

Being: SPX Guidance Note

For: Ease of Compliance Listing

Last Updated: 20th May 2021

INTRODUCTION

A Company may apply for the listing of its Securities on SPX by Public Offering or Compliance Listing. This Guidance Note complements the SPX Listing Rules and must always be read in conjunction to avoid any form of ambiguity.

Compliance Listing

Under the compliance listing method, a Company that meets all the listing requirements at the time of making the application may apply for listing its securities without making a public offering.

Application Process

Each application for Listing shall consist of the following:

- i. One (1) electronic copy of a completed and duly executed Listing Application and Agreement – Annexure A;
- ii. One (1) electronic copy of a completed and duly executed Declaration from the Investment Adviser – Annexure B;
- iii. Supporting Documents listed in Rule 26; and
- iv. Appropriate fees referred to in Annexure R.

N.b: A Company must apply for listing with SPX within twenty eight (28) days of the issue date of Registered Prospectus or Registered Offer Document.

Supporting Documents Required (Rule 26)

A Company applying for listing must submit the following to SPX as applicable:

- i. Certified copy of its certificate of incorporation or equivalent document if the Company is formed and registered in Fiji. If, however, the Company is not registered in Fiji, certified copy of its certificate of its registration under the relevant legislation of its country where it is registered;
- ii. in the case of a Company seeking listing through a compliance listing method, one (1) electronic copy of the draft Information Memorandum. The draft Information Memorandum shall be provided to SPX at the same time as it is lodged with the Reserve Bank;

- iii. in case of Debt Security, a draft of the trust deed, agency deed or other instrument securing or constituting the Debt Security;
- iv. an updated copy of the Articles of Association of the Company where requirements applicable to a Listed Entity is included;
- v. a current list of Company's shareholders and debenture holders (if applicable), showing the individual holdings (number of shares and % of holding) of each class of shares/debentures (if applicable) issued and fully paid;
- vi. a current list of Company's shareholders with break-up of public and non-public shareholding. Refer Rule 18 for explanation regarding security holdings considered as public and non-public;
- vii. audited financial statements for the last three (3) full financial years;
- viii. a copy of the appropriate licence, should one be required under the Companies Act 2015, or any other Act, in relation to its line of business;
- ix. financial statements which have been audited for a Financial Year which has ended within six (6) months of the issue date of the Prospectus;
- x. a copy of every Prospectus or Offer document, Information Memorandum, Statement in lieu of Prospectus or other document of offer by whatever name called issued by the Company or filed by it with the Registrar of Companies and the Reserve Bank in the last five (5) years, together with a certified copy of every document filed with the Prospectus, Offer document, Information Memorandum Statement in lieu of Prospectus or other document of offer. Where it is impractical to send any such documents the Company must state where such documents may be inspected;
- xi. confirmation of Company's status under the Exchange Control Act (Cap 211) with regard to foreign ownership and provision of foreign investment registration certificate issued to the Company by Investment Fiji; and
- xii. any other document or information requested by SPX to demonstrate that the Company applying for listing meets the listing requirements.

Prospectus, Offer Document and Information Memorandum

1. A Company seeking to sell or otherwise offer Securities shall only make such an offer by issuing a Prospectus unless:
 - i. The offer to Securities is made exclusively to existing members of the Company as per Rule 31, in which case the offer may be made by an Offer Document in lieu of a Prospectus; or
 - ii. The Company complies with requirements stated under Section 283(3) or 283(4) of the Companies Act 2015.
2. A Company offering Securities that intends to apply to be listed on SPX must provide the SPX any Prospectus or Offer Document that should comply with the minimum content requirements stipulated under Schedule 3 and Schedule 4 respectively of the Companies Act 2015.
3. A Company making an offer of Security without a Prospectus or Offer Document in accordance with Section 283(3) or Section 283(4) of the Companies Act 2015, that intends to apply to be listed on SPX must share with SPX all necessary documentation, including:
 - i. The maximum number of Securities being issued;

- ii. The terms of the Securities;
 - iii. The issue price of the security, whether a minimum price or fixed price;
 - iv. The terms of the offer, including the minimum amount payable upon acceptance of the offer by a person to whom the offer is made;
 - v. If offered in accordance with Section 283(3)(c), indication of the holder of a Securities Industry License through whom the offer is made;
 - vi. If offered in accordance with Section 283(3)(c), a list of all investors who accepted the offer and copies of these investors' certificates under Section 283(3)(c); and
 - vii. Any other information requested by SPX.
4. A Company shall make true, fair and adequate disclosure in the Prospectus or Offer Document in respect of new or further issue of Securities
5. A Company seeking to list securities with SPX through compliance listing method must provide SPX with an Information Memorandum that should provide information and details specified by SPX and/or Reserve Bank. An Information Memorandum shall generally require the company to provide information relating to company details, details of offer, information about directors, auditors etc., financial information and reports or any other information required, in the prescribed format. SPX shall issue guidance note to explain the compliance listing method and requirements of an Information Memorandum.

Application money to be held in trust

1. If a Company offers Securities for issue or sale under a Prospectus or Offer Document, the Company must hold in trust in a separate bank account maintained for this purpose all application money received from person(s) applying for Securities under the Prospectus or Offer Document and all other money paid by them on account of the Securities before they are issued or transferred, in accordance with Section 288 of Companies Act 2015.
2. If a Company makes an offer for issue or sale of Securities without a Prospectus or Offer Document pursuant to Section 283(3) or Section 283(4) of the Act, the Company must hold in trust all application money received from person(s) applying for Securities.
3. If it is not intended that the Company making the offer will be listed or the Company is not able to meet the minimum subscription requirement, the Company must return the application money to its applicant(s), as soon as practicable.
4. In accordance with Section 288(3) of the Act, any application money received from Securities offered by the Company under a Registered Prospectus or Offer document must be returned to applicant(s) if:
 - i. application for listing on SPX is not made within twenty eight (28) days of issue date of Registered Prospectus or Registered Offer document; or
 - ii. the Company making the offer is not Listed and/or the Securities offered by the Company under the Registered Prospectus or Offer Document are not accepted for listing by SPX within three (3) months of the issue date of the Registered Prospectus or Registered Offer Document.

Registration of Prospectus or Offer Document

1. A Company offering Securities for issue or sale under a Prospectus or Offer Document shall, after registering the Prospectus or Offer Document with the Reserve Bank and receiving a certificate of that registration, lodge the Registered Prospectus or Offer Document and a copy of the certificate from the Reserve Bank, with the SPX.
2. A Company applying for listing must make an application for listing to SPX within twenty eight (28) days from the issue date of Registered Prospectus or Registered Offer Document
3. A lodged and registered Prospectus or Offer Document may not be amended as per Section 292 of the Companies Act 2015.
4. Only a Registered Prospectus or Offer Document can be issued for public subscription.
5. A Registered Prospectus or Registered Offer Document is only valid for twelve (12) months from its date of issue as per Section 287 of the Companies Act 2015.
6. The requirements of this Rule shall apply to an Information Memorandum in such manner and extent as specified in SPX's guidance note issued in this behalf.

Guideline Review

This guideline must be reviewed every two years from the guideline implementation date or earlier if required.

Guideline Implementation

This guideline is implemented and effective from 15th April, 2019.

