

**THE SECURITIES REGULATION PANEL (the “SRP”)**

**RULING IN TERMS OF SECTION 440 OF THE COMPANIES ACT (the “Act”)**

**AND THE RULES OF THE SRP**

**IN THE MATTER OF COMPAREX HOLDINGS LIMITED (“Comparex”)**

**BEFORE AN EXECUTIVE COMMITTEE OF THE SRP (the “Executive Committee”)**

**comprising:**

**MR N A MATLALA (Chairman)**

**MR A G GAIN**

**MR W S YEOWART**

1. **Factual Background**

- 1.1. The facts giving rise to the ruling sought from the Executive Committee are summarized briefly hereunder.
- 1.2. The matter was effectively triggered by a facsimile message dated 5 June 2002 from Mr Simon Marais of Allan Gray Limited ("Allan Gray") to Mr RKJ Chambers, the then non-executive chairman of Comparex, wherein Mr Marais stated that *inter alia* in terms of discussions held with certain shareholders of Comparex, namely Allan Gray, Orbis Investment Management Limited ("Orbis"), Investec Asset Management ("IAM"), RMB Asset Management ("RMBAM"), Coronation Asset Management ("Coronation") and Sanlam Investment Management ("SIM"), such shareholders had agreed in principle to support a change in the board of Comparex, and that a further shareholder (subsequently identified as RMB Corporate Finance) had indicated that it was in broad agreement with and would not oppose such a board change.
- 1.3. A letter dated 13 June 2002 was then sent by Investec Bank Limited Corporate Finance to the chairman of Comparex. The letter was written on behalf of three shareholders of Comparex, namely Allan Gray, IAM and SIM, notifying Comparex *inter alia* of the intention of these shareholders to reconstitute the Comparex board, if necessary by calling an extraordinary general meeting of Comparex shareholders for this purpose.
- 1.4. On 19 June 2002, a statement was issued in the press by six non-executive directors of Comparex stating that *inter alia* in their opinion Allan Gray, IAM and SIM together owned more than 35% of the shares in Comparex, were acting in concert and were obliged to make an offer to minority shareholders, and that the matter had been referred to the SRP. Subsequently certain of these non-executive directors resigned and new non-executive directors were appointed to the Comparex board, thus obviating the need for calling the extraordinary general meeting referred to in paragraph 1.3.
- 1.5. On 1 August 2002, Mr J Roodt, then of Brink Cohen Le Roux & Roodt Inc, sent a facsimile message and supporting memorandum to Mr R Connellan, the executive director of the SRP,

on behalf of certain minority shareholders of Comparex (subsequently confirmed by Mr Roodt as comprising Comparex Holdings Limited Employee Share Purchase Trust, Sandgate Share Investments (Pty) Limited, Birdhaven Consultants (Pty) Limited, SLK Investments (Pty) Limited, Motifprops 154 (Pty) Limited, Kilcullen Trust, RFH Trust, PTV Trust, Lima Romeo Trust (collectively, the “Complainants”)) *inter alia* submitting that sufficient evidence existed to justify the SRP investigating whether the actions of certain shareholders of Comparex, namely Allan Gray, Orbis, RMB Corporate Finance, RMB Securities, RMBAM, IAM and SIM (collectively, the “Asset Managers”) resulted in the happening of an affected transaction in terms of section 440 of the Act and the rules of the SRP.

1.6. On 20 February 2003, an investigation was conducted by the SRP by way of a formal hearing. Further information and documentation was subsequently submitted.

1.7. On 14 and 15 July 2003, a further hearing was held before the Executive Committee duly appointed therefor, and again further information and documentation was subsequently submitted. The Executive Committee decided that the parties be heard on both factual and legal matters. The Executive Committee appointed Edward Nathan & Friedland as its legal adviser in this matter.

## 2. **Analysis of Shareholdings in Comparex of The Asset Managers**

2.1. For the purposes of the analysis hereunder the shareholdings managed by each of the Asset Managers during what is considered to be the relevant period in this matter are summarised in Annexure A hereto. Such information has been based on information submitted by each of the Asset Managers.

2.2. The shareholdings appearing in Annexure A are also broken down, for each of the Asset Managers, to reflect the various categories of client mandates held by each of them, namely:

2.2.1. those held in terms of discretionary mandates from clients where the asset manager enjoys the authority to determine how to exercise the voting rights attaching to the shares for so long as the mandate remains in force (the “fully

discretionary mandates”). Note that in the case of RMB Corporate Finance it is itself the beneficial holder and thus there is no client asset manager relationship;

2.2.2. those held where the client retains the right to vote any shares being managed by the asset manager, but where the asset manager may request the registered holder of any such shares to issue the asset manager with a proxy to vote such shares at a shareholders’ meeting, subject to any such request having to be advised to the client and the client having the right to revoke any such proxy issued to the fund manager (the “partially discretionary mandates”). An example of the relevant wording as extracted from an Alan Gray partially discretionary client mandate agreement is reproduced in Annexure B; and

2.2.3. all other cases (the “other mandates”).

2.3. The Executive Committee is not aware of any client mandates which entitled an Asset Manager to enter into an agreement, arrangement or understanding with other shareholders that they would acquire securities for the purposes of an affected transaction. There is also no evidence that any client instructed an Asset Manager to enter into an affected transaction.

### 3. **Meaning of the word “Holder”**

3.1. The first question that arises in the analysis of this matter, being the fundamental issue at the heart of this dispute, is the interpretation of the word “holder”. More particularly when is the asset manager the “holder” of the securities and when are the clients (whose assets are being managed) the “holders”. The answer to this question is fundamental to the understanding and interpretation of this matter.

3.2. In terms of the definition of “control” contained in section 440A of the Act each of the following criteria must be satisfied:

3.2.1. there must be a holder of securities;

- 3.2.2. the securities so held must be at least 35% of the total voting securities in the company; and
- 3.2.3. the holding of such securities must entitle the holder to exercise, or cause to be exercised, directly or indirectly, the voting rights in respect of such securities.

3.3.

- 3.3.1. In dealing first with the term “holder” of securities it may be observed that the terminology relating to holders of shares is often confusing in that certain terms which refer to different concepts are often used loosely and synonymously.
- 3.3.2. Membership of a company is a concept entirely different to having ownership of shares (i.e. beneficial ownership). So too is registration in relation to shares entirely different from ownership of shares – thus the registered holder may not necessarily be the same person as the beneficial holder (i.e. the owner).
- 3.3.3. Hahlo – Company Law Through The Cases – 6<sup>th</sup> Edition at page 175 states :

**“The terms ‘member’ and ‘shareholder’ are often used as having a synonymous meaning. However, the holder of a share warrant is a shareholder but not necessarily a member of the company. A person may acquire shares in a company as ‘beneficial owner’ through a nominee or trustee, without being registered as a member (see part III below). The right to have one’s name entered in the register of a company is independent of the ownership of the shares : *Davis v Buffelfontein Gold Mining Co Ltd* 1967 (4) SA 631 (W). The company is not bound to see to the execution of any trust in respect of shares; s104: [93]-[94]. (See also *Brodie v Secretary for Inland Revenue* 1974 (4) SA 704 (A), esp at 712ff and *Standard Bank of SA Ltd v Ocean Commodities Inc* 1980 (2) SA 175 (T) [106].) Note that for uncertificated securities transfer of ownership in the relevant accounts (subregisters) of the participants happens**

**simultaneously with the acquisition of membership upon the entering of the relevant name on the subregister; s 91A(4).”**

3.3.4. At page 185 supra Hahlo states:

**“Instead of having himself registered as a member, the transferee may have another person registered as his nominee, or he may leave the shares registered in the transferor’s name. In such a case, the transferee is the ‘beneficial owner’ of the shares while the person registered as the shareholder, who holds the shares on his behalf, will be a member, as far as the company is concerned. Under s 255 the Minister may, for good reason, investigate the true ownership of any shares. On the disclosure of beneficial interest in securities, see s 140A of the Act.”**

3.3.5. Thus, it cannot be said with certainty that the term “holder” in the definition of “control” necessarily refers to the registered holder of the shares.

3.4.

3.4.1. The resolution of the problem becomes more complex when the next part of the analysis is undertaken – that the holding of the shares must entitle the holder to exercise the voting rights in respect of the shares.

3.4.2. If the term “holder” refers to the registered holder then :-

3.4.2.1. as between the registered holder and the company it is the registered holder who is entitled to exercise the voting rights;

3.4.2.2. as between the registered holder and the beneficial holder (or owner) it is the beneficial owner who is entitled to exercise the voting rights.

3.4.3. If the term “holder” refers to the beneficial holder then it is the beneficial holder who is entitled to exercise the voting rights.

3.4.4. In its definition of the term “holder” the legislature does not make reference to the terms “member”, “registered Holder”, “owner” and “beneficial owner” (in the definiendum). The legislature defines the term “holder” as “the direct or indirect holder of securities”. In the absence of such reference the meaning to be given to the definition should be the literal meaning unless such literal meaning will lead to absurdities. In our view the direct holder of securities is the registered holder of securities. The term indirect holder includes person, institutions and companies on whose behalf the registered holder is holding on the one hand and a holding company’s interest on the other. This latter meaning is not applicable in the facts of this matter.

3.4.5. The reference to the terminology referred to above is sufficient to demonstrate the axiomatic rule of interpretation of statutes that language does not have a fixed or mechanical meaning; words derive their colour and content from their context as intended by the legislature.

3.5. It is necessary now to contextualise the analysis. In doing so, it is helpful to use an example by way of illustration. Assume Standard Bank Nominees is the registered holder of 35% of the shares in a company on behalf of a multiplicity of clients. Can it be said that when the nominee company holds (as registered holder) more than 35% of a company that that fact alone would give rise to an affected transaction? An answer in the positive can give rise to absurd consequences. The real answer to this question will depend on whatever client mandates have been given to such registered holder or any other party such as an asset manager.

3.6.

3.6.1. Having illustrated the problem by reference to the absurd example in paragraph 3.5 we now endeavour to interpret the definition of “control” in the context of an affected transaction.

3.6.2. The reference to “holder” may well be to the beneficial owners. If that is the case the enquiry ends and unless the various beneficial owners (of 35% in the aggregate of a company) act in concert by virtue of an actual agreement, arrangement or understanding, there is no affected transaction.

3.6.3. If, however, the term “ holder” refers to the registered holder then even though as between itself and the company the registered holder is entitled to exercise the voting rights that would in our opinion be too simplistic an analysis in this context unless the registered holder has for example a fully discretionary mandate and is entitled to vote. The person who is entitled for this purpose to exercise the voting rights is the person who can direct (i.e. cause) the manner in which the voting rights are to be exercised. The person who can direct the exercise of the voting rights is the beneficial owner, i.e. the clients of the asset manager. Thus, unless the owner has given a fully discretionary mandate to the asset manager to vote the shares it is the owner and not the asset manager who votes the shares.

3.7. In Henochsberg on the Companies Act, Volume 1, Service Issue 17 the learned authors at page 996 refer to the definitions of “control” and “share” and conclude that:

“...in relation to the application of the Chapter and the Code, the nature of one’s interest in a company clearly is immaterial provided such interest entitles one to exercise (whether directly or through one’s nominee) 35% or more of the voting rights in general meeting..... The intention of the Legislature is to preclude any attempted evasion of the Chapter and the Code by means of an arrangement by which actual control of the company is sited elsewhere than in the holders of the voting rights therein.”

3.8. As stated above it is not necessary to draw any distinction between registered and beneficial shareholders in Comparex. The proper enquiry is whether the Asset Managers were vested with the entitlement to exercise the voting rights in respect of 35% or more of the voting rights in general meeting.

3.9. It follows that in our opinion only those shares which an Asset Manager has under management with a fully discretionary mandate may be taken into account to determine whether an affected transaction has occurred.

3.10. On the basis of the foregoing analysis and having regard to the factual position as set out in paragraph 2 and in Annexure A it is our opinion that no affected transaction has occurred in this matter.

4. **Position Of Partially Discretionary Mandates**

4.1. Is a partially discretionary mandate of the nature referred to in paragraph 2.2.2 equivalent to a fully discretionary mandate?

4.2. In our view it is not equivalent to a fully discretionary mandate. In the partially discretionary mandate the client retains the right to exercise the voting rights. However, the asset manager during the period of the mandate from an administrative or similar point of view can request how the client's votes will be cast unless the client otherwise directs. This differs fundamentally from a fully discretionary mandate where the asset manager decides how the vote will be exercised and there is no required reference whatsoever to the client.

5. **Subject Matter of Agreement, Arrangement or Understanding and Related Matters**

5.1. It is important to draw attention to the fact that an agreement, arrangement or understanding that simply regulates how the parties will exercise their votes at a general meeting of the company will not itself suffice for the purposes of giving rise to an affected transaction.

5.2. For an affected transaction to occur as a result of conduct pursuant to an agreement, arrangement or understanding there must be a provision for one or more of the parties to such agreement, arrangement or understanding to acquire shares in the target company, in this case Comparex.

5.3. We are of the opinion that as between Allan Gray, IAM and SIM there is no agreement, arrangement or understanding for purposes of giving rise to an affected transaction. The majority opinion of the Executive Committee is that in respect of Allan Gray and Orbis ("Allan

Gray Group”), and also in respect of RMB Corporate Finance, RMB Securities and RMBAM (“RMB Group”), there was likewise no agreement, arrangement or understanding for purposes of giving rise to an affected transaction, notwithstanding the provisions of section 440A (2) (a) of the Act.

5.4. However, we are of the opinion that there could have been an agreement, arrangement or understanding between Allan Gray and RMB Corporate Finance especially given the latter’s stated motivation for its purchases of Comparex shares. Nevertheless, as illustrated in Appendix A, the aggregate of the holdings of Allan Gray and RMB Corporate Finance never reach 35%; the same is true for Allan Gray Group and RMB Group, if announced share buy-backs by Comparex after 1 March 2002 are added back for purposes of the percentage calculations.

5.5. For purposes of the analysis in paragraph 5.4, the question that arises is whether share buy-backs are to be disregarded for the purpose of determining whether an affected transaction has occurred. In our view a share buy-back which causes a shareholder’s holding to breach the 35% threshold should not cause of itself the happening of an affected transaction. Apart from any other factor it is difficult to see how parties can act in concert in a transaction in which they are not involved or do not participate. Thus a unilateral act by a company to buy back its shares should not result in parties who prior to the buy-back did not have control becoming liable for the consequences on the basis of an affected transaction having occurred, unless such parties were the shareholders responsible for initiating and implementing the applicable share buy-back.

5.6. For the sake of completeness we also consider it necessary to draw attention to a further point relating to the involvement of RMB Corporate Finance. In our view, if RMB Corporate Finance were considered to have had an agreement, arrangement or understanding with Allan Gray as discussed in paragraph 5.4, such concert party relationship ceased prior to the happening of the events described in paragraphs 1.2 and 1.3.

5.7. Finally, we wish to point out that in our view if A and B act in concert and A and C act in concert that does not necessarily mean that B and C are acting in concert. In this matter, we

do not believe that because of a possible concert party relationship between Allan Gray and RMB Corporate Finance as discussed in paragraph 5.4 there is a basis for creating a concert party linkage between RMB Corporate Finance and IAM and SIM through there being a concert party relationship between Allan Gray, IAM and SIM (which we do not believe to be the case as stated in paragraph 5.3).

6. **Conclusion**

In our view, based on the foregoing, no affected transaction has occurred in this matter. It follows that there is no basis for any mandatory offer.

7. **Costs**

The majority decision is that there should be an award of costs jointly and severally against the Complainants as listed in paragraph 1.5.

\_\_\_\_\_ Dated: 3 December 2003  
N A MATLALA  
CHAIRPERSON

\_\_\_\_\_ Dated: 3 December 2003  
A G GAIN  
MEMBER

\_\_\_\_\_ Dated: 3 December 2003  
W S YEOWART  
MEMBER

**ANNEXURE A**

**Asset Managers**

	<b>No of Comparex ordinary shares held as at</b>			
	<b>01-Mar-02</b>	<b>01-Apr-02</b>	<b>01-May-02</b>	<b>01-Jun-02</b>
Allan Gray and Orbis ("Allan Gray Group")	82,447,826	82,447,826	82,485,986	82,485,986
Fully discretionary	25,835,100	25,835,100	25,873,260	25,873,260
Partially discretionary	55,617,626	55,617,626	55,617,626	55,617,626
Other	995,100	995,100	995,100	995,100
Allan Gray	79,788,726	79,788,726	79,826,886	79,826,886
Fully discretionary	23,176,000	23,176,000	23,214,160	23,214,160
Partially discretionary	55,617,626	55,617,626	55,617,626	55,617,626
Other	995,100	995,100	995,100	995,100
Orbis	2,659,100	2,659,100	2,659,100	2,659,100
Fully discretionary	2,659,100	2,659,100	2,659,100	2,659,100
Partially discretionary	-	-	-	-
Other	-	-	-	-
RMB Corporate Finance, Securities and Asset Management ("RMB Group")	1,673,817	3,466,469	11,867,441	13,149,977
Fully discretionary	1,673,817	3,466,469	11,867,441	13,149,977
Partially discretionary	-	-	-	-
Other	-	-	-	-
RMB Corporate Finance	-	1,683,000	10,004,683	11,339,986
Fully discretionary	-	1,683,000	10,004,683	11,339,986
Partially discretionary	-	-	-	-
Other	-	-	-	-
RMB Securities	417,954	452,085	504,693	506,195
Fully discretionary	417,954	452,085	504,693	506,195
Partially discretionary	-	-	-	-
Other	-	-	-	-
RMB Asset Management ("RMBAM")	1,255,863	1,331,384	1,358,065	1,303,796
Fully discretionary	1,255,863	1,331,384	1,358,065	1,303,796
Partially discretionary	-	-	-	-
Other	-	-	-	-
Investec Asset Management ("IAM")	10,697,331	11,536,271	12,369,717	13,676,525
Fully discretionary	8,083,158	7,855,198	8,636,344	9,165,815
Partially discretionary	2,614,173	3,681,073	3,733,373	4,510,710
Other	-	-	-	-
Sanlam Investment Management ("SIM")	9,807,398	14,519,062	14,102,425	13,946,488
Fully discretionary	9,807,398	14,519,062	14,102,425	13,946,488
Partially discretionary	-	-	-	-
Other	-	-	-	-
Total of all asset managers	104,626,372	111,969,628	120,825,569	123,258,976
Fully discretionary	45,399,473	51,675,829	60,479,470	62,135,540
Partially discretionary	58,231,799	59,298,699	59,350,999	60,128,336
Other	995,100	995,100	995,100	995,100
Total Comparex voting ordinary shares in issue as announced to the market	307,289,987	307,289,987	266,813,024	266,813,024
Total Comparex voting ordinary shares in issue as adjusted for share buy-backs after 13-Feb-02 as announced to the market	307,289,987	307,289,987	307,289,987	307,289,987

**ANNEXURE A (continued)**

**Asset Managers**

**% holding based on total Comparex voting shares in issue  
as announced to the market**

	<b>01-Mar-02</b>	<b>01-Apr-02</b>	<b>01-May-02</b>	<b>01-Jun-02</b>
Allan Gray Group	26.831%	26.831%	30.915%	30.915%
Fully discretionary	8.407%	8.407%	9.697%	9.697%
Partially discretionary	18.099%	18.099%	20.845%	20.845%
Other	0.324%	0.324%	0.373%	0.373%
Allan Gray	25.965%	25.965%	29.919%	29.919%
Fully discretionary	7.542%	7.542%	8.701%	8.701%
Partially discretionary	18.099%	18.099%	20.845%	20.845%
Other	0.324%	0.324%	0.373%	0.373%
Orbis	0.865%	0.865%	0.997%	0.997%
Fully discretionary	0.865%	0.865%	0.997%	0.997%
Partially discretionary	0.000%	0.000%	0.000%	0.000%
Other	0.000%	0.000%	0.000%	0.000%
RMB Group	0.545%	1.128%	4.448%	4.929%
Fully discretionary	0.545%	1.128%	4.448%	4.929%
Partially discretionary	0.000%	0.000%	0.000%	0.000%
Other	0.000%	0.000%	0.000%	0.000%
RMB Corporate Finance	0.000%	0.548%	3.750%	4.250%
Fully discretionary	0.000%	0.548%	3.750%	4.250%
Partially discretionary	0.000%	0.000%	0.000%	0.000%
Other	0.000%	0.000%	0.000%	0.000%
RMB Securities	0.136%	0.147%	0.189%	0.190%
Fully discretionary	0.136%	0.147%	0.189%	0.190%
Partially discretionary	0.000%	0.000%	0.000%	0.000%
Other	0.000%	0.000%	0.000%	0.000%
RMBAM	0.409%	0.433%	0.509%	0.489%
Fully discretionary	0.409%	0.433%	0.509%	0.489%
Partially discretionary	0.000%	0.000%	0.000%	0.000%
Other	0.000%	0.000%	0.000%	0.000%
IAM	3.481%	3.754%	4.636%	5.126%
Fully discretionary	2.630%	2.556%	3.237%	3.435%
Partially discretionary	0.851%	1.198%	1.399%	1.691%
Other	0.000%	0.000%	0.000%	0.000%
SIM	3.192%	4.725%	5.286%	5.227%
Fully discretionary	3.192%	4.725%	5.286%	5.227%
Partially discretionary	0.000%	0.000%	0.000%	0.000%
Other	0.000%	0.000%	0.000%	0.000%
Total of all asset managers	34.048%	36.438%	45.285%	46.197%
Fully discretionary	14.774%	16.817%	22.667%	23.288%
Partially discretionary	18.950%	19.297%	22.244%	22.536%
Other	0.324%	0.324%	0.373%	0.373%
Fully and partially discretionary	33.724%	36.114%	44.912%	45.824%

**ANNEXURE A (continued)**

**Asset Managers**

**Sanlam Investment Management ("SIM")**

**01-Mar-02**

**01-Apr-02**

**01-May-02**

**01-Jun-02**

**% holding based on total Comparex voting shares in issue  
as announced to the market**

Total of all asset managers excluding RMB Group	33.503%	35.310%	40.837%	41.268%
Fully discretionary	14.229%	15.689%	18.220%	18.360%
Partially discretionary	18.950%	19.297%	22.244%	22.536%
Other	0.324%	0.324%	0.373%	0.373%
Fully and partially discretionary	33.180%	34.986%	40.464%	40.895%
Total Allan Gray Group and RMB Group	27.375%	27.959%	35.363%	35.844%
Fully discretionary	8.952%	9.535%	14.145%	14.626%
Partially discretionary	18.099%	18.099%	20.845%	20.845%
Other	0.324%	0.324%	0.373%	0.373%
Fully and partially discretionary	27.051%	27.635%	34.990%	35.471%
Total Allan Gray (excl Orbis) and RMB Corp Finance	25.965%	26.513%	33.668%	34.169%
Fully discretionary	7.542%	8.090%	12.450%	12.951%
Partially discretionary	18.099%	18.099%	20.845%	20.845%
Other	0.324%	0.324%	0.373%	0.373%
Fully and partially discretionary	25.641%	26.189%	33.295%	33.796%
Total Allan Gray Group, IAM and SIM	33.503%	35.310%	40.837%	41.268%
Fully discretionary	14.229%	15.689%	18.220%	18.360%
Partially discretionary	18.950%	19.297%	22.244%	22.536%
Other	0.324%	0.324%	0.373%	0.373%
Fully and partially discretionary	33.180%	34.986%	40.464%	40.895%
Total Allan Gray (excl Orbis), IAM and SIM	32.638%	34.444%	39.840%	40.272%
Fully discretionary	13.364%	14.823%	17.223%	17.363%
Partially discretionary	18.950%	19.297%	22.244%	22.536%
Other	0.324%	0.324%	0.373%	0.373%
Fully and partially discretionary	32.314%	34.121%	39.467%	39.899%

**% holding based on total Comparex voting shares in issue  
as adjusted for share buy-backs after 13-Feb-02  
as announced to the market**

Total of all asset managers excluding RMB Group	33.503%	35.310%	35.458%	35.832%
Fully discretionary	14.229%	15.689%	15.820%	15.941%
Partially discretionary	18.950%	19.297%	19.314%	19.567%
Other	0.324%	0.324%	0.324%	0.324%
Fully and partially discretionary	33.180%	34.986%	35.134%	35.508%
Total Allan Gray Group and RMB Group	27.375%	27.959%	30.705%	31.122%
Fully discretionary	8.952%	9.535%	12.282%	12.699%
Partially discretionary	18.099%	18.099%	18.099%	18.099%
Other	0.324%	0.324%	0.324%	0.324%
Fully and partially discretionary	27.051%	27.635%	30.381%	30.799%
Total Allan Gray (excl Orbis) and RMB Corp Finance	25.965%	26.513%	29.233%	29.668%
Fully discretionary	7.542%	8.090%	10.810%	11.245%
Partially discretionary	18.099%	18.099%	18.099%	18.099%
Other	0.324%	0.324%	0.324%	0.324%
Fully and partially discretionary	25.641%	26.189%	28.910%	29.344%
Total Allan Gray Group, IAM and SIM	33.503%	35.310%	35.458%	35.832%
Fully discretionary	14.229%	15.689%	15.820%	15.941%
Partially discretionary	18.950%	19.297%	19.314%	19.567%
Other	0.324%	0.324%	0.324%	0.324%
Fully and partially discretionary	33.180%	34.986%	35.134%	35.508%
Total Allan Gray (excl Orbis), IAM and SIM	32.638%	34.444%	34.592%	34.967%
Fully discretionary	13.364%	14.823%	14.954%	15.076%
Partially discretionary	18.950%	19.297%	19.314%	19.567%
Other	0.324%	0.324%	0.324%	0.324%
Fully and partially discretionary	32.314%	34.121%	34.269%	34.643%

## **ANNEXURE B**

### **Relevant Extract from an Allan Gray Partially Discretionary Mandate**

“whilst it is recorded and agreed that the right to vote any of the securities held by in the Client’s portfolio remains and rests at all times with the Client as the beneficial and/or registered owner of such securities, the Portfolio Manager may nevertheless, as the Client’s agent, in writing directly advise and request the Custodian Bank as registered owner of any such security to, on behalf of the Client, issue a suitable proxy for purposes of attending, speaking at and/or voting at any meeting of the holders of such securities in respect of matters that may, directly or indirectly, have an effect on the valuation of the securities concerned. Should the Portfolio Manager address such a request to the Custodian Bank, it shall copy the Client with its written request to the Custodian Bank and the Client may, at any time, up to and including at the meeting, in writing, addressed to the Portfolio Manager, the Custodian Bank and the company concerned, revoke any proxy issued as a result of the Portfolio Manager’s actions. In advising on and requesting the issue of proxies, the Portfolio Manager shall at all times only act in the Client’s best interest, that is, in furtherance of what the Portfolio Manager believes in good faith to be the Client’s best interest as an investor in the securities concerned.

It is further recorded and agreed that other than in respect of matters of which the Portfolio Manager advises the Client as set out in this clause, the Client specifically elects not to be informed of every matter in respect of which it would be entitled to vote as the beneficial and/or registered owner of securities held in its portfolio.”