

Amendments to the Listings Requirements

REITS

➤ A2X MARKETS

6th floor, Katherine Towers, 1 Park Lane, Wierda Valley, Sandton, 2196. PO Box 781763, Sandton, Johannesburg, 2196
Reg. No. 2014/147138/07 **Directors:** K Brady*, R Kisten, N Matyolo, A Mendelowitz, SA Melnick (* Executive)
www.a2x.co.za



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Reasons for the Amendments

These proposed amendments are required as a result of amendments to the provisions of the Income Tax Act (“the Act”) to cater for other new South African Exchanges that have been licensed in terms of the Financial Markets Act, 2012, to utilise the REIT provisions in the Act.

The definition of a REIT in the Act has been amended twice with the result that the substantial requirements applicable to REITS are now specifically required to be approved by the Minister of Finance and included in an Exchange’s Listings Requirements.

Consequently, A2X is required to include specific substantial requirements for REITs, which requirements also need to be approved by the Minister of Finance.

The proposed amendments set out in this notice are being proposed to address this.



Underlining indicating insertions

PROPOSED AMENDMENTS TO A2X'S LISTING REQUIREMENTS TO INCLUDE REITS

Inclusion of the following definitions in Section 2:

- (a) “adjusted GAV” means GAV adjusted for the following events occurring after the reporting period of the latest published results:
- (i) the addition of any increase in value of any existing properties, but only where any increase in value is supported by a valuation report prepared by an independent registered valuer;
 - (ii) the addition of the nominal value of any new debt to the extent that the intended utilisation of that new debt is such that it results in an increase in GAV;
 - (iii) the addition of any amount of any capital raised through the issue of new securities to the extent that the intended utilisation of the capital raised is such that it results in an increase in GAV;
 - (iv) the deduction of any capital repayments that have been made on the liabilities;
and
 - (v) the deduction of any amount of any capital returned to security holders through a repurchase of securities or through a payment to security holders in terms of section 46 of the Companies Act;
- (b) “failed the REIT tax test” means that the applicant issuer was granted REIT status by A2X, but on assessment by the South African Revenue Service did not qualify for a tax deduction of distributions under section 25BB(2) of the Income Tax Act;
- (c) “GAV” is the consolidated gross asset value as reflected in the applicant issuer’s latest published results which are prepared in terms of IFRS;
- (d) “REIT” means Real Estate Investment Trust and is defined as an applicant issuer which receives a REIT status in terms of the Listing Requirements;
- (e) “rental revenue” means group revenue that is derived from the owning or leasing of immovable property which is let or sub-let to tenants plus dividends received from another REIT where the investment in that REIT is not consolidated in the group accounts;



(f) “revenue” is the revenue (determined in accordance with IFRS) disclosed in the forecast or historical statement of comprehensive income, depending on which statement of comprehensive income the property entity is obliged to present in terms of this Section 2; and:

(i) “substantial property asset” means property assets held (whether by way of leasehold or freehold title) of an applicant issuer that is not a property entity which asset/s represent, or will (post acquisition) represent, 25% or more of the total assets or generate 25% or more of the revenue or profits of that group as measured against the latest consolidated financial information of the applicant issuer.

(ii) “contracted rental revenue” means rental revenue that is derived, or to be derived, from a legally binding agreement for the lease of property for the period specified, including rental derived from lease agreements that are subject to automatic renewal (unless notice of termination was provided) and rental revenue from lease guarantees provided by a vendor. This figure will exclude rental revenue for legally binding agreements that have expired and includes short-term rental revenue;

(iii) “un-contracted rental revenue” means rental revenue other than contracted and near-contracted rental revenue;

(iv) “near-contracted rental revenue” means rental revenue relating to legally binding agreements that have expired and that are reasonably expected to be renewed, which expectation takes into consideration the location of the property, the historical occupancy by that tenant and the tenant’s profile; and

(v) “short-term rental revenue” means contracted rental revenue where the period specified in the legally binding agreement, excluding automatic renewals, is for a period of less than 18 months.

REITs

REIT Status Listing Criteria

2.14 An applicant issuer seeking to receive a REIT status from A2X must satisfy the following criteria:

(a) the directors of the applicant issuer must provide an undertaking and must ensure that the applicant issuer complies with the distribution provisions set out in 2.15;



- (b) the applicant issuer must have gross assets of at least R300million, as reflected in either:
 - (i) its audited or reviewed consolidated financial statements; or
 - (ii) a pro forma consolidated statement of financial position;whichever reflects the more recent financial position;
- (c) the applicant issuer must be a property company;
- (d) at least 75% of the revenue as reflected in the statement of comprehensive income of the applicant issuer's group must be derived from rental revenue;
- (e) the applicant issuer must qualify for a listing in terms of section 2;
- (f) the directors must each confirm that the applicant issuer will, to the best of their knowledge (after making all reasonable enquiries to ascertain such facts), qualify for a tax deduction of distributions under section 25BB(2) of the Income Tax Act for the current or future financial year end;
- (g) the directors of the applicant issuer must:
 - (i) provide an undertaking to A2X and ensure that at the time that they authorise any new borrowings that:
 - (1) the total consolidated liabilities as reflected in the latest published interim or annual consolidated IFRS financial statements;
 - (2) less, any capital repayments made on those liabilities after the statement of financial position date;
 - (3) plus, the nominal value of the new debt, divided by the greater of the GAV or adjusted GAV will not be more than 60%; and
 - (ii) confirm that the total consolidated liabilities, is not more than 60% of the total consolidated assets as reflected in either its:
 - (1) latest audited or reviewed consolidated IFRS financial statements; or
 - (2) pro forma consolidated statement of financial position which, provided that the valuations attributable to the properties are supported by valuation reports prepared by an independent registered valuer, whichever reflects the more recent financial position;
- (h) the applicant issuer must ensure that the audit committee or a separate risk committee of the board is, as a minimum, responsible for:
 - (i) adopting and implementing an appropriate risk management policy, which policy must as a minimum:



- (1) be in accordance with industry practice; and
- (2) specifically prohibit the applicant issuer from entering into
- (3) any derivative transactions that are not in the normal course of the applicant issuer's business;

(ii) reporting in the annual report each year that they have monitored compliance with the policy and that the applicant issuer has, in all material respects, complied with the policy during the year concerned;

(iii) reporting to A2X, in an annual compliance declaration that they have monitored compliance with the policy and that the applicant issuer has, in all material respects, complied with the policy during the year concerned; and

(ii) at the time of listing, confirming to A2X and disclosing in the pre-listing statement that it has adopted the policy referred to in 2.14 (h)(i) above.

2.15 A property company, wishing to receive a REIT status must ensure that it complies with the following distribution provisions:

(a) the company must distribute at least 75% of its total distributable profits as a distribution to the holders of its listed securities (which includes shares and linked units) by no later than four months after its financial year end, subject to the relevant solvency and liquidity test as defined in the Act and applied in section 46 of the Companies Act;

(b) interim distributions may occur before the end of a financial year end;

(c) the company will procure that, subject to the solvency and liquidity test and section 46 of the Companies Act, those of its subsidiaries that are property entities incorporated in the Republic of South Africa will distribute at least 75% of their total distributable profits as a distribution by no later than four months after their financial year ends;

(d) distributable profit in respect of a financial year is defined as:

(i) gross income, as defined in terms of the Income Tax Act;

(ii) less deductions and allowances that are permitted to be deducted by a REIT in terms of the Income Tax Act, other than the qualifying distribution, (as defined in terms of section 25BB of the Income Tax Act because qualifying distributions form part of distributable profit).



Application for an existing issuer to receive REIT status

2.16 An issuer wishing to make application to receive a REIT status must:

- (a) comply with the provisions of 2.14; and
- (b) not have failed the REIT tax test for the last 2 consecutive financial years; and
- (c) not have been in breach of the distribution provisions, set out in section 2.15, in the last 24 months provided that it was classified as a REIT during that period;



SECTION 3

Continuing Obligations for REIT's

3.22 In order to retain their REIT status, applicant issuer's must, on an ongoing basis, meet the following criteria:

- (a) comply with the distribution provisions set out in section 2.15;
- (b) the applicant issuer must:
 - (i) qualify for a tax deduction of an amount equal to its distributions under section 25BB (2) of the Income Tax Act for the immediately preceding financial year end; or
 - (ii) must not have failed the REIT tax test for the last 2 consecutive financial year ends;
- (c) the directors of the REIT must ensure that:
 - (i) the total consolidated liabilities of the issuer (as reflected in the IFRS results) will not be more than 60% of the total consolidated assets (as reflected in the IFRS results); or
 - (ii) if the issuer is not in compliance with 3.22(c)(i), the directors did comply with their undertaking provided in terms of paragraph 2.14(g)(i);
- (d) the directors of the REIT must submit a compliance declaration to A2X within four months of the issuer's financial year end, which declaration must:
 - (i) confirm that the directors of the issuer have ensured that the applicant issuer's group complied with paragraphs 2.14(a), (f), (g), (i) and (h) above; or
 - (ii) where the applicant issuer did not comply with paragraph 2.14(g)(i) above, the directors must confirm that despite the non-compliance, the total consolidated liabilities of the issuer are not more than 60% of the total consolidated assets, where the liability and asset amounts are those reflected in the group annual financial statements for that financial year end;
 - (iii) be signed by each of the directors, the company secretary and the sponsor or designated advisor of the issuer; and
 - (iv) be submitted at the time of submission of the applicant issuer's annual report.

3.23 The following procedure shall apply to an issuer that fails to comply with 3.22(d):

- (a) on the day following the due date as contemplated in paragraph 3.22(d) above, a letter of reminder will be sent by A2X to the issuer requesting that the issuer



rectify the situation and advising that it has been granted a period of 1 month, from the date of such reminder, in which to submit the compliance declaration, failing which the issuer's REIT status will be removed by A2X;

(b) failing compliance within 14 days of dispatch of the reminder to the issuer, A2X will release an announcement informing holders of securities that the issuer has not submitted its compliance declaration and cautioning holders of securities that the issuer's REIT status is under threat of removal; and

(c) the issuer's REIT status will be removed by A2X if it fails to submit the compliance declaration within the 1-month period referred to in 3.23(a) above and A2X will release an announcement confirming this fact.

3.24 In every announcement issued by a REIT:

(a) it must make reference to the fact that it has a REIT status; and

(b) for announcements that deal with distributions it must specify:

(i) that the distribution is regarded as taxable dividend for income tax purposes in the hands of local tax residents and a taxable dividend for dividends tax purposes for foreign tax residents from 1 January 2014 (distributions to foreign tax residents before that date are exempt from dividends tax); and

(ii) for which financial period the distribution relates to.

3.25 An issuer with a REIT status must keep the market informed regarding its tax status.

In this regard the issuer must release an announcement containing full details of the implications thereof for the issuer and its security holders, without delay, if it:

(a) fails the REIT tax test or believes that it will not qualify for a tax deduction of distributions under section 25BB(2) of the Income Tax Act; or

(b) has breached the distribution provisions as set out in paragraph-2.15; or

(c) has breached the provisions of paragraph 3.22(c).

3.26 Where at any time, an applicant issuer, fails to comply with any of the Requirements applicable to REITS as set out in sections 2 and 3 and fails to rectify such non-compliance within the time period agreed with A2X:

(a) A2X will remove its REIT status;

(b) the issuer must make an announcement advising the market of this fact; and

(c) the issuer may make application at any time to reapply to A2X to receive a REIT status.



Application for Removal of the REIT Status

3.27 An issuer who has received a REIT status may at any time make application to A2X to have this status removed. An announcement must be made, advising the market of this fact, as soon as:

(a) the board of directors has taken the decision to make such an application, stating the reasons for this decision; and

(b) once the application has been processed by A2X.

Transitional provisions

A REIT that was approved as a REIT on the Main Board of the JSE with a secondary listing on A2X prior to 1 January 2021 shall be deemed to have complied with the applicable provisions of, and be categorised as a REIT in terms of these requirements.