each of the triple bottom line areas and a minimum score overall to be included in the index.

JSE publishes the names of companies that are listed on the SRI index. For the first year, JSE did not publish any rankings on how companies performed in relation to one another. In 2005, outstanding performers were announced by environmental classification, and in 2006, top performers in each environmental impact category were announced. JSE has continued to release more extended rankings, releasing the names of the top 14 companies by environmental impact category in 2007. JSE does not release company specific scores publicly, nor are the names of non-participating and non-qualifying companies published. The Index does not screen out businesses involved in ethically questionable industries such as gambling or tobacco.

As of 2007, all companies listed on the JSE top 40 or the current JSE SRI Index will be automatically assessed against the Index's criteria. For companies listed on JSE's All Share Index, participation is voluntary. Ultimately, the Index hopes to assess all eligible companies.⁹³

The Index was updated in 2006 to reflect new global criteria and simplify the data collecting process. There are currently 56 members of the Index, which is in its fourth year of operation.

South African Government

The South African government has been receptive to the King Codes and has discussed codifying sections of the codes into South African law.⁹⁴ Another CSR reporting related activity has been in conjunction with the Broad-Based Black Economic Empowerment Act of 2004 (BBBEE).

The BBBEE seeks to address socioeconomic inequalities in the wake of apartheid through the use of market forces.⁹⁵ The BBBEE creates Codes of Good Practice that all state-owned and public companies must adhere to, and are measured by way of a BEE scorecard. Privately owned companies who wish to do business with the state or any government enterprise, such as buying state-owned assets or applying for licenses, must also adhere to the Codes.⁹⁶

⁹³ "Development of Index," *JSE*, no date. Available at: http://www.jse.co.za/sri/development_index.jsp Last visited June 19, 2008.

⁹⁴ Michael Barrier, "Principles, not Rules," intv with Mervyn King, *Internal Auditor*, Aug 2003. Available at: http://findarticles.com/p/articles/mi_m4153/is_4_60/ai_106863373 Last visited: June 19, 2008

⁹⁵ Susanne Schaller, "The CSR Navigator: Country Profile—South Africa," Institute for Development and Peace, University of Duisburg-Essen. Available at: http://www.bertelsmann-stiftung.org/cps/rde/xchg/SID-0A000F0A-3C26D05A/bst_engl/hs.xsl/prj_5982_5988.htm Last visited: June 17, 2008.

⁹⁶ "South Africa's Economic Transformation: A Strategy for Broad-Based Black Economic Empowerment," *the dti*, no date. Available at: http://bee.sabinet.co.za/charters/bee_strategy_document.pdf Last visited: June 19, 2008.

Essentially, companies who wish to do business in South Africa are required to report certain social aspects of their businesses. Corporations are judged on their levels of black empowerment by management and ownership composition, hiring practices, employment equity, preferential procurement and corporate social investment.⁹⁷

Conclusion

CSR reporting has become a key to the revitalization and globalization of the South African economy post-apartheid. JSE's reporting requirements and SRI index have increased the status of CSR reporting in South Africa. The South African government has used market forces to pressure companies to critically consider and report on their activities related to black economic empowerment, a distinctly South African effort to address racialized inequality. Strategies to put JSE on the map and attract foreign investment as well as government efforts to unleash economic growth are integral to the proliferation of CSR reporting in South Africa.

⁹⁷ Ibid.

Sweden

Introduction

The Swedish government has taken a leading role in promoting CSR in Sweden by way of promotional initiatives, partnerships and, most recently, through legislation to enhance Sweden's international competitiveness and reputation.⁹⁸ As a result of national strategies, engagement in corporate social responsibility in Sweden is widespread. In addition, national inclinations toward consensus-building and volunteerism have helped the evolution of CSR and CSR reporting in Sweden.

Background

Sweden, consistently ranked at the top of the UNDP's Human Development Index, has combined a strong market with extensive welfare benefits to give its citizens a comfortably high standard of living.⁹⁹ By virtue of being a welfare state, Sweden has embraced a broad and deep understanding of social responsibility. Sweden's lengthy track record on environmental issues is evidence of this ingrained social awareness.¹⁰⁰

Consistent with the development and cohesive nature of Swedish society, the Swedish business community has incorporated a strong set of social norms into its business practices.¹⁰¹ Corporate social responsibility has an extensive history in Sweden. Partnerships between the government and business community have led to the development of CSR as a tool to boost Sweden's economy and enhance Sweden's role as a world leader.

On a governmental level, corporate social responsibility has become a fundamental part of foreign, trade, investment, and domestic policy. Increasingly the government has passed legislation mandating various levels of CSR disclosure. The government has also worked to raise awareness of CSR in the business and stakeholder communities as well as creating space in government agencies to promote

⁹⁸ Doug Wheat, "Swedish Government Facilitates Social Responsibility," interview with Elisabeth Dahlin, December 15, 2006. Available at: <http://www.socialfunds.com/news/article.cgi/2186.html> Last visited: June 20, 2008.

⁹⁹ "CIA World Factbook—Sweden," *CIA*, June 10, 2008. Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/sw.html> Last visited: June 20, 2008.

¹⁰⁰ David Wiles, "Sweden tops corporate social responsibility league," May 2, 2008. Available at: http://www.sweden.se/templates/cs/Article_19326.aspx Last visited: June 20, 2008.

¹⁰¹ *Ibid.*

and track CSR activities. Rather than legislate CSR activities, as opposed to CSR disclosure, the government places an emphasis on voluntary approaches.¹⁰²

OMX Nordic Exchange

The Stockholm Stock Exchange is owned by OMX Exchanges, a division of OMX AB, a Swedish-Finnish financial services company. Recently purchased by Nasdaq, OMX operates eight stock exchanges in the Nordic and Baltic regions of Europe and has a market capitalization of over \$1.1 trillion.¹⁰³

On April 12, 2007, one month before being bought out by Nasdaq, OMX's Board of Directors approved OMX's "Wholeheartedly Proud Policy." This policy lays out OMX's views on corporate social responsibility as a business in six areas: securities transactions, the marketplace, employer/employee relations, company relations, environmental sustainability, and communication. In the marketplace, OMX has committed itself to an efficient and transparent exchange. As such, it lays out two important tools with regards to OMX's ethical corporate behavior.¹⁰⁴

Tools 8 and 9:

8. Even though a company may fulfill listing requirements, OMX Nordic Exchange has the right to refuse the application if the listing is considered to potentially damage confidence in the exchange or the securities market in general.

9. Companies that through their operations risk or commit serious or systematic violation of human rights or other ethical international norms shall be carefully investigated in conjunction with a listing on OMX Nordic Exchange. This means, for example, that companies that manufacture arms can be investigated as to their observation of conventions against the manufacture of chemical weapons and land mines. In the same spirit, companies can be investigated in terms of their observation of the International Labor Organization conventions against the exploitation of children.¹⁰⁵

¹⁰² Susanne Schaller, "CSR Country Profile—Sweden," *Institute for Development and Peace, University of Duisberg-Essen*, 2007. Available at: http://www.bertelsmann-stiftung.org/cps/rde/xchg/SID-0A000F0A-3C26D05A/bst_engl/hs.xsl/prj_5982_5988.htm Last visited: June 20, 2008.

¹⁰³ World Federation of Exchanges, "Domestic Market Capitalization (in millions of US dollars)," *Focus*, May 2008. Accessible at: <http://www.world-exchanges.org/publications/Focus508.pdf> Last visited: June 12, 2008.

¹⁰⁴ "OMX Wholeheartedly Proud Policy," *OMX*, April 12, 2007. Available at: <http://ir.nasdaqomx.com/documentdisplay.cfm?DocumentID=3898> Last visited: June 20, 2008.

¹⁰⁵ Page 4. *Ibid.*

In November 2008, the NASDAQ OMX Exchange launched its OMX GES Nordic Sustainability Index. The Index is made up of the 50 companies on Nordic exchanges that have strongest sustainability records. The Exchange also maintains a Swedish Sustainability Index (launched in 2006).¹⁰⁶

Swedish Government

The Swedish government strongly promotes corporate social responsibility and has increasingly mandated varying aspects of CSR disclosure. Two government agencies, the Ministry of Foreign Affairs and the Swedish International Development Agency, have been responsible for the majority of ongoing government initiatives to improve CSR in Sweden. Collaborative work with the business and consumer communities has also been augmented by recent pieces of legislation regarding CSR disclosure.

The Ministry of Foreign Affairs is in charge of both Organization for Economic Cooperation and Development (OECD) guidelines and Sweden's *Globalt Ansvar* program. *Globalt Ansvar* (Global Responsibility) is a government initiative designed to encourage Swedish companies to be ambassadors for human rights, anticorruption efforts, decent social conditions and a healthy environment.¹⁰⁷

The Swedish International Development Agency (SIDA) has taken on an important role in promoting CSR activities, developing the only Swedish governmental position paper on the topic. The position paper lays down guidelines for the promotion of CSR in Sweden by way of partnerships, international dialogue, and the creation of a CSR-conducive environment as well as an action plan.¹⁰⁸ SIDA also provides support for *Globalt Ansvar* and Swedish participation in the UN Global Compact.

Legislatively, Sweden continues to promote CSR disclosure. Passed in 1999, the Accountants Act required companies of a certain size to include information on their environmental impact in their annual financial reports. The Public Pension Funds Act of 2000 has prompted national pension funds to draw up annual business plans that describe how environmental and ethical issues are considered in their investment decision making. A number of these funds are, as a consequence, assessing companies' records on issues relating to international treaties and norms with social and environmental implications that the Swedish government has endorsed.¹⁰⁹

¹⁰⁶ See http://omxnordicexchange.com/products/indexes/OMX_indexes/Responsible_Investment/ Last visited November 24, 2008.

¹⁰⁷ Susanne Schaller, "CSR Country Profile—Sweden," *Institute for Development and Peace, University of Duisberg-Essen*, 2007. Available at: http://www.bertelsmann-stiftung.org/cps/rde/xchg/SID-0A000F0A-3C26D05A/bst_engl/hs.xsl/prj_5982_5988.htm Last visited: June 20, 2008.

¹⁰⁸ "Guidelines for Sida's support to Corporate Social Responsibility," *Sida*, May 2005. Available at: www.sida.se/shared/jsp/download.jsp?f=SIDA4724en_CSR_web.pdf&a=3494 Last visited: June 20, 2008.

¹⁰⁹ Susanne Schaller, "CSR Country Profile—Sweden," *Institute for Development and Peace, University of Duisberg-Essen*, 2007. Available at: http://www.bertelsmann-stiftung.org/cps/rde/xchg/SID-0A000F0A-3C26D05A/bst_engl/hs.xsl/prj_5982_5988.htm Last visited: June 20, 2008.

Most recently, in 2007, Sweden took a major step forward when it mandated that all 55 state-owned companies produce an annual sustainability report in accordance with the Global Reporting Initiative's G3 guidelines. The Swedish National Audit Office is in charge of ensuring compliance with the law and reports annually to Parliament. The Swedish government hopes that the example of state-owned corporations will set a national standard for corporate social responsibility reporting, but draws the line at extending the requirements to privately owned companies.¹¹⁰

Conclusion

The expansion of corporate social responsibility and disclosure requirements is part of a broad effort to make Sweden a "sustainable society."¹¹¹ As in Brazil, Malaysia, and South Africa, CSR is a key component of plans for economic expansion on the international stage. Government leadership through legislation, as well as efforts to actively engage companies in a national discussion on social responsibility, has contributed to the advancement of CSR disclosure in Sweden.

¹¹⁰ Ibid.

¹¹¹ Ibid.

Section Three: Appendices

APPENDIX A
Initiatives in Countries Not Addressed in the Case Studies

- Argentina
 - Buenos Aires City Council passed Law 2594 in 2008, requiring all local and international companies in the city with over 300 employees to generate annual sustainability reports. At minimum, companies are required to produce their reports in accordance with the Ethos Institute principles, but are encouraged to draw upon the Global Reporting Initiative's G3 indicators and the AccountAbility 1000 Standard.¹¹²

- Australia
 - In 2008, the Australian government initiated a \$2m, three-year project to expand responsible business practices across the country, run by the non-profit St. James Ethics Center.¹¹³
 - In 2003, the St. James Ethics Center launched the Corporate Responsibility Index (CRI) in Australia and New Zealand. Created by eighty leading businesses in the UK and Business in the Community, the CRI is licensed to the St. James Ethics Center and supported financially by the Australian government. Participation in the CRI is voluntary and involves a "rigorous self assessment" on 111 indicators regarding corporate responsibility. As of 2008, 63 Australian companies have participated in the Index.¹¹⁴
 - The Corporations Act of 2001 requires some disclosure by listed companies in their annual reports of violations of environmental legislation, as applicable.¹¹⁵

- China
 - China's State-owned Assets Supervision and Administration Commission (SASAC) released a directive on January 4, 2008 strongly encouraging state-owned enterprises to follow sound CSR practices and report on CSR activities. While this directive is not binding, SASAC holds a lot of influence in the business community and such a directive demonstrates serious commitment to corporate social responsibility.¹¹⁶

¹¹² "Buenos Aires mandates sustainability reporting," *The International Sustainability Reporting Site*, March 7, 2008. Last accessed: October 12, 2008. Available at:

http://www.enviroreporting.com/detail_press.phtml?act_id=948&username=guest@enviroreporting.com&password=9999&publish=Y&username=guest@enviroreporting.com&password=9999&groups=ENVREP

¹¹³ *Ethical Performance Newsletter*, Vol. 10 Issue 3, July 2008. Page 2.

¹¹⁴ "Introduction to the Corporate Responsibility Index," no date. Last accessed: October 17, 2008.

Available at: http://www.corporate-responsibility.com.au/about/about_cri.asp

¹¹⁵ "Towards transparency: progress on global sustainability reporting 2004," ACCA, 2004. Last accessed: October 19, 2008. Available at: http://www.accaglobal.com/pdfs/environment/towards_trans_2004.pdf

¹¹⁶ "CSR as 'No. 1' issue for state-owned enterprises in China," Global Links Initiative article from CSR Asia, January 9, 2008. Last accessed: October 12, 2008. Available at: <http://www.glinet.org/standard.asp?id=4955>

- Denmark
 - In 2009, Denmark will propose legislation that would require the country's 1000 largest businesses, state-owned companies, and institutional investors, to state in their annual reports whether they have corporate responsibility policies, what they are, and how they are implemented. Companies will also be specifically encouraged to include pieces on climate change.¹¹⁷
 - In 1996, Denmark began requiring companies with "significant environmental impacts" to publish "green accounts."

- Germany
 - 2004 Reform Act on Accounting Regulations (BilReG) requires that companies examine and report on key financial and non-financial indicators that materially effect the development or performance of the company in their annual report.¹¹⁸

- Indonesia
 - Passed in 2007, Article 74 of Indonesia's Limited Liability Company Law mandates the companies involved in or affecting natural resources create and implement corporate social responsibility programs. Companies that do not carry out or implement "social and environmental responsibility" programs will be subject to government sanctions.¹¹⁹

- Japan
 - Japan's 2004 Law Concerning the Promotion of Business Activities with Environmental Consideration by Specified Corporations, etc., by Facilitating Access to Environmental Information, and Other Measures requires "specified companies" and government agencies to produce annual reports on their activities related to the environment. Companies must report on specific indicators including the amount of greenhouse gas emissions, amount of release and transfer of chemical substances, and total amount of waste generation.¹²⁰

¹¹⁷ "Danish firms face new disclosure requirements," *Ethical Performance Newsletter*, Vol. 10 Issue 3, July 2008. Page 8.

¹¹⁸ Buchheim, Regine and Kati Beiersdorf. "New Developments in Management Reporting – The Modernisation of the Annual Report," *German Law Journal*, Vol. 6 No. 5, May 1, 2005. Last accessed: October 12, 2008. Available at: <http://www.germanlawjournal.com/print.php?id=599>

¹¹⁹ "CSR a la Jakarta," *DTE*, August 2007. Last accessed: October 19, 2008. Available at: <http://dte.gn.apc.org/74hcs.htm>

¹²⁰ "Law Concerning the Promotion of Business Activities with Environmental Consideration by Specified Corporations, etc., by Facilitating Access to Environmental Information, and Other Measures (Provisional Translation)." Last accessed: October 12, 2008. Available at:

<http://www.env.go.jp/en/laws/policy/business.pdf> and "Environmental Reporting Guidelines: 2007 version," *Ministry of the Environment*, June 2007. Last accessed: October 19, 2008. Available at: <http://www.env.go.jp/en/policy/economy/erg2007.pdf>

- The Netherlands
 - Since 1999, companies in the Netherlands have been required to publish environmental reports annually that include information on their environmental performance and environmental management system. The reports must include quantitative data on all relevant pollutants emitted by the company from a list of 170 substances.¹²¹

- Norway
 - 1998 Accounting Act requires Norwegian companies to report annually in their Board of Directors' report on three different non-financial issues: the external environment, the working environment and gender equality. Further specified in the 2007 Norwegian Accounting Standards, companies must include in their reports the type and quantity of raw materials and energy used, type and quantity of polluting emissions, type and quantity of waste generated, and environmental degradation due to transportation.¹²²

- Saudi Arabia
 - Funded by the Saudi government, the Saudi Arabian Responsible Competitiveness Initiative plans on monitoring progress on corporate responsibility in Saudi Arabia and worldwide through a Responsible Competitiveness Index that will connect company-level and country-level data and score countries on their advancement of corporate responsibility. The Initiative will also work on building capacities for corporate responsibility within Saudi Arabia.¹²³

- United Kingdom
 - The British Companies Act of 2006 mandates that companies listed on the London Stock Exchange disclose in their annual Business Review information on environmental, workplace, social and community matters "to the extent that they are important to understanding the company's business."¹²⁴

¹²¹ C.W.A. Evers Ph.D., "The Pollution Emission Register in the Netherlands," *Ministry of Housing, Spatial Planning and the Environment, Inspectorate General for Environmental Protection, Department for Monitoring and Information Management*, submitted July 29-31, 1997. Last accessed: October 19, 2008. Available at: <http://www.unitar.org/cwm/publications/cbl/prtr/pdf/cat2/PER-NL.pdf>

¹²² Audun Ruud, "Corporate Environmental Reporting in Norway," 2006. Last accessed: October 19, 2008. Available at: www.cbs.dk/content/download/81939/1087167/file/Ruud%20presentation.pdf

¹²³ "Saudi Arabian Responsible Competitiveness Initiative," CSR-News.net, February 21, 2008. Last accessed: October 19, 2008. Available at: <http://csr-news.net/main/2008/02/21/saudi-arabian-responsible-competitiveness-initiative/>

¹²⁴ "Policy & Legislation, UK," *csr.gov.uk*, no date. Last visited: October 19, 2008. Available at: <http://www.csr.gov.uk/ukpolicy.shtml>

- United States
 - Securities and Exchange Commission (SEC) Regulation S-K, 17 C.F.R. § 229.101 (c)(xii) requires disclosure on the material impacts which compliance with environmental laws may have on earnings, capital expense or competitive positions. In addition, Item 303 of regulation S-K requires disclosure of any “known trends, demands, commitments, events or uncertainties” that are reasonably likely to have a material effect on a Company’s operations. Under Item 103 of Regulation S-K, public companies must disclose liabilities from and estimate actual or threatened material legal proceedings where monetary sanctions can exceed US\$100,000.¹²⁵
 - 1986 Emergency Planning & Community Right-To-Know Act (EPCRA) established the Toxic Release Inventory (TRI), which requires all companies with more than 10 full time employees to submit data on the use, manufacture and/or emissions of approximately 600 different toxic chemicals to the Environmental Protection Agency (EPA).¹²⁶

¹²⁵ “Disclosure Requirements for Environmental Liabilities Under US Securities Laws,” O’Melveny and Myers LLP, February 7, 2008. Last accessed: October 19, 2008. Available at: <http://www.omm.com/newsroom/publication.aspx?pub=590>

¹²⁶ “Corporate Environmental Reporting: Review of Policy Action in Europe,” *IIIEE*, February 2002. Last accessed: October 19, 2008. Available at: http://www.enviroreporting.com/others/cer_europe.pdf

APPENDIX B

Elements of Reporting Requirements under France's *Nouvelles Regulations Economiques* Article 116 (Egan, et al., p. 11)

<u>Topic</u>	<u>Suggested Quantitative Reporting</u>	<u>Suggested Qualitative Reporting</u>
Human Resources		
<i>Employment</i>	Total Employees	--
	Hires during the year	Details on recruiting process
	Short-term employees	Analysis and rationale
	Lay-offs	Analysis and rationale
	Contract employees	Analysis and rationale
	--	Outsourcing/subcontracting
	Efforts to mitigate effects of corporate restructuring	--
<i>Work Organization</i>	Amount of overtime	Analysis and rationale
	Work schedules	--
	Absenteeism	Analysis and rationale
<i>Compensation</i>	History of pay rates	--
	Payroll taxes	--
<i>Social Benefits</i>	--	Details
<i>Equal Opportunities</i>	Integration of women into different posts	Details/Analysis
	--	Integration of physically challenged into workforce
<i>Health & Safety</i>	--	Health and safety conditions
	--	Details of incidents and accidents
<i>Training</i>	--	Details
Community Involvement		
<i>Local Impacts</i>	--	Integration into the local community
<i>Local Partnerships</i>	--	Contacts with environmental NGOs, consumer groups, educational institutions and impacted populations
<i>Work conventions</i>	--	Extent to which ILO core labor conventions are followed by the firm's subsidiaries
	--	Extent to which the firm encourages its subcontractors to comply with ILO core conventions
<i>Local Development in</i>	--	--

<i>Foreign Countries</i>		
Environment		
<i>Resource Consumption</i>	Water	--
	Energy	Use of renewable energy
	--	Initiatives for energy efficiency
	Raw materials/natural resources	--
	Land use	--
<i>Emissions</i>	Air, water, land, odor, noise, waste	--
<i>Impact on biodiversity</i>	--	Programs to reduce impacts
	--	Programs to promote fauna and flora
<i>Environmental Management</i>	--	Audit and certification policy
	--	Compliance with environmental laws and regulations
	Expenditures	--
	--	Environmental management structures and organization
	--	Employee awareness and training programs
	--	Environmental risk management
	Provisions for environmental risks	--
	Penalties	--
	--	Integration of foreign subsidiaries within environmental management system

APPENDIX C

Bursa Malaysia Listing Requirements, Appendix 9C

APPENDIX 9C

Part A

Contents of annual report (paragraph 9.25)

- (1) The address, telephone and facsimile numbers of the registered office;
- (2) The address, telephone and facsimile numbers of each office at which a register of securities is kept;
- (3) The particulars of each director in the listed issuer including the following information:-
 - (a) the name, age, nationality, qualification and whether the position is an executive or non-executive one and whether such director is an independent director;
 - (b) working experience and occupation;
 - (c) the date he was first appointed to the board;
 - (d) the details of any board committee to which he belongs;
 - (e) any other directorship of public companies;
 - (f) any family relationship with any director and/or major shareholder of the listed issuer;
 - (g) any conflict of interest that he has with the listed issuer;
 - (h) the list of convictions for offences within the past 10 years other than traffic offences, if any; and
 - (i) the number of board meetings attended in the financial year;
- (4) Name of the chief executive officer and where the chief executive officer is not a director, the following particulars:-
 - (a) the name, age, nationality and qualification;
 - (b) working experience;
 - (c) the date he was first appointed to the listed issuer;
 - (d) the details of any interest in the securities of the listed issuer or its subsidiaries;
 - (e) any directorship of public companies;
 - (f) any family relationship with any director and/or substantial shareholder of the listed issuer;
 - (g) any conflict of interest that he has with the listed issuer; and
 - (h) the list of convictions for offences within the past 10 years other than traffic offences, if any;
- (5) The name of the company secretary;

- (6) The audit committee report in respect of the financial year required under paragraph 15.16;
- (7) The Chairman's statement which represents the collective view of the board of directors setting out a balanced summary which includes the following:-
 - (a) a brief description of the industry trend and development;
 - (b) a discussion and analysis of the group's performance during the year and the material factors underlying its results and financial position. It should emphasise trends and identify significant events or transactions during the year under review; and
 - (c) the prospects of the listed issuer;
- (8) A statement relating to corporate governance in respect of the financial year required under paragraph 15.26;
- (9) A responsibility statement in respect of the annual audited accounts required under paragraph 15.27(a);
- (10) A statement on internal control in respect of the financial year required under paragraph 15.27(b);
- (11) The remuneration of directors of the listed issuer for the financial year and in the following manner:-
 - (a) the aggregate remuneration of directors with categorisation into appropriate components (e.g. directors' fees, salaries, percentages, bonuses, commission, compensation for loss of office, benefits in kind based on an estimated money value) distinguishing between executive and non-executive directors; and
 - (b) the number of directors whose remuneration falls in each successive band of RM50,000 distinguishing between executive and non-executive directors;
- (12) The total number of board meetings held during the financial year;
- (13) Where applicable, a brief explanation of the status of utilisation of proceeds raised from any corporate proposal;
- (14) The information required under paragraph 12.24 in respect of share buybacks for the financial year;
- (15) The amount of options, warrants or convertible securities issued by the listed issuer which are exercised during the financial year;
- (16) A brief explanation on the ADR or GDR programme sponsored by the listed issuer, including the following:-
 - (a) the number and names of the custodians holding the securities for which the ADRs or the GDRs are issued;
 - (b) the total number and percentage of the securities for which the ADRs or GDRs are issued against its issued and paid-up capital and a breakdown of the same in respect of the securities held by each custodian;
 - (c) the name of the depository bank; and

- (d) the stock market in which the ADRs or GDRs are traded (if applicable);
- (17) Particulars of all sanctions and/or penalties imposed on the listed issuer and its subsidiaries, directors or management by the relevant regulatory bodies;
- (18) The amount of non-audit fees incurred for services rendered to the listed issuer or its subsidiaries for the financial year by the listed issuer's auditors, or a firm or company affiliated to the auditors' firm;
- (19) Where the results for the financial year differ by 10% or more from any profit estimate, forecast or projection or unaudited results previously made or released by the listed issuer for that period, an explanation of the difference and a reconciliation thereof;
- (20) Any shortfall in the profit guarantee received by the listed issuer in the financial year as compared with the profit guarantee (if any) and steps taken to recover the shortfall;
- (21) Particulars of material contracts of the listed issuer and its subsidiaries, involving directors' and major shareholders' interests, either still subsisting at the end of the financial year or, if not then subsisting, entered into since the end of the previous financial year, providing the following particulars in respect of each such contract:-
 - (a) the date;
 - (b) the parties;
 - (c) the general nature;
 - (d) the consideration passing to or from the listed issuer or any other company in the group;
 - (e) the mode of satisfaction of the consideration; and
 - (f) the relationship between the director or major shareholder and the contracting party (if the director or major shareholder is not the contracting party).If no such material contract has been entered into, a statement to that effect;
- (22) Where the above contract relates to a loan, the following particulars in respect of each loan:-
 - (a) the names of the lender and the borrower;
 - (b) the relationship between the borrower and the director or major shareholder (if the director or the major shareholder is not the borrower);
 - (c) the purpose of the loan;
 - (d) the amount of the loan;
 - (e) the interest rate;
 - (f) the terms as to payment of interest and repayment of principal; and
 - (g) the security provided;
- (23) A statement indicating the date of such statement and setting out:-

- (a) the names of the substantial shareholders (excluding bare trustees) and their direct and deemed interests stating the number and percentage of shares in which they have an interest as shown in the register of substantial shareholders of the listed issuer;
- (b) a statement showing the direct and deemed interests of each director (including number and percentage) in the listed issuer, or in a related corporation, appearing in the register maintained under section 134 of the Companies Act 1965;
- (c) the number of holders of each class of equity securities and any convertible securities and the voting rights attaching to each class;
- (d) a distribution schedule of each class of equity securities and any convertible securities setting out the number of holders and percentage in the following categories:-

No. of Holders	Holdings	Total Holdings	%
	less than 100		
	100 to 1,000 shares		
	1,001 to 10,000 shares		
	10,001 to 100,000 shares		
	100,001 to less than 5% of issued shares		
	5% and above of issued shares		100%

- (e) the names of the 30 securities account holders having the largest number of securities from each class of equity securities and convertible securities according to the Record of Depositors (without aggregating the securities from different securities accounts belonging to the same person) and the number and percentage of equity securities and convertible securities of each class held. In the case of securities account holders which are authorised nominees as defined under the Securities Industry (Central Depositories) Act 1991, information in the account qualifier field of the securities account must also be stated;
- (24) A statement regarding the revaluation policy on landed properties in respect of the financial year;
- (25) Particulars of each property of the listed issuer or its subsidiaries which net book value is 5% or more of the consolidated total assets of the listed issuer as at the end of the financial year (hereinafter referred to as the "material properties"). In the event the number of the material properties is less than 10, particulars of the top 10 properties in terms of highest net book value (inclusive of the material properties) as at the end of the financial year. Particulars of such properties to be set out as follows as at the end of the financial year:
- (a) the address of each property;
 - (b) in respect of each property:-
 - (i) a brief description (e.g. land or buildings, approximate areas, etc);
 - (ii) the existing use (e.g. shops, offices, factories, residential, etc);
 - (iii) the tenure (i.e. freehold, or leasehold and if leasehold, the date of expiry of the lease);
 - (iv) the approximate age of the buildings;
 - (v) the net book value; and

- (vi) where revaluation has been carried out, the date of last revaluation and if none, the date of acquisition.
- (26) A statement by the audit committee in relation to the allocation of options pursuant to a share scheme for employees as required under paragraph 8.21A;
- (27) A breakdown of the options offered to and exercised (if any) by non-executive directors pursuant to a share scheme for employees in respect of the financial year in tabular form as follows:-

Name of director	Amount of options offered	Amount of options exercised
1.		
2.		
3.		
Total		
- (28) A statement by the board of directors containing a brief description on the type of training that the directors have attended for the financial year. Where any of the directors have not attended any training during the financial year, to state the reasons thereof for each director;
- (29) A description of the corporate social responsibility activities or practices undertaken by the listed issuer and its subsidiaries or if there are none, a statement to that effect; and
- (30) A statement relating to the internal audit function of the listed issuer, i.e. whether the internal audit function is performed in-house or is outsourced and the costs incurred for the internal audit function in respect of the financial year.

Part B

Contents of annual reports and accounts of closed-end funds
(paragraph 9.33)

- (1) A detailed statement of its investment objectives and policies and the manner in which those policies have been carried into effect (where applicable);
- (2) The gross revenue of the closed-end fund, to be divided separately to show at least the interest, dividends, profit/loss on the sale of investments and any item of revenue amounting to 5% or more of the gross revenue;
- (3) The initial service charges, management fees or any other fees paid to the Managers to be shown separately under gross expenses of the closed-end fund;
- (4) Generally, a disclosure of the composition of the investment portfolio of the closed-end fund, giving separately in respect of all investments:-
 - (a) a reasonable description of the business;
 - (b) the number of securities owned;
 - (c) the costs; and
 - (d) if unlisted, the fair value, as agreed by the Managers and the board of directors of the closed-end fund and if listed, the market value thereof;

APPENDIX D
JSE Limited Listing Requirements, Section 7

Scope of section

This section sets out items of information that may be required to be included in pre-listing statements and circulars relating to rights offers, capitalisation issues and Category 1 or 2 transactions.

The requirements vary according to the nature and circumstances of the applicant, as set out in:

Section 6	Pre-listing statements
Appendix to Section 9	Transactions
Section 11	Circulars and Announcements
Section 12	Mineral Companies
Section 13	Property Companies
Section 15	Investment Entities
Section 18	Dual Listings and Listings by External Companies
Section 19	Specialist Securities

Where the disclosure of information required in terms of this section cannot be obtained or is considered to be harmful to the applicant, application may be made to the JSE for non disclosure or reduced disclosure. The JSE's decision will be final.

The information in this section is set out under the following paragraph headings:

- 7.A The applicant and its capital
- 7.B Directors, managers and advisors
- 7.C Securities for which application is being made
- 7.D Group activities
- 7.E Financial information
- 7.F General information
- 7.G Documents and consents to be available for inspection
- 7.H Vendors

7A The applicant and its capital

The following paragraphs detail the disclosure requirements relating to the applicant and its capital.

Name, address and incorporation

7.A.1 The name, address of the registered office and of the transfer office, the date

of incorporation of the applicant and the place of incorporation or, if the applicant is an external company, the country in which it is incorporated and the date of registration as an external company in the Republic of South Africa.

- 7.A.2 If the applicant is a subsidiary, the name and address of the registered office of its holding company, or of any body corporate that, had it been registered under the Act, would have been its holding company.
- 7.A.3 If the applicant has changed its name within the last three years, the old name must be printed in bold type under the existing name on the cover and first page.

Share capital of the company

- 7.A.4 If the applicant's share capital consists of shares of par value the following information must be disclosed:
- (a) the authorised and issued or agreed to be issued share capital, detailing:
 - (i) the different classes of shares;
 - (ii) the number of shares in each class;
 - (iii) the nominal value of each share in each class;
 - (iv) shares held in treasury;
 - (v) the total value of each class; and
 - (b) the share premium account.
- 7.A.5 If the applicant's share capital consists of shares of no par value the following information must be disclosed regarding the authorised and issued (stated capital) or agreed to be issued stated capital, detailing:
- (a) the different classes of shares;
 - (b) the number of shares in each class;
 - (c) shares held in treasury; and
 - (d) the total value of the stated capital account for each class.
- 7.A.6 A description of the respective:
- (a) preferential conversion and/or exchange rights of any securities;
 - (b) voting rights of securities; and
 - (c) rights to dividends, profits or capital or any other rights of each class,

7.A.4(a)(iv) amended with effect from 15 October 2007.

7.A.4(a)(v), previously 7.A.4(a)(iv), renumbered with effect from 15 October 2007.

7.A.5(c) amended with effect from 15 October 2007.

7.A.7(d), previously 7.A.5(c), renumbered with effect from 15 October 2007.

including redemption rights and rights on liquidation or distribution of capital assets.

- 7.A.7 Information regarding the consents necessary for the variation of rights attaching to securities.
- 7.A.8 A summary of any issues or offers of securities of the applicant and/or its subsidiaries during the preceding three years, including:
- (a) the prices and terms at which such securities were issued or offered;
 - (b) by whom any offers were made;
 - (c) the number of securities allotted in pursuance of any issues or offers;
 - (d) whether the securities were issued to all securities holders in proportion to their holdings or, if not, to whom they were issued, the reasons why the securities were so issued and the basis of allotment of the securities;
 - (e) the dates of the issues or offers;
 - (f) the reasons for any premium or discount on the issue or offer, how any premium or discount was dealt with and where some securities were issued or offered at par and others at varying premiums or discounts the reasons for the differential;
 - (g) the value of the asset, if any, acquired or to be acquired out of the proceeds of the issue or offer; and
 - (h) the details of any share repurchases.
- 7.A.9 A summary of any consolidations or sub-divisions of securities during the preceding three years.
- 7.A.10 A statement advising who controls the issue or disposal of the authorised but unissued securities, i.e. the directors or shareholders in general meeting.
- 7.A.11 A statement as to what other classes of securities are listed and on which stock exchanges.

Borrowings

- 7.A.12 The borrowing powers of the applicant and its subsidiaries exercisable by the directors and the manner in which such borrowing powers may be varied.
- 7.A.13 A description of the circumstances, if applicable, if the borrowing powers have been exceeded during the past three years. Any exchange control or other restrictions on the borrowing powers of the applicant or any of its subsidiaries.
- 7.A.14 The number and value of debentures created in terms of a trust deed and the number and value to be issued or agreed to be issued.
- 7.A.15 Details of material loans, including issued debentures, made to the applicant

and/or to any of its subsidiaries, stating:

- (a) whether such loans are secured or unsecured;
- (b) the names of the lenders and/or debenture holders;
- (c) the amount, terms and conditions of repayment or renewal;
- (d) the rates of interest on each loan;
- (e) details of the security provided, if any;
- (f) details of any conversion or redemption rights; and
- (g) where the applicant or any of its subsidiaries has debts that are repayable within 12 months, state how the payments are to be financed.

7.A.16 Particulars relating to debentures or debenture stock (“debentures”) issued by way of conversion or replacement of debentures previously issued stating all material differences between the security for the old debentures and the security for the new debentures or that the security for the new debentures is identical to the security for the old debentures.

7.A.17 Details of all material commitments, lease payments and contingent liabilities.

7.A.18 Disclose how the borrowings required to be disclosed by paragraphs 7.A.12 to 7.A.17 arose, stating whether they arose from the purchase of assets by the applicant or any of its subsidiaries.

7.A.19 If no loan capital is outstanding this fact must be stated.

Loans receivable

7.A.20 Details of material loans made by the applicant or by any of its subsidiaries, stating:

- (a) the dates on which the loans were made;
- (b) to whom each loan was made;
- (c) the interest and repayment terms of each loan;
- (d) if the interest and/or capital redemption payments are in arrears, the last date on which payment was made and the extent of the arrears;
- (e) the periods of the loans;
- (f) the nature of any/all security held for any/all loans;
- (g) the current fair value of such security and the method of valuation;
- (h) if a loan is unsecured, the reasons therefore; and
- (i) if any loan was made to another company, the names and addresses of the directors of such company.

7.A.21 Details (as described in paragraph 7.A.20) of loans made or security

furnished by the applicant or by any of its subsidiaries to or for the benefit of any director or manager or any associate of any director or manager of the applicant.

7.A.22 Disclose how and why each loan receivable was made.

Options or preferential rights in respect of securities

7.A.23 Full disclosure of the substance of any contract or arrangement or proposed contract or arrangement, whereby any option or preferential right of any kind was or is proposed to be given to any person(s) to subscribe for any securities of the applicant or any securities of its subsidiaries, including:

- (a) the number and description of securities subject to such option or right;
- (b) the exercise period of such option or right;
- (c) the exercise date of such option or right and a statement as to whether such option or right is American or European in nature;
- (d) the exercise price to be paid for securities subscribed for in terms of such option or right;
- (e) the option premium or consideration given or to be given for receipt of such option or right;
- (f) the names and addresses of the persons to whom such right or option was or is to be given, excluding any options or rights given to participants of a bona fide share incentive or option scheme;
- (g) if such right or option was given to existing shareholders, material particulars thereof; and
- (h) any other significant facts or circumstances concerning the granting of such option or right.

7.A.24 Subscribing for securities shall, for the purpose of paragraph 7.A.23, include acquiring them from a person to whom they were allotted or were agreed to be allotted with a view to his/her/it offering them for sale.

Controlling shareholder(s)

7.A.25 The names of the controlling shareholder(s) so far as they are known to the directors of the applicant, or appropriate negative statement.

7.A.26 Details of any change in controlling shareholder(s) as a result of the issue.

Major shareholders

7.A.27 Insofar as is known to the applicant, the name of any shareholder other than a director, that, directly or indirectly, is beneficially interested in 5% or more of any class of the applicant's capital, together with the amount of each such

shareholder's interest or, if there are no such shareholders, an appropriate negative statement.

7.B Directors, managers and advisors

The following paragraphs detail the disclosure requirements relating to directors, managers and advisors.

Directors and management

- 7.B.1 The full name, and if relevant, any former name, business address and function in the group of each of the following persons and an indication of the principal activities performed by them, including any activities performed outside the group where these are significant with respect to the group:
- (a) directors of the issuer and its material subsidiaries;
 - (b) partners with unlimited liability, in the case of a limited partnership with share capital;
 - (c) founders, if the issuer has been established for fewer than five years; and
 - (d) in the case of the applicant and its material subsidiaries, any manager who is relevant to establishing that the requirements of paragraph 4.8 (directors) have been met, typically this will include any members of management forming part of the applicant's or applicant's material subsidiaries' executive and/or management committees responsible for the day to day running of the applicant group's business.
- 7.B.2 In the case of each person described in paragraph 7.B.1 (a) and (d), details of that person's relevant management expertise and experience (see paragraph 4.8) and the following information:
- (a) full names;
 - (b) occupations and/or function, including whether in an executive or non executive capacity, for example; non executive chairman, executive chairman, chief executive officer, managing director, financial director, other relevant executive and non executive director functions/status and the executive functions of all managers specified;
 - (c) business addresses;
 - (d) nationalities;
 - (e) the names of all companies and partnerships of which such person has been a director or partner at any time in the previous five years, indicating whether or not the individual is still a director or partner. It is not necessary to list all the subsidiaries of a company of which the person is also director;

- (f) details of any bankruptcies, insolvencies or individual voluntary compromise arrangements of such person;
- (g) details of any receiverships, compulsory liquidations, creditors voluntary liquidations, administrations, company voluntary arrangements or any compromise or arrangement with creditors generally or any class of creditors of any company where such person is or was a director with an executive function of such company at the time of or within the 12 months preceding any such event(s);
- (h) details of any compulsory liquidations, administrations or partnership voluntary arrangements of any partnerships where such person is or was a partner at the time of or within the 12 months preceding such event(s);
- (i) details of receiverships of any asset(s) of such person or of a partnership of which the person is or was a partner at the time of or within the 12 months preceding such event;
- (j) details of any public criticisms of such person by statutory or regulatory authorities, including recognised professional bodies, and whether such person has ever been disqualified by a court from acting as a director of a company or from acting in the management or conduct of the affairs of any company; and
- (k) any offence involving dishonesty.

7.B.3 Details of the information contained in the director's declaration as set out in Schedule 21 of the Listings Requirements.

7.B.4 In the case of a foreign applicant, information, similar to that described in paragraph 7.B.2, relative to the local (South African) executive management committee, if any. Where the JSE considers the parent company is not adequately represented on the directorate of its South African or foreign subsidiaries an explanation is required.

7.B.5 The term of office for which any director has been or is to be appointed, the manner in and terms on which any proposed director will be appointed and particulars of any right held by any person (usually a contractual right given to a shareholder, provider of capital or other person/entity in terms of an agreement between such person/entity and the company) relating to the appointment of any particular director or number of directors.

7.B.6 The provisions, or a sufficient summary of the provisions, of the articles of association or other corresponding document of the applicant and each of its subsidiaries with regard to:

- (a) qualification of directors;
- (b) remuneration of directors; and

- (c) any power enabling the directors to vote remuneration to themselves or any members of their board.

7.B.7 An analysis in aggregate and by director or proposed director, of emoluments paid or accrued as payable during the last financial period by the company, or group of which the company is a member, directly or indirectly, or proposed to be paid by the company, in their capacity as director(s), or in any other capacity, whether determined by the articles or not, distinguishing separately between executive and non-executive directors, of the following:

- (a) fees for services as a director;
- (b) management, consulting, technical or other fees paid for such services rendered, directly or indirectly, including payments to management companies, a part of which is then paid to a director of the company;
- (c) basic salary;
- (d) bonuses and performance-related payments;
- (e) sums paid by way of expense allowance;
- (f) any other material benefits received;
- (g) contributions paid under any pension scheme;
- (h) any commission, gain or profit-sharing arrangements; and
- (i) in respect of share options or any other right given which has had the same or a similar effect in respect of providing a right to subscribe for shares (“share options”):
 - (i) the opening balance of share options, including the number of share options at each different strike price;
 - (ii) the number of share options awarded and their strike prices;
 - (iii) the strike dates of differing lots of options awarded;
 - (iv) the number of share options exercised and at what prices;
 - (v) the closing balance of share options, including the number of share options at each different strike price;
- (i) to (v) above may be presented in tabular form;
- (j) any shares issued and allotted in terms of a share purchase/option scheme for employees (or other scheme/structure effected outside of the issuer which achieves substantially the same objectives as a share purchase/option scheme), usually held as a pledge against an outstanding loan to an employee in a share purchase scheme trust, which have not been fully paid for, including the number so issued and allotted, the price of issue and allotment, the release periods applicable to such shares and any other relevant information;

- (k) without derogating from the generality of 7.B.7 (a) to (j) above, the directors emoluments disclosed in accordance with 7.B.7 (a) to (j) above must include disclosure of all emoluments received or receivable from the following entities:
 - (i) the issuer' holding company;
 - (ii) the issuer's subsidiaries and fellow subsidiaries;
 - (iii) associates of 7.B.7 (k) (i) and (ii) above;
 - (iv) joint ventures of the issuer or of 7.B.7 (k) (i) to (iii) above; and
 - (v) entities that provide management or advisory services to the company or any of 7.B.7 (k) (i) to (iv) above.
- 7.B.8 Fees paid or accrued as payable to a third party in lieu of directors' fees are to be disclosed in a similar manner as that detailed in paragraph 7.B.7.
- 7.B.9 If the remuneration receivable by any of the directors of the applicant will be varied in consequence of the/any transaction, full particulars of the aggregate variation in the remuneration of the directors shall be stated; if there will be no variation, a statement to that effect.
- 7.B.10 If the business of the applicant or any of its subsidiaries or any part thereof is managed or is proposed to be managed by a third party under a contract or arrangement, the name and address, or the address of its registered office, if a company, of such third party and a description of the business so managed or to be managed and the consideration paid in terms of the contract or arrangement and any other pertinent details relevant to such contract or arrangement.
- 7.B.11 A summary of the provisions of the memorandum and articles of association of the issuer with regard to:
 - (a) any power enabling a director to vote on a proposal, arrangement or contract in which he is materially interested;
 - (b) any power enabling the directors, in the absence of an independent quorum, to vote remuneration, including pension or other benefits, to themselves or any members of their body;
 - (c) borrowing powers exercisable by the directors and how such borrowing powers can be varied; and
 - (d) retirement or non-retirement of directors under an age limit.

Secretary

- 7.B.12 The full name, street and postal address and professional qualifications, if any, of the secretary of the applicant.

Auditor, attorney, banker, sponsor, trustee, underwriter and expert

7.B.13 The names and street and postal addresses of the auditor, attorney, banker, and sponsor to the applicant and, if applicable, the trustee, underwriter, advisor and any expert referred to in the pre-listing statement and any holding of securities in, options on securities in, or agreed to be acquired in the company, by such persons.

Amounts paid or payable to promoter

7.B.14 Any amount paid, or accrued as payable, within the preceding three years, or proposed to be paid to any promoter, disclosing his/her/its name and address, or to any partnership, syndicate or other association of which he/she/it is or was a member, and the consideration for such payment, and any other benefit given to such promoter, partnership, syndicate or other association within the said period or proposed to be given, and the consideration for the giving of such benefit.

Commissions paid or payable in respect of underwriting

7.B.15 the following must be disclosed in relation to commissions paid or payable in respect of underwriting:

- (a) the amount, if any, or the nature and extent of any consideration, paid, or accrued as payable, within the preceding three years, as commission to any person, including commission so paid or payable to any sub-underwriter that is the holding company or a promoter or director or officer of the applicant, for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions for any securities of the applicant;
- (b) the name, occupation and address of each such person; and if such person is a company, the names of the directors of such company and the nature and extent of any beneficial interest, direct or indirect, in such company of any promoter, director or officer of the applicant in respect of which the pre-listing statement is issued; and
- (c) particulars of the amounts underwritten or sub-underwritten by each such person and the rate of the commission payable for each such underwriting or sub-underwriting contract with such person.

7.B.16 Particulars of any commissions, discounts, brokerages or other special terms granted during the three years preceding the date of the pre-listing statement in connection with the issue or sale of any securities, stock or debentures in the capital of the applicant, where this has not been disclosed in any audited annual financial statements.

Preliminary expenses and issue expenses

7.B.17 The following disclosure is required with respect to preliminary expenses and issue expenses:

- (a) the total amount or estimated total amount of preliminary expenses incurred by the applicant within the three years preceding the date of the pre-listing statement, and separate disclosure of who the individual persons are/were and the individual amounts paid or payable to each such person of such total preliminary expenses; and
- (b) the total amount or estimated total amount of the expenses of the issue, and separate disclosure of who the individual persons paid or payable are, including separate disclosure of each sponsor, financial adviser, corporate adviser, attorney, legal adviser, commercial banker, investment banker, accountant, auditor, underwriter, sub underwriter and any other adviser involved where there are two or more of each such advisers per advisory category, and the individual amounts paid or payable to each such individual person/adviser by the applicant.

Interest of directors and promoter

7.B.18 Full particulars of the nature and extent of any material beneficial interest, direct or indirect, of every director or promoter in the promotion of the applicant and in any property referred to in paragraph 7.D.9 acquired or proposed to be acquired by the applicant out of the proceeds of the issue or during the three years preceding the date of the listing statement, and where the interest of such director or promoter consists of being a member in a partnership, company, syndicate or other association of persons, the nature and extent of the interest of such partnership, company, syndicate or other association, and the nature and extent of such director's or promoter's interest in the partnership, company, syndicate or other association.

7.B.19 A statement of all sums paid or agreed to be paid within the three years preceding the date of the pre-listing statement to any director or to any company in which he is beneficially interested, directly or indirectly, or of which he is a director ("the associate company"), or to any partnership, syndicate or other association of which he is a member ("the associate entity"), in cash or securities or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered by him or by the associate company or the associate entity in connection with the promotion or formation of the applicant.

Directors' interests in securities

7.B.20 A statement showing the direct and indirect beneficial interests of the directors' (and his/her associates) holdings in the share capital of the

7.B.20 amended with effect from 15 October 2007.

applicant. The statement should include by way of a note any change in those interests occurring between the end of the preceding financial year and the date of the pre-listing statement or, if there has been no such change, disclosure of that fact.

Directors' interests in transactions

7.B.21 All relevant particulars regarding the nature and extent of any material beneficial interests, whether direct or indirect, of directors of the group in transactions that were effected by the applicant:

- (a) during the current or immediately preceding financial year; or
- (b) during an earlier financial year and remain in any respect outstanding or unperformed; or
- (c) an appropriate negative statement.

Responsibility statement

7.B.22 A directors' responsibility statement must be made by the directors after due, careful and proper consideration of same as follows:

“The directors, whose names are given in paragraph . . . on page . . . of this document collectively and individually accept full responsibility for the accuracy of the information given and certify that to the best of their knowledge and belief there are no facts that have been omitted which would make any statement false or misleading, and that all reasonable enquiries to ascertain such facts have been made and that the prospectus^A/pre-listing statement^B/circular^B contains all information required by law and the JSE Listings Requirements^X/the JSE Listings Requirements^Y.”

NB! ^A requires ^X and ^B requires ^Y

Responsibility of directors, managers and advisors

7.B.23 The prospectus/pre-listing statement/circular must be signed by every director of the applicant (or by his agent or attorney, with a copy of the authority of any such agent or attorney); provided that where responsibility for any information contained in different parts of the prospectus/pre-listing statement/circular has been extended to or accepted by any other person(s), such other person(s) (or his/their agent or attorney) shall also sign the prospectus/pre-listing statement/circular and it shall be stated clearly for which part or parts of the prospectus/pre-listing statement/circular each signatory bears responsibility.

7.B.21 amended with effect from 15 October 2007.

7.C Securities for which application is being made

The following paragraphs detail the disclosure requirements relating to securities for which application is being made.

Purpose of the issue/offer

7.C.1 A statement of the purpose of the issue/offer giving reasons why it is considered necessary for the applicant to raise the capital in terms of the issue or, if it is an offer, the reasons therefore, and if the proposed capital to be raised is more than the amount of the minimum subscription referred to in paragraph 7.C.8, the reasons for the difference between the proposed capital to be raised and the said minimum subscription.

Particulars of the issue/offer

7.C.2 Particulars in respect of securities issued/offered must be disclosed, including:

- (a) the class of securities issued/offered;
- (b) the nominal value of the securities issued/offered, if applicable;
- (c) the number of securities issued/offered;
- (d) the issue/offer price of the securities issued/offered;
- (e) how the securities issued/offered rank for dividend;
- (f) whether the securities issued/offered rank *pari passu* with existing securities of the same class;
- (g) any convertibility or redemption provisions relating to the securities issued/offered;
- (h) the nature of the documents of title of the securities issued/offered;
- (i) the treatment of any fractions of the securities issued/offered; and
- (j) other terms and conditions of the issue/offer.

7.C.3 Particulars in respect of debentures issued/offered, including:

- (a) the class of debentures;
- (b) the terms and conditions of the debentures;
- (c) if the debentures are secured, particulars of the security, specifying the asset(s) comprising the security and the nature of the title to such asset(s); and
- (d) any other important terms and conditions of the debenture issue/offer.

Timing

- 7.C.4 If applicable, the times and dates of the opening and of the closing of the subscription lists or of the issue/offer.
- 7.C.5 If known, the dates on which the securities will be admitted to listing and on which dealings will commence.

Issue price

- 7.C.6 The reasons for any premium or discount on the issue or offer, how any premium or discount was dealt with and where some securities were issued or offered at par and others at varying premiums or discounts the reasons for the differential;
- 7.C.7 Where no par value shares are to be issued, the price at which they are to be issued and where shares are to be issued at different prices the reasons for any such differentiation.

Minimum subscription

- 7.C.8 The minimum amount that, in the opinion of the directors, must be raised by the issue/offer of securities in order to provide the amounts required for, or, if any part thereof is to be defrayed in any other manner, the balance of the amounts required for:
- (a) the purchase price of any property, referred to in paragraph 7.D.9, purchased or to be purchased, that is to be defrayed in whole or in part out of the proceeds of the issue;
 - (b) any preliminary expenses payable, commission payable to any person in consideration for his agreeing to subscribe for, or for procuring or agreeing to procure subscriptions for, or underwriting commission(s) payable by the applicant;
 - (c) the repayment of any moneys borrowed, or other loans in respect of any of the foregoing matters;
 - (d) working capital, stating the specific purposes for which it is to be used and the estimated amount required for each such purpose;
 - (e) any other material expenditure, stating the nature and purposes thereof and the estimated amount in each case; and
 - (f) any amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue, and the sources from which those amounts are to be provided.

Registrar of companies

- 7.C.9 If the document issued and published is a prospectus, it must contain a statement on the front cover that a copy of the prospectus has been

registered by the Registrar of Companies in terms of the Act and the date of such registration.

Authorisations

7.C.10 A statement of the resolutions, authorisations and approvals by virtue of which the securities have been or will be created and/or issued.

Dividends

7.C.11 The time limit (if any) after which entitlement to dividends lapses, and an indication of the person in whose favour the lapse operates.

7.C.12 The fixed date(s) (if any) on which entitlement to dividends arises.

7.C.13 Particulars of any arrangement under which future dividends are waived or agreed to be waived.

Market value of securities

7.C.14 Where the securities for which application is being made are of a class that is already listed, a table of the aggregate volumes and values traded and the highest and lowest prices traded in those securities for each month over the twelve months prior to the date of issue of the prospectus/pre-listing statement/circular (“the twelve month period”); for each quarter over the two years prior to the twelve month period; and for each day over the 30 days preceding the last practicable date prior to the date of issue of the prospectus/pre-listing statement/circular.

Rights offers, capitalisation issues and scrip dividends

7.C.15 Where the securities for which application is being made are being issued and allotted by way of capitalisation of reserves (including current year distributable income) or the application of share premium, to securities holders of an existing listed security, the following information must be given in respect of such issue:

- (a) the reason for the capitalisation issue or scrip dividend;
- (b) the class and the par value (if any) of the securities involved;
- (c) if applicable, that the shareholder may elect to receive cash in substitution for the whole or part of his capitalisation issue or scrip dividend entitlement and vice versa;
- (d) if applicable, the last day on which shareholders must make their election;
- (e) a statement pointing out any tax implications of the issue for all securities holders, both resident and non-resident;

- (f) in the case of a scrip dividend, a statement should appear, in bold and upper case, on the front page drawing shareholders' attention to the type of election to be made (i.e. whether shareholders will receive either cash or scrip if they fail to make the election);
- (g) the amount to be capitalised from the share premium or reserves of the applicant in order to be able to issue the capitalisation securities as fully paid up;
- (h) the ratio in which the capitalisation securities will be issued and allotted to shareholders of the applicant;
- (i) the important events and dates contained in the relevant timetable in Schedule 24 applicable to the issue; and
- (j) whether or not the rights (if any) are renounceable.

7.C.16 In the case of a rights offer, the following information must be disclosed in the circular:

- (a) purpose of the rights offer;
- (b) the amount to be raised by means of the rights offer, and the number of securities that are proposed to be issued;
- (c) the terms of the offer;
- (d) if underwritten, details of the underwriter. The underwriting commission must be clearly stated;
- (e) where the underwriter is a company the following information must be furnished:
 - (i) the place and date of incorporation and registered number of the company;
 - (ii) the names of the directors of the company;
 - (iii) the name of the secretary of the company;
 - (iv) the bankers to the company; and
 - (v) the authorised and issued share capital of the company.
- (f) details regarding the proposed listing of the LAs, the subsequent listing of the new securities and the amount payable in respect of listing fees;
- (g) details regarding the LAs such as:
 - (i) acceptance;
 - (ii) renunciation; and
 - (iii) payment (payment must be made in South African currency); and
- (h) a statement regarding exchange controls as agreed to by the South

Simultaneous issues

7.C.17 If, simultaneously or almost simultaneously with the issue of securities for which application is being made, securities of the same class are issued, or to be issued, details must be given of the nature of such issues and of the number of the securities concerned.

Over subscriptions

7.C.18 State the relevant facts where it is the intention in the event of over subscription to extend a preference on allotment to any particular company or group such as employees and pension funds.

7.D Group activities

The following paragraphs detail the disclosure requirements relating to the group's activities:

General

- 7.D.1 The general history of the applicant and its subsidiaries must be detailed including, inter alia:
- (a) the length of time during which the business of the applicant and of any subsidiary has been carried on;
 - (b) the name, date, place of incorporation and registration number and the issued or stated capital of its subsidiaries, together with details of the securities held by the holding company, indicating those not listed on the JSE and the main businesses of its subsidiaries and the date on which they became a subsidiaries;
 - (c) brief particulars of any alteration of the applicant's capital during the past three years; and
 - (d) the date of conversion of the applicant into a public company.
- 7.D.2 A general description of the business carried on or to be carried on by the applicant and its subsidiaries and where the applicant or its subsidiaries carries on, or proposes to carry on, two or more businesses that are material, having regard to the profits or losses, assets employed, or to be employed, or any other factor, information as to the relative importance of each such business.
- 7.D.3 For the business(es) described in paragraph 7.D.2 detail the degree of any government protection and of any investment encouragement law affecting the business(es).

- 7.D.4 Details of any material changes in the business(es) of the applicant, during the past five years.
- 7.D.5 The opinion of the directors, stating the grounds therefore, as to the prospects of the business of the applicant and of its subsidiaries and of any subsidiary/ies or business undertaking to be acquired, together with any material information that may be relevant thereto.
- 7.D.6 The situation, area and tenure, including in the case of leasehold property the rental and unexpired term of the lease, of the principal immovable property held or occupied by the applicant and any of its subsidiaries.
- 7.D.7 Full details and terms of all material inter-company financial and other transactions, with specific disclosure of all inter company balances before elimination on consolidation.
- 7.D.8 The history of any change in controlling shareholder(s) and trading objects of the applicant and its subsidiaries during the previous five years. A statement of the new trading objects and the manner in which the new objects will be implemented. If the applicant, or as the case may be, the group carries on widely differing operations, a segmental statement showing the contributions of such respective differing operations to its sales, trading results and profits/losses before and after taxation. The proposed new name, if any, the reasons for the change and whether or not consent to the change has been obtained from the Registrar of Companies.

Property acquired or to be acquired

- 7.D.9 The following information regarding any material acquisition(s), within the last three years as at the date of the circular, or proposed acquisition by the applicant or any of its subsidiaries, of any securities in or the business undertaking(s) of any other company/ies or business enterprise(s) or any immovable property/ies or other property/ies in the nature of a fixed asset (collectively “the property”) or any option to acquire such property/ies:
- (a) the date of any such acquisition or proposed acquisition;
 - (b) the consideration, detailing the portion(s) settled by the issue of securities, the payment of cash or other means, and how any outstanding consideration is to be settled;
 - (c) details of the valuation of the property;
 - (d) any goodwill paid and how such goodwill was or is to be accounted for;
 - (e) any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition;
 - (f) the nature of title or interest acquired or to be acquired; and
 - (g) the details regarding the vendors as described in paragraph 7.H.

Disposal of property

7.D.10 The following details regarding any material property (as described in paragraph 7.D.9) disposed of during the past three years as at the date of the circular, or to be disposed of, by the applicant, or any of its subsidiaries:

- (a) the dates of any such disposal or proposed disposal;
- (b) the consideration received, detailing the portion(s) settled by the receipt of securities, cash or other means and how any outstanding consideration is to be settled;
- (c) details of the valuation of the property; and
- (d) the names and addresses of the purchasers of material assets sold. If any purchaser was a company, other than a public company, the names and addresses of the beneficial shareholders of the company. If a public company, the names and addresses of the controlling shareholders of the company. If any promoter or director had any interest, directly or indirectly, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons that had such an interest, the names of any such promoter or director, and the nature and extent of his interest.

Litigation

7.D.11 Information on any legal or arbitration proceedings, including any proceedings that are pending or threatened of which the issuer is aware, that may have or have had in the recent past, being at least the previous 12 months, a material effect on the group's financial position or an appropriate negative statement.

7.E Financial information

The following paragraphs detail the disclosure requirements relating to financial information:

Accountants reports

- 7.E.1 The relevant accountant's report, as described in paragraph 8.45, on the applicant.
- 7.E.2 If applicable, an accountant's report, as described in paragraph 8.45, on the asset the subject of the transaction.

Report of historical financial information

- 7.E.3 The requirements set out in paragraphs 8.1 to 8.14 is to be complied with and included in the pre-listing statement.

Acquisitions made from proceeds

- 7.E.4 If the application for listing coincides, directly or indirectly, with the acquisition by the applicant, or any of its subsidiaries, of securities in or of the business undertaking of any other company in consequence of which that company or business undertaking will become a subsidiary of or part of the business of the applicant, in respect of each of the preceding three years, the same particulars must be provided relating to such company or business undertaking acquired or being acquired as are required mutatis mutandis by paragraph 7.E.1 and a general history of such company or the business undertaking acquired or being acquired as required by paragraphs 7.D.1 to 7.D.3.
- 7.E.5 If the application for listing coincides, directly or indirectly, with the acquisition by the applicant or any of its subsidiaries of securities in or the business undertaking of any other company, then cognisance of such proposed acquisition must be taken in arriving at the particulars described in paragraph 7.E.2 above.
- 7.E.6 If the application for listing coincides, directly or indirectly, with the acquisition by the applicant or its subsidiaries of securities in or the business undertaking of any other company in respect of each of the preceding three years, the following particulars must be provided relating to such company or business undertaking being acquired in accordance with paragraph 7.D.1;
- (a) the profits before and after tax; and
 - (b) its general history.

Statement as to working capital

- 7.E.7 A statement by the directors of the applicant issuer that in their opinion the working capital available to the applicant and its subsidiaries, if any, is sufficient for the group's present requirements, that is, for at least the next 12 months from the date of issue of the listing particulars, or, if not and the issuer has securities already listed, how it is proposed to provide the additional working capital thought by the issuer to be necessary.

The JSE will not require a working capital statement to be made by an issuer whose business is entirely or substantially that of banking, insurance or the provision of similar financial services, provided that the JSE is satisfied that:

- (a) the inclusion of such a statement would not provide significant information for investors; and
 - (b) the issuer's solvency and capital adequacy are suitably regulated by another regulatory body.
- 7.E.8 The working capital statement should be prepared on the group, as enlarged, by the acquisition of any assets.

- 7.E.9 Applicant issuers and sponsors must comply with the requirements of Schedule 25 with regard to paragraphs 7.E.7 and 7.E.8.

Material change

- 7.E.10 A description of any material change in the financial or trading position of the applicant and its subsidiaries that has occurred since the end of the last financial period for which either audited annual financial statements or unaudited interim reports have been published, or an appropriate negative statement.

Profit forecasts

- 7.E.11 Profit forecasts must comply with paragraphs 8.35 to 8.44.

Pro-forma statements

- 7.E.12 Pro-forma statements should comply with paragraphs 8.15 to 8.33.

7.F General information

Material contracts

The following paragraphs detail the disclosure requirements relating to general information:

- 7.F.1 Subject to paragraph 6.17, the dates and the nature of, and the parties to every material contract entered into either verbally or in writing by the applicant or any of its subsidiaries, being a contract entered into otherwise than in the ordinary course of the business carried on or proposed to be carried on by the applicant or any of its subsidiaries:
- (a) entered into within the two years prior to the date of the pre-listing statement or circular; or
 - (b) entered into at any time and containing an obligation or settlement that is material to the issuer or its subsidiaries at the date of the pre-listing statement or circular.
- 7.F.2 If any contract referred to in paragraph 7.F.1 relates to the acquisition of securities in an unlisted subsidiary, or associated company, where all securities in the company have not been acquired, state the reason why 100% of the holding was not acquired, and whether anyone associated with the controlling shareholder(s) of the applicant, or associated companies, or its subsidiaries is interested and to what extent.
- 7.F.3 A brief summary of existing contracts or proposed contracts, either written or oral, relating to the directors' and managerial remuneration, secretarial and technical fees payable by the applicant and any of its subsidiaries and

restraint payments, provided that details of the directors and managerial remuneration need only be disclosed in accordance with paragraph 7.B.7.

- 7.F.4 Particulars of royalties' payable or items of a similar nature in respect of the applicant and any of its subsidiaries.

King Code

7.F.5 Applicant issuers must include the following in its pre-listing statement:

- (a) a narrative statement of how it has applied the principles set out in the King Code, providing explanation that enables its shareholders and potential investors to evaluate how the principles have been applied; and
- (b) a statement addressing the extent of the company's compliance with the King Code and the reasons for each and every instance of non-compliance.

7.F.6 Applicant issuers must comply with the following specific requirements concerning corporate governance and must disclose their compliance therewith in their pre-listing statement:

- (a) there must be a policy detailing the procedures for appointments to the board. Such appointments must be formal and transparent, and a matter for the board as a whole, assisted where appropriate by a nomination committee. The nomination committee must constitute only non-executive directors, of whom the majority must be independent (as defined in paragraph 7.F.6 (f) (iii)), and should be chaired by the board chairperson;
- (b) there must be a policy evidencing a clear division of responsibilities at board level to ensure a balance of power and authority, such that that no one individual has unfettered powers of decision-making;
- (c) the chief executive officer must not also hold the position of chairperson;
- (d) the audit committee must set the principles for recommending the use of the external auditors for non-audit services;
- (e) a brief CV of each director must be provided; and
- (f) the capacity of each director must be categorised as executive, non-executive or independent, using the following as guidelines to determine which category is most applicable to each director:
 - (i) executive directors:

are directors that are involved in the day to day management and running of the business and are in full time salaried employment

- of the company and/or any of its subsidiaries;
- (ii) non-executive directors:
 - are directors that are not involved in the day to day management of the business and are not full-time salaried employee of the company and/or any of its subsidiaries;
 - (iii) independent directors are non executive directors who:
 - (1) are not representatives of any shareholder who has the ability to control or significantly influence management and/or the board;
 - (2) has not been employed by the company or the group of which it currently forms part in any executive capacity for the preceding three financial years;
 - (3) is not a member of the immediate family of an individual who is, or has been in any of the past three financial years, employed by the company or the group in an executive capacity;
 - (4) is not a professional advisor to the company or the group, other than in the capacity as a director;
 - (5) is not a significant supplier to, or customer of the company or group;
 - (6) has no significant contractual relationship with the company or group; and
 - (7) is free from any business or other relationship which could be seen to materially interfere with the individual's capacity to act in an independent manner;
 - (g) all applicant issuers must appoint an audit committee and remuneration committee and if required, given the nature of their business and composition of their board, a risk committee and nomination committee. The composition of such committees, a brief description of their mandates, the number of meetings to be held annually and other relevant information must be disclosed.

Experts' consents

- 7.F.7 Where a pre-listing statement includes a report purporting to be made by an expert, a statement that the expert has given and has not withdrawn his/her/its written consent to the issue of the prospectus/pre-listing statement/circular, with the report in the form and context in which it is included.

7.G Documents and consents to be available for inspection

The following paragraphs detail the disclosure requirements relating to documents and consents to be available for inspection:

- 7.G.1 The following documents (or copies thereof), where applicable, relating to the applicant and its subsidiary companies, if any, must be able to be inspected at a place where the applicant has its registered office, and in Johannesburg for a reasonable period of time (being not less than 14 days):
- (a) the memorandum and articles of association;
 - (b) any trust deed or agreement affecting the governance of the applicant or the interests of shareholders;
 - (c) copies of any special or notarial contract bearing on the trust deed or memorandum and articles of association entered into within the last three years;
 - (d) all material contracts (including patent rights, and franchise agreements);
 - (e) in the case of a material contract not reduced to writing, a memorandum giving full particulars thereof;
 - (f) the latest competent person's report, in the case of a mineral company;
 - (g) the latest sworn appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;
 - (h) copies of service agreements with directors (or a summary of such agreements), managers or secretary/ies; underwriters, vendors' and promoters' entered into during the last three years;
 - (i) all reports, letters, audited annual financial statements, income statements, valuations and statements by an expert any part of which is extracted or referred to in the prospectus/pre-listing statement/circular; and
 - (j) the audited annual financial statements since the incorporation of the applicant or for the preceding three years, whichever is the lesser, together with all notes, certificates, or information required by the Act.

7.H Vendors

The following paragraphs detail the disclosure requirements relating to vendors of material assets to the applicant or its subsidiaries (or the target in the case of a circular relating to an acquisition):

- 7.H.1 State the names and addresses of the vendors of any material assets purchased or acquired by the applicant or by any subsidiaries of the applicant

7.H amended with effect from 15 October 2007.

during the three years preceding the publication of the prospectus/pre-listing statement/circular or proposed to be purchased or acquired, and the amount paid or payable in cash or securities to the vendor, and where there is more than one separate vendor, the amount so paid or payable to each vendor and the amount (if any) payable for goodwill or items of a similar nature. The cost of assets to the vendors and dates of purchase by them, if purchased within the preceding three years. Where the vendor is a company, the names and addresses of the beneficial shareholders, direct and indirect, of that company if required by the JSE. Where any of the above information is unobtainable, the reasons are to be stated. Transactions between the applicant and a vendor, where the vendor is a related party, will be regulated in terms of the requirements of this paragraph and Section 10 of the Listings Requirements.

- 7.H.2 State whether or not the vendors have guaranteed the book debts or other assets and whether or not “normal” warranties have been given.
- 7.H.3 State whether the vendors’ agreements preclude the vendors from carrying on business in competition with the applicant or any of its subsidiaries; or impose any other restriction(s) on the vendor(s), also details of any cash or other payment regarding restraint(s) of trade and the nature of such restraint(s) of trade.
- 7.H.4 State how any liability for accrued taxation, or any apportionment thereof to the date of acquisition, will be settled in terms of the vendors’ agreements.
- 7.H.5 Where securities are purchased in a company that will become a subsidiary of the applicant, a reconciliation must be provided showing the difference between the amounts paid for the securities and the proportionate value of the net assets of that company attributable to such securities acquired. Where securities are purchased in companies that will not be accounted for as subsidiaries a statement must be provided detailing how the value of the securities was determined.
- 7.H.6 Where any promoter or director had any beneficial interest, direct or indirect, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons that had such an interest, the names of any such promoter or director, and the nature and extent of his interest must be disclosed. Where the vendors or any of them are a partnership, the members of the partnership shall not be treated as separate vendors.
- 7.H.7 State the amount of any cash or securities paid or benefit given within the three preceding years or proposed to be paid or given to any promoter, not being a director, and the consideration for such payment or benefit received or receivable.
- 7.H.8 State whether the assets acquired have been transferred into the name of the

applicant or any of its subsidiaries and whether or not the assets have been ceded or pledged.