

## GUIDELINE 1/2013

### APPROACHING SHAREHOLDERS PRIOR TO MAKING A FIRM INTENTION ANNOUNCEMENT

#### 1. Introduction

1.1 In terms of section 201(2)(b) of the Companies Act 71 of 2008, (the Act) the Panel may issue, amend or withdraw information on current policy to serve as Guidelines for the benefit of persons concerned with those transactions regulated by the Panel. Regulation 4 of the Companies Regulations 2011 (the Regulations) provides that a senior officer of a regulatory agency (as defined in the Regulations) may issue a Guideline at any time by publishing a notice of the Guideline to the general public in the Gazette, any generally circulated newspaper; on the regulatory agency's website, or by any similar means of providing information to the public generally.

1.2 The Panel recognises that in commercial practice it may be necessary for an offer to approach a number of significant minority shareholders in order to obtain their views on the proposed offer after issuing a cautionary announcement but prior to establishing and making an offer.

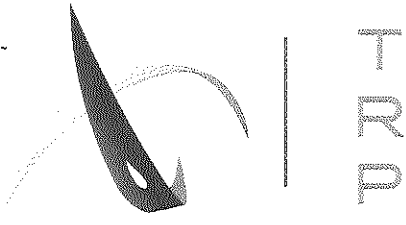
1.3 Section 119(1)(a) is relevant for the purpose of this Guideline; section 119 provides:

*“(1)(a) The Panel must regulate any affected transaction or offer in accordance with this Part, Part C and the Takeover Regulations, but without regard to the commercial advantages or disadvantages of any transaction or proposed transaction, in order to ensure the integrity of the marketplace and fairness to the holders of the securities of regulated companies”*

2. The Panel hereby issues an updated Guideline in line with the promulgation of the Financial Markets Act 19 of 2012 which Act came into effect on 03 June 2013.

3. The Guideline is to the effect that the above practice is accepted subject to the following:

3.1 only shareholders holding more than 5% or more of the aggregate securities subject to the offer may be approached, and only 5 or less than 5 of such shareholders may be approached;



- 3.2 the relevant shareholders must sign an acknowledgement that they will not disclose any information to any person or use such information for their own direct or indirect benefit or that of any other person until the details of such offer have been announced, before they are provided with any information in respect of the proposed offer;
- 3.3 adherence to Regulation 95 relating to confidentiality;
- 3.4 adherence to the relevant provisions of the Financial Markets Act 19 of 2012;
4. Guideline 2/2012 is hereby withdrawn.

**DATED 22 August 2013**

**N Matlala**   
**Chairperson**