



Notes from the Analytics Acacia Product Scoping Meeting: Monday 27 October 2014

Members present: Warwick Langebrink; Alison Hind; Thomas Cutten; Nicole Krimm; Brenda Lambrick; Peter Dreyer; John Eckstein; Bianca Dippenaar

1. Nature of the Product and Underlying Assets

- Redeemable cumulative preference shares combined with a PUT Option or Guarantee are unlisted fixed income investments that provide an investment with capital certainty and a Prime – linked dividend payment, guaranteed by a Big 4 bank. No market risk exists for investors in these instruments because they are redeemable and/or puttable at par.
- Exposure to such preference shares can now be obtained by investors either through a Collective Investment Scheme (e.g. SAIF) or Trust (e.g. Grindrod), or a direct preference share subscription agreement.
- Acacia's interaction with the CIS is very simple. Acacia will issue redeemable cumulative preference shares with tenor of more than 3 years to the CIS. These preference shares will carry an investment grade credit rating (corresponding to the Put and collateralization offered by BIG 4 Bank credit).
- The preference shares comply with section 8E and 8EA of the Income Tax Act and the Bank can write a Put / Pledge to the CIS in terms of which the CIS can put the preference shares to the bank in return for cash. The preference share terms will be substantially similar to those on offer from the other preference share issuers in the market.

2. Differentiating Factors:

- The differentiating factors of this new fund from the other Analytics multi asset income fund are:
 - i. The investment objectives
 - ii. The composition of the portfolio being entirely operational cumulative redeemable preference shares
 - iii. The presence of constant pricing
 - iv. The credit risk of the offering is limited to Big 4 bank risk and SA government risk only
 - v. That there is monthly or possibly daily liquidity on the preference shares
 - vi. That the preference shares are cumulative so if they make reference to a return and if that return is not achieved and there is a requirement to make good the return (this has never happened in past Acacia transactions) the return will still be paid
 - vii. The dividends are local dividends and the fund does not invest into securities from outside of South Africa.

3. What is the source of these preference shares:

- In concluding previous sizable transactions, Acacia accumulated distributable reserves which have been audited and tax assessments have been submitted and obtained ("Accumulated Reserves available for distribution"). Acacia is utilizing these distributable reserves to distribute preference share dividends. (refer Annexure A)
- For the STANLIB transaction, we used approximately 1/8 of capacity, so Acacia International Limited ("AIL") has existing dividend reserves which we are legally entitled to distribute. These are issued off the AIL balance sheet (Refer Annexure A). There are sufficient reserves to fund 100% of the issue required for the CIS (R3.2bn of dividend capacity).
- Acacia has sign off from ENS to ensure that the preference shares we are issuing are compliant with all relevant and current legislation.



- The funds raised from the preference share issue is applied into companies that meet the definition of an "Operating Company". The preference share proceeds will be applied to acquire equity in an operating company (including listed companies), or to re-finance same. The preference shares issued will be applied for operational purposes and will not be classified as either hybrid equity instruments or third party backed shares per section 8E and 8EA respectively.
- In 2011 -2012, retail dividend income funds were affected by the uncertainty and subsequent changes in section 8E and 8EA. These changes were implemented to ensure that dividends generated by preference shares deemed to be a "Hybrid Equity Instruments" or "Third Party Backed Shares" per Section 8E and 8EA respectively were taxed as revenue and not dividends.

4. Summary of Section 8E and 8EA

- Section 8E - Hybrid Equity Instruments (anti-avoidance section) has now been expanded to include any share secured by a 'financial instrument' - 'for a qualifying purpose'. Any preference share where; the share is directly or indirectly secured by financial instrument (as defined: the arrangement must be interest-bearing or determined with respect to a rate of interest); or is subject to an arrangement in terms of which a 'financial instrument' may not be disposed of - UNLESS THAT SHARE WAS ISSUED FOR A 'QUALIFYING PURPOSE' - A qualifying purpose is the acquisition of an equity share in an 'operating company'. We are issuing preference shares to acquire shares in an operating company as defined.
- Section 8EA - Third Party Backed Shares - contains 4 exclusions and once a preference share issue falls within one of the 4 exclusions there are a further three exclusions to comply with. A "third-party backed share" is defined as: any share if the dividend is based on a rate of interest in respect of which an enforcement right is exercisable by the holder or an enforcement obligation is enforceable as a result of any amount of any specified dividend, foreign dividend, return of capital or foreign return of capital attributable to that share not being received by or accruing to the person holding that share. Exclusions where the issuer used the issue proceeds to:
 - i. Acquire an equity share in an 'operating company';
 - ii. Indirectly acquire an equity share in an operating company by means of the acquisition of any other share in any other company;
 - iii. Settle any debt and interest incurred to acquire equity shares in an operating company; or
 - iv. To acquire any other share issued by that issuer.
- We comply with (i).
- Refer ENS legal opinion Annexure B.

5. FSB comfort with the Guarantee:

- Will the FSB be comfortable with the PUT on SBSA or a pledge from ABSA custodial services as a conduit referencing bank?
- The CIS need the diversification of all 4 Banks in the CIS and therefore the PUT may not be ideal. As such, it was decided that the Pledge from ABSA custodial Services will be the preferred collateral mechanism.
- Each of the 4 blocks will be collateralised by one Bank. See Board Notice 90 below.
- Please see example in workflow document of ABSA pledge, Annexure C.

6. Board Notice 90

- Analytics has clarified that the preference share issue would need to comply with Board Notice 90 of the Collective Investment Schemes Act, 2002. For this reason four separate



preference share issuing vehicles will be established, each of which will reference one of the big four South African banks. This will make the calculation of the credit exposures simpler as the preference shares will be credit linked to each of the big four banks and will have the appropriate reference number and credit reference.

- Analytics has confirmed and a review of Board Notice 90 has also confirmed that by having 4 preference share issuing vehicles and provided that the aggregate of the issues by each entity are less than 30% of the total we will be able to ensure that the preference share issue will comply with Board Notice 90 of the Collective Investment Schemes Act.
- The proposed preference share investment does not seek to target retirement funds. For this reason it does not need to comply with regulation 28 of the Pension Funds Act, 1956. Regulation 28 limits the amount and the extent to which a retirement fund may invest in a particular asset. Because the proposed preference share investment is targeted at investors' assets falling outside of their retirement fund this is not applicable.
- No 5th block is applicable for this CIS.

7. What if, for some reason, Acacia fails to distribute dividends or redeem?

- Acacia controls 4 preference share issuing SPVs for Analytics Consulting. The underlying income generating asset is a stream of dividends that have been audited and sit on the AIL balance sheet. The nature of the actual asset and/or collateral against that asset is an entitlement via the pledge of the NCDs from ABSA Custodial Services. NCDs are JIBAR linked and don't have capital risk, they have a constant capital value and are JIBAR linked notes. NCDs are highly liquid interbank instruments, very low bid-offer spreads and not subject to capital appreciation or depreciation. It is therefore not similar to a linked policy that is subject to write down of asset value. Acacia has never had capital write off, dividend compromise and all security has been 100% backed.
- There is a AA credit rating issued on the paper. Essentially AIL is the investor of the NCDs but they are subject to a security pledge. NCD is a bearer instrument and promise to pay to holder. There is no deviation / no right to write it down. There are no conditions. If there were, there would not be no AA credit rating on paper. There is a pass through of the credit from that Big 4 bank risk to our paper because of this— it is a pure conduit and there are no leakages fees or encumbrances which could cause cash flows leakage either in normal course of business or on liquidation. Adv Farlam validated this for the STANLIB transaction. He has confirmed that his willingness to work with Acacia on this transaction and reconfirm his earlier opinion regarding the bankruptcy remoteness, access to collateral and credit issues that were positively addressed in his earlier opinion. Acacia has scheduled a meeting with him for next week Wednesday (the 5th November) to brief him.
- Please see Annexure D for NCD example.
- Please see Annexure E for Credit Rating example.

8. Safeguarding the unit holders

- The preference shares held by the nominee company on behalf of the investor in terms of the investment mandate signed between the investor and the nominee company are capital guaranteed, as are the dividends guaranteed.
- This guarantee exists by virtue of the existence of a pledge of the collateralising instruments held in the ABSA custodial services custody account in favour of the investor. This means that should the investor not have received their dividends timeously or they do not receive the capital value of their investment as well as any accrued dividends, the investor will be able to look towards the ABSA custodial services custody account to ensure performance.
- The investor will have sight of the custody account and will be provided with monthly custody account statements showing the existence of a pledge over the collateralising instruments in favour of the investor.



- The value of the collateralising instruments will at all times exceed the capital value of the investor's investment as well as the accrued dividend. It is for this reason as well as the existence of a pledge over the assets in favour of the investor that the investor and the investors' representatives can take comfort in the knowledge that at ALL times there are sufficient collateralising assets to cover the value of the capital amount of the preference share investment as well as the accrued dividend.
- Absa custodial services will not be able to act on buy and sell orders relating to the collateral instruments held in the Absa custodial services custody account for the investors' behalf without authorisation from the investors' representatives. This will come in the form of a release of pledge confirmation.
- It is important to note that there is transparency at all times as to the collateralising instruments held, and that the collateralising instruments cannot be traded at ANY time without express written authorisation from the investors' representatives.
- ENS and Advocate Farlam have confirmed the above in legal opinions relating to prior preference share issues of a similar nature, and have undertaken to provide a revised updated opinion for this transaction. Conversations with Advocate Farlam have indicated that given the above he will be able to issue an opinion confirming our understanding.

9. How does Acacia trade the preference shares?

- The investor deposits money into the CIS. Acacia will issue preference shares in denominations of not less than R1million at a time to the CIS when the cash has built up to R1m. Acacia manages liquidity as finely as it can – in denominations of R1m. Acacia subscribes for preference shares from Acacia International in denominations of R1m at a time – which match those issued by Acacia to CIS.. Analytics has indicated that they will only launch a fund when they have accumulated R50m. Immediate realisation of underlying collateral is possible. Settlement happens at month end. Dividend distribution dates are typically monthly, payable at month end. Question is not about distribution but how it is coming in.
- Acacia does not act as either an investment manager or as asset manager. Acacia is deep back office. Analytics will determine as a team both how much liquidity is needed and instruction will be sent to Acacia.
- There will be direct matching, trade confirmation and collateral confirmation on same day basis on each pref issue by Acacia on Investors entering into the investment .

10. Pricing of the preference shares

- As with the security aspects of this proposed preference share issue, the pricing of the preference shares is 100% transparent. All counterparties will have access to the pricing methodology once it has been agreed to by the various affected parties.
- The pricing formula is separately modelled by Warwick Langebrink and separately by Thomas Cutten and cross-checked. The pricing is then cross-checked with Standard bank and also cross-checked to the CIS' / Investors representatives (if required).
- The pricing formula makes use of standardised pricing conventions (e.g. daily Prime-Rate interest accruals or 365 day JIBAR interest rate conventions) and easily ascertainable and corroborated market benchmarks (such as JIBAR and the prime rate of interest) which are easily ascertained and validated, confirmed.
- Upon implementation the only item to be agreed upon between the parties is the percentage of the particular reference rate (JIBAR/Prime) that is to be paid on the preference share. Pricing determinations are done with reference to other issuers preference share rates quoted, available elsewhere and with reference to: the expected term of the investment, the liquidity needs of the investor, the investment time horizon and the volumes or size of the investment. Naturally the longer, larger, and less volatile the liquidity needs of the investor's investment the better the rate that we will be able to offer the investor.



- The pricing formula will be documented in the preference share subscription agreement. The terms of the subscription agreement will be like the attached (reference Annexure F). This preference share subscription agreement will be used to compose a standardised pricing spreadsheet which will be used to calculate the monthly dividend distribution and realisation amount upon realisation of the investment. Before any amounts are distributed the calculation will be completed in terms of this spreadsheet which will be passed to the investors' representatives (Analytics) for their sign off.
- The pricing of the preference shares is done at initiation of the transaction and is "locked down" in terms of the relevant preference share subscription agreement. Once the pricing has been agreed and documented it cannot be altered.
- In addition to pricing in term of the preference share subscription agreement the investor, his representatives and Acacia will be able to cross compare the return on the underlying vs the return on the preference share and have a look at the net spread and any changes in that ratio would then raise red flags. Furthermore, Acacia endeavours to offer the highest yield on these preference shares and consequently will make reference to investment alternatives available elsewhere to ensure that they are always the best rates available. Acacia will endeavour to have constant pricing relative to the market.

11. Pricing of the CIS

- Recent ABIL developments caused the FSB to review constant pricing in the fixed interest categories. As we understand, constant pricing was offered to investors, but longer-dated low credit quality, duration mis-matched assets were used to hedge the constant price offered to Investors. FSB has now implemented operational requirements MMFs.
- The benefit of constant price for investors is that Investors never suffer drawdowns. This is directly comparable to a money market instrument. SAIF targets a constant price.
- Current regulatory environment allows for constant pricing if dividends are declared daily, and daily MTM pricing is available. Dividends will be accrued daily and distributed at month end.
- Acacia will generate daily valuations and distribute same. NCD instruments do not suffer capital volatility and fluctuations. NCD only relevant from pledge portfolio but the asset in the portfolio is the pref.
- Analytics to ensure that there is no impact on the administrators (price takers) and full testing will be done prior launch.

12. Preference share vehicles

- The preference share issuing vehicle is a "RF" company and limited in terms of its Memorandum of Incorporation ("MOI") from entering into any transactions other than those prescribed in terms of its MOI which are very specifically limited to those functions required as an issuer of capital secured cumulative redeemable operational preference shares.
- This means that the preference share issuing vehicle will be limited to subscribing for dividend yielding investments in the share capital in other specified companies.
- The MOI of the preference share issuing company specifies the counterparties that the company may deal with and the agreements that it may enter into in the furtherance of its preference share issuing activities.
- Any extraneous transactions outside the MOI are invalid ("Ultra vires"), and directors are personally liable for losses incurred in respect of transactions outside the MOI
- Consequently the assets of the preference share issuing vehicle will comprise entirely of redeemable preference shares in AIL as the revenue generating assets.
- The preference share issuing vehicle will therefore act as a conduit receiving dividends from certain specified dividend paying counterparties and paying them on to the investor via the nominee company.



13. Distribution

- Important to show better pricing to attract AUM
- Analytics primary motivation to launch this CIS is to provide a competitive alternative to SAIF for NFB of R200m. They would also present the CIS to their Ci partners.
- Why Acacia wants to launch the CIS as conduit for business.
 - i. As legislation has been finalised surrounding the tax treatment of dividends, demand for preference share returns have increased. This is particularly evident in flows from Gryphon and SAIF where there is a clear uptick in investments in mid-2014. IN addition, maturing policies are seeking an alternative investment destination based on the impending legislative changes to the life policies in 2016. (“Assessed Tax Loss ring-fencing of each of the 4 Life funds”)
 - ii. Does Acacia have a contact base of businesses that we would target to sell this? Corporates may prefer a collective-type arrangement where a 2 page confirmation letter is provided as opposed to a 100 page preference share subscription agreement and senior counsel opinions. With the CIS we have new and easier option available for our Corporate client base. This would compete on an equal basis with Grindrod, Nedbank and other issuers who can offer a collective solutions.
- For a successful product, Analytics must target R1bn in 12 months. Agreed set target is R1bn in 12 months and R500m thereafter per year
- Annual management fee will be key to the distribution in the corporate distribution and take up. Analytics will assist us in marketing the CIS by building up the case for the collective.
- ASISA Category is Multi Asset Income Category. (SAIF). In this category it means we can invest in prefs.

14. CIS Definition and Category

- Multi Asset Income Category as defined by ASISA
- Ci already has a fund in the Multi Asset Category fund - Diversified Income Fund. The application must clearly differentiate this CIS from the Diversified Income Fund in the multi asset income category. It will state that the composition of the portfolio invests solely in redeemable cumulative pref shares.
- FSB must know exactly what is being invested.
- Retail fund not institutional due to tax payer client base
- Fund will need a cash / liquidity buffer for churn on the CIS. Cash component is dilutive on the yield refer SAIF component of interest.
- Average deal size NFB and age analyse that book. Determine how sticky it is.

15. CIS Name Proposal

- IP Optimum Income Fund
- SAIF is Alternative Income
- Optimum Income preferred (Used by IP Manco/ Coronation)
- Other ideas Alpha Income Fund; Ultimate Income, Definitive Income Fund.

16. CIS Benchmark

- SAIF is after tax return on SIM MMF at individual tax rate at 40%



- 90% of 3 month JIBAR
- STEFi reference
- Proposed after tax return on average of the MMF sector at individual tax rate at 40%
- Accumulation of distributed income daily for monthly distribution

17. Costing of the CIS

- Class A for NFB
- TER:
 - i. Ci 20bps
 - ii. Analytics Consulting 20bps
 - iii. Ci Partner 40bps
- TOTAL 80bps Annual Management Fee plus VAT.
- SAIF annual management fee is 1.15%
- Set up Acacia distribution according to CAT 1 license as an advisor and get a trail of 40bps

18. Analytics Consulting

- Application, supplemental, feasibility and motivation for CIS
- All legal and tax opinions to be reviewed
- Discussion with TVM.
- Approval from trustee
- Approval from all shareholders

27 October 2014



Annexure A

AIL Balance Sheet



Annexure B

ENS Legal Opinion



ENSAfrica

150 West Street
Sandown Sandton Johannesburg 2196
P O Box 783347 Sandton South Africa 2146
docex 152 Randburg
tel +2711 269 7600 fax +2711 269 7899
info@ENSAfrica.com ENSAfrica.com

Acacia Capital Markets SA (Pty) Ltd
Ground Floor Strate Building
9 Fricker Road, Illovo
Johannesburg

by email: warwickL@acacia.co.za

Dear Sirs,

PREFERENCE SHARE ISSUE

1. We have been requested by Acacia Capital Markets SA (Pty) Ltd ("**Acacia**") to provide an update on our procedures and opinion with respect to the various income tax and other legislative compliance aspects of the preference share investment structure proposed by Acacia ("**the Proposed Transaction**").
2. This letter serves to confirm that Edward Nathan Sonnenbergs ("**ENSAfrica**") has a long-standing relationship with Acacia and its management team, having acted as Acacia's primary legal counsel. ENSAfrica has a thorough understanding of the Acacia business, and is involved in advising on most of its significant transactions. Acacia engages ENSAfrica as an external legal risk advisor in these transactions, and Acacia frequently engages ENSAfrica in assisting in formulating Acacia strategy and long-term strategic Acacia business decisions.
3. As part of Acacia's internal deal implementation process, we understand that Acacia will engage ENSAfrica to analyse the Proposed Transaction and issue the required opinions and recommendations. To this end ENSAfrica confirms that it will issue a positive opinion provided the Proposed Transaction, to the best of ENSAfrica's knowledge and understanding of the transaction, is compliant with the prevailing legislative provisions. ENSAfrica will not support or recommend a transaction which, in ENSAfrica's view, is not in accordance with current legislation nor expose Acacia or any of its investors or counterparties to risks disproportionate to those expected from similar financial products or issuances in the market.
4. We confirm that, on an annual basis, ENSAfrica signs an external legal compliance report addressed to Acacia's external auditors, Grant Thornton, advising Grant Thornton of any legal claims that may be pending against Acacia in respect of which ENSAfrica acts as legal counsel.

Stephan Spamer our ref
Warwick Langebrink your ref
23 September 2014

directors
executives
and
consultants

M.M. Katz (chairman) P.C. Faber (chief executive) M. Mgudlwa (deputy chief executive) K. Abarder A. Aguiar R.J. Alcock D.B. Alloway[†] C.J. Atkinson G.C. Badenhorst[†] J. Balkin D. Band F.M. Bassa* C. Becker* A.F. Bembridge A. Bennett L.J. Bilchitz Z.D. Blieden L. Blignaut* J.L. Blumenthal R. Boda J. Brodbeck* T. Buchler C.M. Bull A. Camay* D.H. Carmichael V.O. Chaplin D. Chetty K.H.K. Chiu* L. Christie S. Cohen C.L. Coles P.G.H. Colyn P.H. Cronin[†] B.J. Croome* P.J. Dachs C. Daniels M.S. Darsot J.M. de Hutton R.A. de la Harpe G.E. de Smit P.V. Descroizilles T.M. Desmond M.D.F.D.S. Domingos B. du Plessis* I. du Plessis J.C. du Preez Z. Ebrahim L. Elferink E. Ellis G.A. Erasmus* H. Farrand A.C. Feinstein[†] M.J. Feinstein[†] G.S. Felthun I.P. Fenyane J.B.A. Ferraz J.S.A. Ferraz-Cardoso A.F.M. Ferreira J.R. Flax[†] R.I. Forster R.M. Gad M.J. Garden C. Gelbart P.F.L. Geromont R. Goodman M.W. Gradidge C.L. Green[†] I.D. Gwaunza A. Hanekom* S.E.M. Hanif S.W. Harrison S. Hartley J.T.P. Haydock I.K. Hayes S.B. Hayes L. Helman G.R. Herholdt H.M. Herholdt E. Heystek A.C. Hoeben Prof.D.B. Hutchison[†] A.V. Ismail Prof.A.J. Itzikowitz* D. Joffe E.A. Johnson C.V. Johnson J.C. Jones[†] D. Kamanzi* S. Kassen J. Katz L.C. Katz G.P.J. Kellerman* R.H. Kelly L. Kruger[†] N. Laila D.M. Lambert I.B.W. Lawrence E.S. Le Grange P.A.K. le Roux[†] W.P. le Roux S.C. Lederman A. Lee S.B. Leveltan S.A. Lewis N.D.S. Lopes J.D. Loubser L. Louw D.A. Loxton D.L. MacRobert[†] V. Magubane K.W. Makhubele G.F. Malan K. Markman D.H. Masher M.W. Matlou P.Mbana S.L. Mbatha Y.A. Mendelsohn D.B. Messerschmidt A.T. Meyerov A. Mirnaar Z.A. Mohamed M.D. Molepo C. Morgan M.G. Morrison M.A.C. Murphy H. Murray Chinelli A.J. Myburgh N.A. Napier J.S. Naude* J.S. Nelson* N.H. Nolan A.J.L. Norton C.M. Nluta G. Nyatanyi* M. Nzimande G.J. Oertel J.T. Oosthuizen T.D. Papier M. Parker* B.G. Patterson N. Pillay C.V. Pitman J.P. Pretorius G.W. Reid M.R. Reifarth* P. Reyburn A.D. Richards* T.A. Riley P. Rogers A.G. Rubin R.B. Rudolph J. Rusch L.L. Sanderson C.R. Saven* F.D. Schulz G.C. Scott R.A. Scott H.B. Senekal B.J. Serebro L. Shadrach K.L. Simpson S. Singh N. Smit H.M. Snyckers S.J. Spamer R.T. Stein M.T. Steyn V.L. Stilwell C. Sutherland* A.W. Symington S.P.M. Thouvernot* L. Tibshraeny M.S. Tucker J.M. Valkin V.L. van Copenhagen W.S.B. van der Colff L.M. van der Merwe* C. van Logerenberg G.M. van Niekerk R. van Rensburg J. Viviers G. Vogelmann* S.R. von Schirnding L. Vorster D.A. Wanblad S. Weideman H. Wessels P.A. Winer C.L. Wulfsohn M. Yudaken J.M. Zieff

5. In respect of the Proposed Transaction, we understand that:
- 5.1. The redeemable cumulative preference shares will be operational and investors will either invest directly into the Acacia preference share or into a participatory interest in a trust, depending on investors' investment criteria and liquidity requirements.
 - 5.2. The Acacia vehicle may issue preference shares to a collective investment scheme ("CIS"), to a segregated fund or issue a preference share directly to the investor.
 - 5.3. In the event that Acacia issues to a CIS, the CIS would invest into a combination of assets including:
 - 5.3.1. redeemable cumulative preference shares;
 - 5.3.2. liquid instruments (such as money market funds);
 - 5.3.3. any other securities as allowed by the Collective Investment Schemes Control Act, 2002;
 - 5.3.4. no exposure to non-cumulative or non-redeemable preference shares; and
 - 5.3.5. no fixed rate preference shares.
6. Subject to a final, comprehensive opinion which ENSAfrica will provide in terms of its mandate:
- 6.1. The South African Revenue Service should not successfully invoke the general anti-avoidance rules of the Income Tax Act, 1962, against Acacia or the beneficiaries, as the proposed implementation will not have the effect of avoiding or postponing liability for the payment of tax imposed by the Income Tax Act, 1962.
 - 6.2. Those dividends which accrue and are paid to the holders of the preference shares will retain their character as dividends in the hands of those beneficiaries. Acacia and its beneficiaries will not be liable for capital gains tax.
 - 6.3. The dividends in relation to the preference share shares held by Acacia will not be deemed to be interest received by Acacia, and the dividends distributed by Acacia to investors will also retain their nature as dividends in investor's hands.
 - 6.4. Dividends paid to investors on preference shares issued by Acacia may be subject to dividend withholding tax if the investors do not qualify for an exemption.
 - 6.5. In terms of the implementation, the preference share proceeds will be applied to acquire equity in an operating company (including listed companies), or to re-finance same. The preference shares issued will be applied for operational purposes and will not be subject to the restrictive provisions of sections 8E and 8EA of the Income Tax Act, 1962.
 - 6.6. The investments into Acacia by investors does not constitute "deposit taking" within the context of the Banks Act, 1990.
 - 6.7. The investment structure's activities will not contravene the provisions of the:
 - 6.7.1. the Companies Act, 2008;
 - 6.7.2. the Collective Investment Schemes Control Act, 2002;
 - 6.7.3. the Financial Advisory and Intermediary Services Act, 2002;
 - 6.7.4. the Financial Intelligence Centre Act, 2001;
 - 6.7.5. the Banks Act 1990
 - 6.7.6. sections 8E, 8EA, 25B and Part IIA of Chapter III of the Income Tax Act, 1962;
 - 6.7.7. any other current and available legislation.

Yours sincerely,



Edward Nathan Sonnenbergs Inc.
per: Stephan Spamer / Natalie Napier

Section 8E and 8EA: Do the latest technical corrections address affected parties' initial concerns?

Section 8E and 8EA: Do the latest technical corrections address affected parties' initial concerns?

by [Robert Hare](#)

Recognising that preference share funding is often legitimate, the TLAA also introduces further flexibility similar to the relief offered by section 8EA. If an equity instrument meets both requirements of paragraph (c) that equity instrument may still not be regarded as an HEI depending on what the consideration received by the issuer for the equity instrument is actually used for. Where the consideration for that equity instrument is used to-

- i. *acquire shares (that do not otherwise constitute HEIs) in an operating company outside the same group of companies (signalling further recognition of the potential impact of these provisions on black economic empowerment transactions);*
- ii. *settle any debt or interest thereon, in part or in full, incurred directly or indirectly in acquiring shares in an operating company as in (i) above (i.e. bridge funding); or*
- iii. *acquire or redeem any preference share as defined in section 8EA(1) (see below),*

it will not qualify as an HEI and therefore not be subject to section 8E.

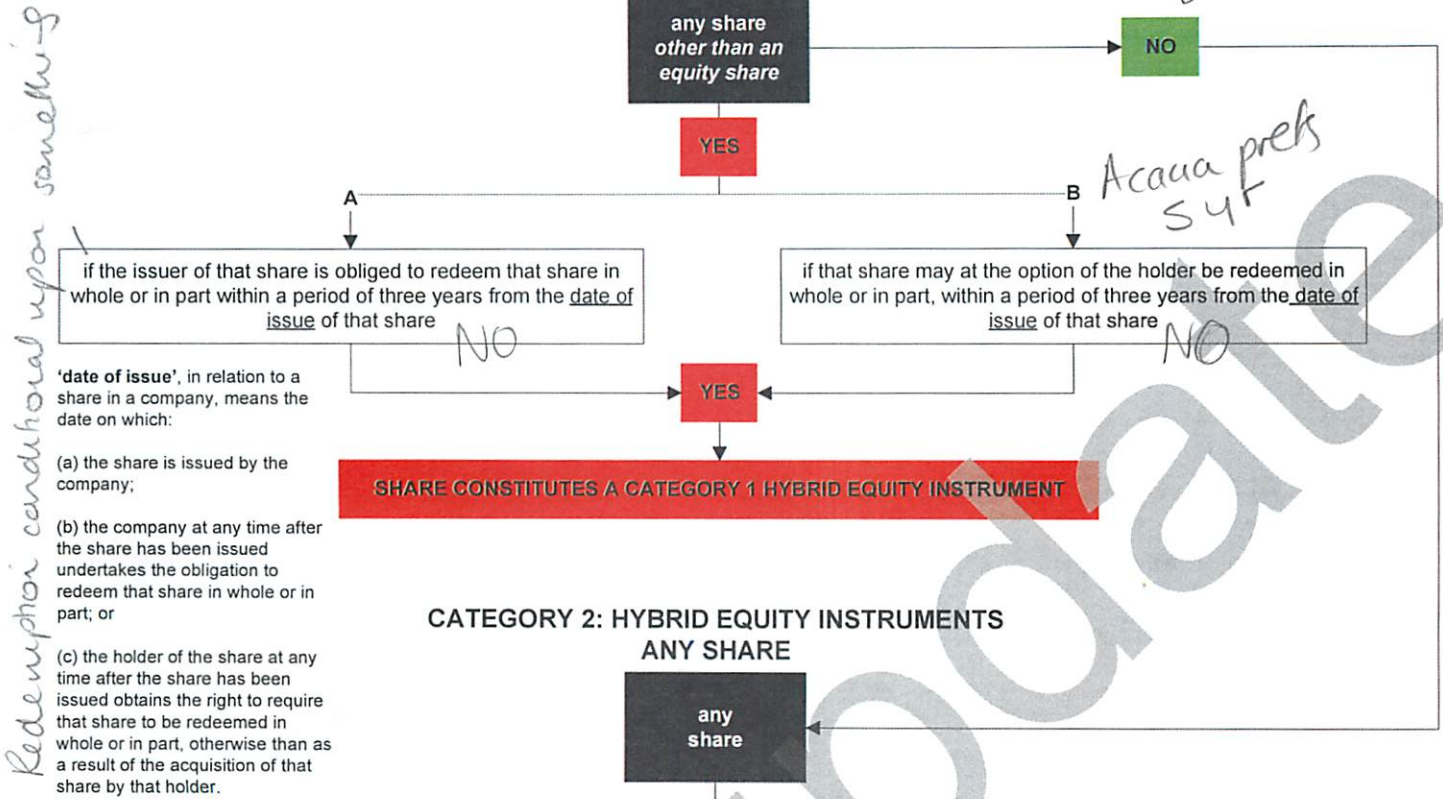
TLAA and the Technical Corrections, is that the consideration for the 'guaranteed' share must somehow relate to the acquisition of equity shares in an active operating company. Under the Technical Corrections, a share will not be a third-party backed share and section 8EA will not apply where the consideration for that share is applied to-

- i. *directly or indirectly acquire equity shares in an operating company outside the same group of companies (this is to prevent artificial cash injections into members of a group of companies);*
- ii. *retire bridge loans used for the purpose of acquiring equity shares in an operating company; or*
- iii. *refinance 'guaranteed' preference shares initially used to finance the acquisition of equity shares in an operating company or to retire bridge loans used raised for the same initial purpose.*

SECTION 8E

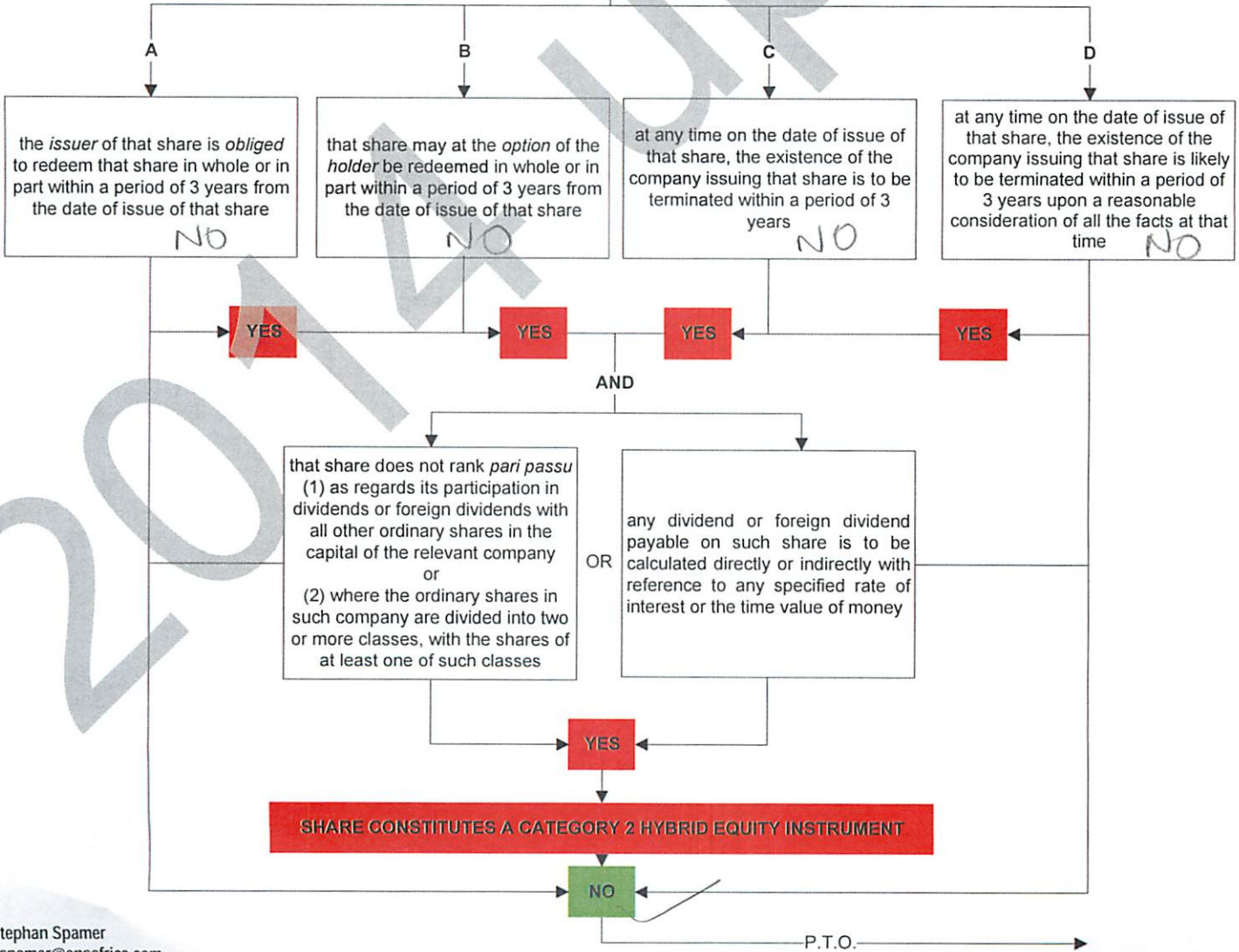
Any dividend or foreign dividend received by or accrued to a person during any year of assessment in respect of a share must be deemed in relation to that person to be an amount of income accrued to that person if that share constitutes a hybrid equity instrument **at any time during that year of assessment**

**CATEGORY 1: HYBRID EQUITY INSTRUMENTS
NON-EQUITY SHARES**



'date of issue', in relation to a share in a company, means the date on which:

- (a) the share is issued by the company;
- (b) the company at any time after the share has been issued undertakes the obligation to redeem that share in whole or in part; or
- (c) the holder of the share at any time after the share has been issued obtains the right to require that share to be redeemed in whole or in part, otherwise than as a result of the acquisition of that share by that holder.



**CATEGORY 3
PREFERENCE SHARE**

any
preference share

preference share: =

(1) share other than an equity share

or

(2) an equity share if an amount of any dividend (or foreign dividend) in respect of such share is based on or determined with reference to:

(a) a specified rate of interest

or

(b) the time value of money

AND

such preference share is secured by a financial instrument

subject to an arrangement in terms of which a financial instrument may not be disposed of

OR

'financial instrument'

(a) any interest-bearing arrangement; or

(b) any financial arrangement based on or determined with reference to a specified rate of interest or the time value of money

NO
NOT A HYBRID EQUITY INSTRUMENT

YES

EXCLUSION FROM CATEGORY 3

in relation to the funds derived from the issue of a preference share, 1 or more of the following purposes must be fulfilled

Qualifying Purpose Test

A

B

C

D

for the purpose of the direct or indirect acquisition of an equity share by any person in an operating company

'operating company' defined as:

a) any company that carries on business continuously, and in the course or furtherance of that business;

- provides goods or services for consideration or
- carries on exploration for natural resources

b) any company that is a controlling group company in relation to a company contemplated in paragraph (a)

c) any company that is a listed company

excluding

other than a direct or indirect acquisition of an equity share from a company that, immediately before that acquisition, formed part of the same group of companies as the person acquiring that equity share

for the purpose of the partial or full settlement by any person of any:

(i) debt incurred for one or more of the following 4 purposes:

(aa) the direct or indirect acquisition of an equity share by any person in an operating company, other than a direct or indirect acquisition of an equity share from a company that, immediately before that acquisition, formed part of the same group of companies as the person acquiring that equity share;

(bb) a direct or indirect acquisition or a redemption contemplated in C;

(cc) the payment of any dividend or foreign dividend as contemplated in D; or

(dd) the partial or full settlement, directly or indirectly, of any debt incurred as contemplated in item (aa), (bb) or (cc);

or

(ii) interest accrued on any debt contemplated in subparagraph (i)

for the purpose of the direct or indirect acquisition by any person or a redemption by any person of any other preference share if:

(i) that other preference share was issued for any "qualifying purpose";

and

(ii) the amount received by or accrued to the issuer of that preference share as consideration for the issue of that preference share does not exceed the amount outstanding in respect of that other preference share, being acquired or redeemed, being the sum of
(1) that amount and
(2) any amount of dividends, foreign dividends or interest accrued in respect of that other preference share

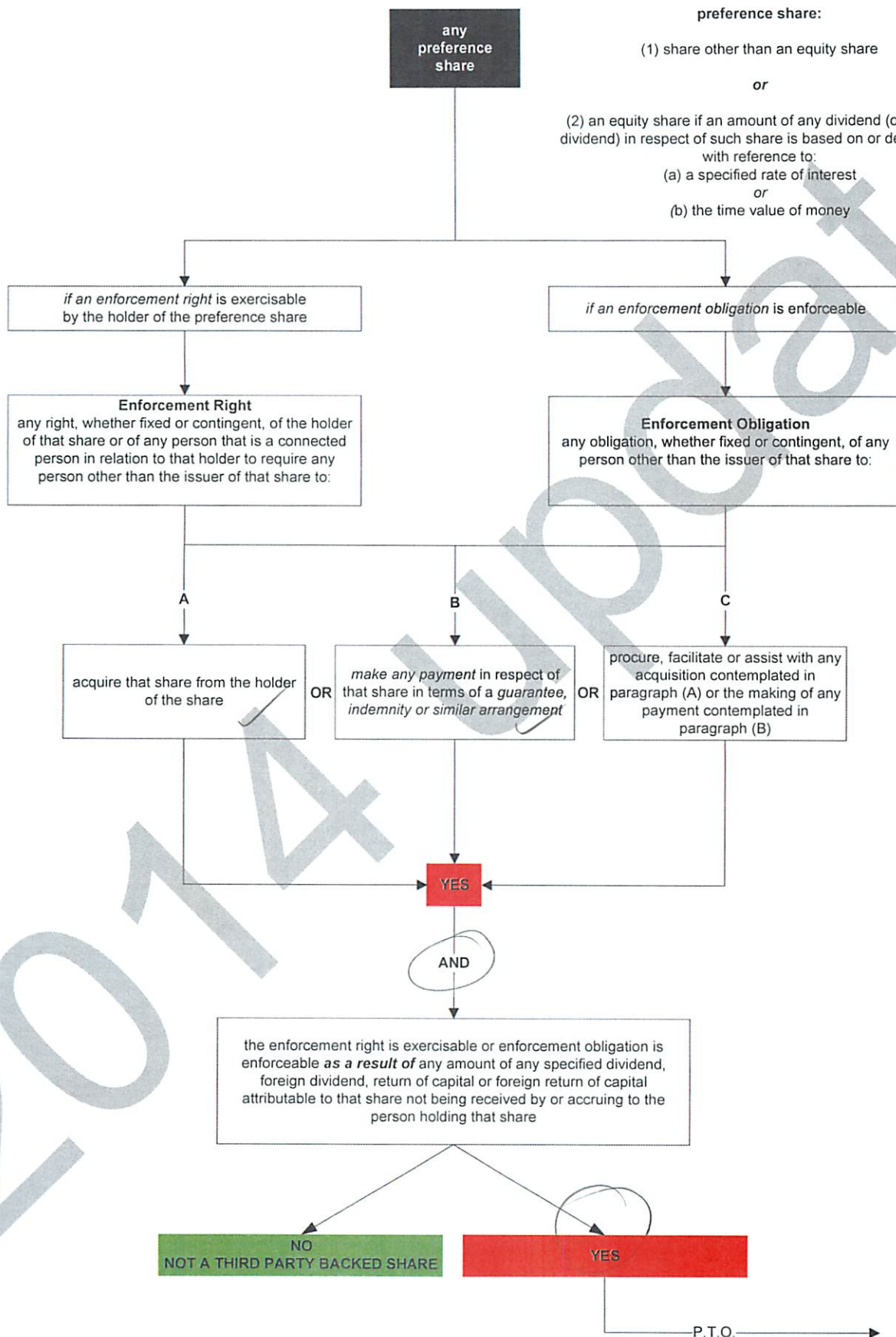
for the purpose of the payment by any person of any dividend or foreign dividend in respect of the other preference share contemplated in C

YES

NOT A HYBRID EQUITY INSTRUMENT

SECTION 8EA

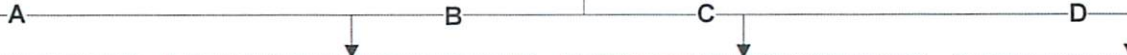
Any dividend or foreign dividend received by or accrued to a person during any year of assessment in respect of a share must be deemed in relation to that person to be an amount of income received by or accrued to that person if that share constitutes a third-party backed share at any time during that year of assessment



EXCLUSION FROM SECTION 8EA

in relation to the application of the funds derived from the issue of a preference share, 1 or more of the following purposes must be fulfilled

Qualifying Purpose Test



for the purpose of the direct or indirect acquisition of an equity share by any person in an operating company

'operating company' defined as:

- a) any company that carries on business continuously, and in the course or furtherance of that business:
 - provides goods or services for consideration or
 - carries on exploration for natural resources
- b) any company that is a controlling group company in relation to a company contemplated in paragraph (a)
- c) any company that is a listed company

excluding

other than a direct or indirect acquisition of an equity share from a company that, immediately before that acquisition, formed part of the same group of companies as the person acquiring that equity share

for the purpose of the partial or full settlement by any person of any:

(i) debt incurred for one or more of the following 4 purposes:

- (aa) the direct or indirect acquisition of an equity share by any person in an operating company, other than a direct or indirect acquisition of an equity share from a company that, immediately before that acquisition, formed part of the same group of companies as the person acquiring that equity share;
- (bb) a direct or indirect acquisition or a redemption contemplated in C;
- (cc) the payment of any dividend or foreign dividend as contemplated in D; or
- (dd) the partial or full settlement, directly or indirectly, of any debt incurred as contemplated in item (aa), (bb) or (cc);

or

(ii) interest accrued on any debt contemplated in subparagraph (i)

for the purpose of the direct or indirect acquisition by any person or a redemption by any person of any other preference share if:

- (i) that other preference share was issued for any "qualifying purpose"; and
- (ii) the amount received by or accrued to the issuer of that preference share as consideration for the issue of that preference share does not exceed the amount outstanding in respect of that other preference share, being acquired or redeemed, being the sum of
 - (1) that amount and
 - (2) any amount of dividends, foreign dividends or interest accrued in respect of that other preference share

for the purpose of the payment by any person of any dividend or foreign dividend in respect of the other preference share contemplated in C

NO
CONSTITUTES A THIRD PARTY BACKED SHARE

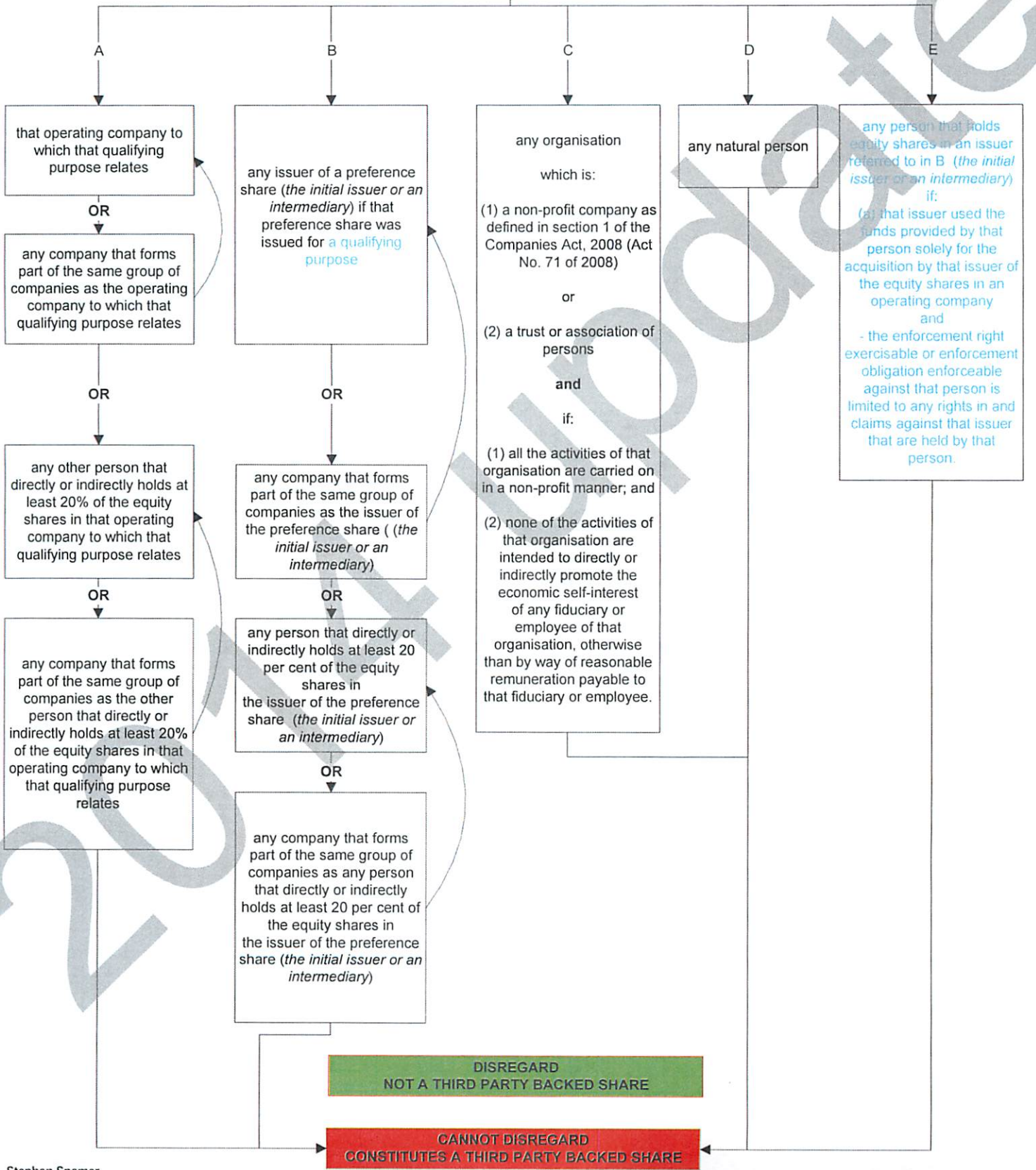
YES

certain specific enforcement rights and obligations can be disregarded in determining whether a third-party backed share exists

P.T.O.

**IF QUALIFYING PURPOSE TEST IS SATISFIED:
DISREGARD THE FOLLOWING ENFORCEMENT RIGHTS / OBLIGATIONS**

no regard must be had to any arrangement in terms of which:
 (A) the holder of that share has an enforcement right in respect of that share and that right is exercisable only against the following persons
 or
 (B) that obligation is enforceable against the following persons



Ex parte:

GLOBAL CREDIT RATING CO. (PTY) LTD

In re:

PROJECT T.

OPINION

Furnished to: R Rudolph / L Sedice
Edward Nathan Sonnenbergs
ENS House, 1 North Wharf Square
Loop Street
Cape Town

NB: This document contains **EXTRACTS** from the original Advocate Farlam Opinion, and paragraphs from the original opinion relating to specific legs of the Stanlib transaction that are not relevant to the Analytics transaction (e.g. secondary pledges with reversionary rights) have been **OMITTED**. The following PDF is therefore **NOT** a complete opinion and was **NOT** specifically procured for the Analytics transaction. We are briefing Adv Farlam again on Wednesday 5 November, and we are reasonably certain, confident that he will reach the same (or substantially similar) conclusions with regard to bankruptcy remoteness, regulatory compliance, operation of security arrangements, and that his legal opinion on efficacy of the legal safeguards implemented to ensure that the flow of funds to Investor will not be interrupted or diluted in any way will remain positive.

P B J FARLAM

Chambers
Cape Town
2 September 2009

INTRODUCTION

1. Consultant is GLOBAL CREDIT RATING CO. (PTY) LTD ("Consultant").
2. Consultant seeks advice on various issues relating to the transactions referred to in paragraph 3 below, collectively referred to as "Project T.". Given the extensive opinions already prepared by my instructing attorneys ("ENS") in relation to the matter- opinions to which I shall refer in more detail below – I shall furnish my advice in this opinion without much elaboration. If Consultant requires further details in respect of any answer, those can be provided in a separate document.
3. Project T. consists of a number of agreements and arrangements between various entities, including ABSA Bank Ltd ("ABSA"), S. Collective Investments Ltd ("S."), Acacia Capital Markets SA (Pty) Limited ("Acacia"), and various special purpose vehicles ("SPVs"). The transactions are evidently all intended to facilitate the successful and secure operation of the S. .. Fund (the "Fund", or the "Investor"), a collective investment scheme in securities (registered as such in terms of the Collective Investment Schemes Control Act, 45 of 2002),. In broad outline, the main features of the transaction involve:
 - 3.1 ABSA, as trustee for the Fund (and represented by S.), investing in notes of four special purpose vehicles, referred to as AcaciaSL 1 Investments (Pty) Ltd ("Acacia .. 1"), AcaciaSL 2 Investments (Pty) Ltd

("Acacia .. 2"), AcaciaSL 3 Investments (Pty) Ltd ("Acacia .. 3"), and AcaciaSL 4 Investments (Pty) Ltd ("Acacia .. 4") (collectively, the "Acacia .. companies");

- 3.3 the Acacia .. companies concluding cessions and call options with, as well as obtaining guarantees of payment of specified amounts from, a further special purpose vehicle called AcaciaSL Secco (Pty) Ltd ("Secureco"), in order to protect themselves *inter alia* in the event of Acacia Trust not making the requisite.

¹ I shall, for convenience, refer in this opinion refer to Acacia Trust as if it were a legal entity, although as a matter of law a trust does not have legal personality separate from its trustees.

- 3.6 Secureco investing the funds borrowed from Acaciain collateral instruments ("the collateral instruments"), in order to be able to meet its payment obligations to Acacia, as well as its obligations to the Acacia .. companies and/or the Fund in the event of being called upon to do so.
4. My instructing attorneys, ENS, who act as legal counsel for Acacia in connection with Project T., have prepared a legal opinion addressing certain aspects of the transactions (the "ENS Opinion Letter"), and in particular:
- 4.1 the bankruptcy remoteness of Acacia 1, and Secureco
;
 - 4.2 the extent to which Acacia .. 1 has complied with all statutory and regulatory requirements;
 - 4.3 the intended operation of certain of the security arrangements, and more especially-
 - 4.3.1 the extent to which the Investor has rights of recourse to the collateral instruments which are the subject of the primary cession agreements;
 - 4.4 the extent to which ABSA's rights against Acacia .. 1 and Secureco are limited;
 - 4.5 the extent to which the transaction documents provide for the flow of funds through the various vehicles constituting the Project T. structure; and

\

To the extent that ENS has given advice regarding Acacia .. 1, that

advice is applicable to all the Acacia .. companies and the agreements concluded in respect thereof, as each of the transactions in relation to those companies will to all intents and purposes be identical.

5. In addition, ENS has prepared an opinion – referred to by ENS as the "Enforceability Opinion" – dealing with issues such as the validity of the registrations and incorporations of the Acacia .. companies and Secureco, the validity of the registration of Acacia Trust, the authority of the Acacia .. companies, Secureco and Acacia Trust to conclude the agreements to which they are party, and the validity and efficacy of the various transaction documents.

6. Consultant essentially requires me to indicate whether I am satisfied with the correctness of what is stated in the ENS Opinion Letter. To the extent that the ENS Opinion Letter provides information, rather than expressing an opinion, I am also asked, where possible and appropriate, to provide more definitive conclusions on the issues addressed therein. I understand that I am particularly requested to advise Consultant on the extent to which Secureco, the Acacia .. companies can be considered to be bankruptcy remote, and the extent to which ABSA has rights of recourse to the collateral instruments which are the subject of the cession agreements.

INFORMATION FURNISHED TO ME FOR THE PURPOSES OF THE OPINION

7. I have been briefed with what I understand to be the key agreements for the transactions in Project T. relating to Acacia .. 1.. (As I have mentioned, it suffices to analyse the overall scheme insofar as it relates to Acacia .. 1, because the agreements for the Acacia .. companies will *mutatis mutandis* be the same.) I have also been briefed with various drafts of those agreements: the most recent ones having been furnished to me on 1 September 2009. I understand that, despite a couple of the documents still being labelled "*Draft for Discussion Purposes*", the documents sent to me are in all material respects the versions of the agreements which will be signed (i.e. are the "execution copies").
8. The agreements with which I have been furnished are:

- 8.1
- 8.4 an agreement headed Master Primary Security Cession SL1, to be concluded between Secureco and Acacia .. 1 ("the Primary Security Cession");
- 8.5 an agreement headed Master Primary Limited Guarantee SL1, to be concluded between Secureco, Acacia .. 1 and the Calculation Agent ("the Primary Limited Guarantee")
- 8.11 an agreement headed Security Cession (Bank Account) SL1 – SL4, to be concluded between ABSA, represented by S., and Secureco ("the Security Cession (Bank Account)"); and
9. None of the agreements with which I have been briefed bears the signature of any of the parties. As I have already mentioned, however, I understand that the agreements in question will be signed in the form in which I had received them on or before 1 September 2009. My opinion has therefore been furnished on that basis.
10. I have also been provided with a couple of drafts of the ENS Opinion Letter and ENS's Enforceability Opinion, the most recent versions being received on 1 September 2009, and dated 28 August 2009. Neither of those documents has yet been signed, although I understand them to essentially be in their final form. I have therefore assumed for the purposes of my opinion that the two ENS opinions presented to me will be signed in their current form, apart from any necessary cosmetic amendments.
11. In addition, I was on 27 July 2009 provided with the memorandum and articles of association which were registered for each of the Acacia .. companies and Secureco when those companies were incorporated – on

28 May 2009 (in the case of Acacia .. 1, Acacia .. 2 and Acacia .. 3) and 2 June 2009 (in the case of Acacia .. 4 and Secureco). At the same time, I was provided with copies of the amended and restated memorandum of association in respect of each of the Acacia .. companies and Secureco, which formally became operational (with effect from 27 July 2009) with the registration, on 1 September 2009, of the special resolutions by which they altered. I have also been provided with the trust deed for Acacia Trust, which was registered on 13 July 2009, and the letters of authority for its first trustees (dated 13 July 2009).

12. I have also had the benefit of a consultation with my instructing attorneys. After that consultation, I raised issues relating to Project T. and the documents with which I had been furnished insofar as I had any queries in relation thereto. In accordance with what was discussed at the aforementioned consultation, I would also, if I had thought that the ENS Opinion Letter needed to be qualified or amended in any material way, have raised that with ENS prior to furnishing this opinion, so that ENS could, if they were able, have accommodated my recommendations.

OPINION AND COMMENTS ON MATTERS ADDRESSED IN THE ENS OPINION LETTER

13. I have had the opportunity of considering the ENS Opinion Letter, and the underlying documents which form the basis of Project T.. I do not disagree with anything in the 28 August 2009 draft, and confirm that, in my opinion, its statement of the legal and factual position is accurate.
14. I shall therefore merely make certain additional remarks below, without in any way intending to detract from what is contained in the ENS Opinion Letter.

Part B: Bankruptcy Remoteness

15. The ENS Opinion Letter essentially addresses the bankruptcy remoteness of Acacia .. 1, Secureco and Acacia Trust under two broad categories: (i) the limited range of business activities which the SPVs and the trust,

which have been created especially for Project T., can permissibly conduct (par 9 to 29 of the ENS Opinion Letter); and (ii) the various safeguards in the transaction documents themselves (par 30 to 50 thereof). Thereafter, and seemingly for the sake of completeness, ENS outlines the sections of the Insolvency Act, 24 of 1936 ("the Insolvency Act") which could potentially apply were any of the SPVs to become insolvent (par 51 to 58 of the ENS Opinion Letter),

16. What is pointed out by ENS under the section dealing with "*Restricted business activities*" of the SPVs (paragraphs 11 to 20) is how few transactions the SPVs can legally conclude, and more particularly how their purpose and objects (as dictated by their memoranda and articles of association) are limited to carrying on activities related to Project T.. The SPVs should thus not in the normal course be able to jeopardise their solvency by entering into other transactions which might have deleterious financial consequences.

17. The only way in which the SPVs could become embroiled in other dealings would be if the directors concluded agreements, or sanctioned arrangements, contrary to the memoranda and articles of the companies concerned. That itself is not a particularly likely scenario. The directors of Secureco will, as I understand it, consist of two employees of Acacia and one independent person (a practising South African attorney), and although Acacia has an interest in Project T. it would be remarkable if they were to ignore their fiduciary duties to Secureco. The same applies to Acacia .. 1 (and the remaining Acacia .. companies), whose board will also consist of two employees of Acacia and one independent person, who is again a practicing South African attorney. The likelihood of those SPVs concluding contracts beyond their powers under their present boards would appear to be equally remote. Moreover, I have been informed that funds will not be transferred from the Investor to the Acacia .. companies without those SPVs issuing irrevocable letters of instruction to their common bank manager, instructing the bank to immediately transfer the funds received from the Investor to Acacia ... That, too, should reduce the scope for innocent, negligent or fraudulent misappropriation of funds received by the Acacia .. companies even further. A similar protective mechanism is also in place in respect of transfers of funds

from Secureco to Acacia ...

18. As is apparent from paragraph 17 of the ENS Opinion Letter, each of the current directors of Acacia .. 1 and Secureco has moreover executed a letter (addressed to Consultant), giving a written undertaking to the effect that the director will act in accordance with the provisions of the relevant company's memorandum and articles of association. Those letters – with which I have been briefed – also go on to include an acknowledgment that the directors will reimburse the respective companies for any unauthorised liability.² Acacia has also furnished ENS with a letter indicating the profession of each director and, where applicable, the regulatory body or authority of which such director is a member or by which such director is bound, and thus the body or authority to which a complaint against a director could potentially be lodged in the event of him breaching his fiduciary duties to the relevant company.
19. I should add, too, that, to the extent that the Acacia .. 1 directors negligently permitted the company to act beyond its powers, an affected party might well have recourse under any liability insurance which the Secureco directors might have in place.³ (As professional directors, one would expect the present board members, at least, to have such insurance, although I do not have any instructions on that.) In the event that the Acacia .. 1 directors *fraudulently* caused Acacia .. 1 to act outside its memorandum and articles of association, it is highly unlikely that the directors' own insurance would cover them (assuming that such insurance

² In the letters for Secureco, the undertaking to reimburse the companies is limited to situations where the director was "knowingly a party to and responsible for the incurrence of such liability", but this does not seem to me to be a material dilution of the protection afforded by the letters, since we are essentially in this instance concerned with a deliberate breach of the company's memorandum and articles.

³ As can be seen from a letter from Acacia to ENS dated 14 July 2009 (with which I have been furnished), the directors are, with one exception, either chartered accountants or attorneys (and in the case of the attorneys, three of the four are practising, and thus members of the applicable provincial law societies).

was in place at all). Were they, or any officer or employee of that company, to cause Acacia .. 1 to act beyond the scope of its memorandum and articles (whether through a negligent act or a negligent omission), compensation should, however, be available under the Indemnity Agreement, which I am informed is wider than the usual insurance policies which Acacia has in place.

22. Under the section "*Safeguards in the Transaction Documents*" (paragraphs 30 to 50 of the ENS Opinion Letter), ENS has dealt, in the first instance, with Secureco's obligations, and thereafter with Acacia .. 1's obligations.
23. Secureco's obligations (and the likelihood of the SPV being able to fulfil them) are themselves addressed in two parts: first with reference to the subordinated loan agreement which it is required to conclude in order to fund the acquisition of collateral instruments (paragraphs 31 to 35); and secondly with regard to ABSA under the Secondary Security Cession and the Standby Investor Facility Agreement (paragraphs 36 to 43). Although not expressly indicated in paragraphs 31 to 35, the "subordinated loan agreement" with the "lender" which is referred to in those paragraphs is the contract defined above as the Limited Recourse Loan Agreement and the lender is consequentially Acacia.
 - 23.1 It is pointed out with regard to Secureco and the lender (i.e. Acacia Trust), in paragraph 32 of the ENS Opinion Letter, that, other than interest payments, all Secureco's obligations to the lender under the Limited Recourse Loan Agreement will be subordinate at all times to the obligations which Secureco owes to the Investor (represented by ABSA) and Acacia .. 1 under the transaction documents to which it is a party. Insofar as interest payments to the lender are concerned, they will be due and owing by Secureco to the lender unless a "*Call Exercise Notice*" or a "*Notice of Demand*" is delivered under the Secondary Call Option Agreement or Secondary Limited Guarantee – at which point the interest payment obligation will become, and remain, subordinated. Thus, as long as Secureco is still indebted to the Investor and Acacia ..

1 under the Project T. transactions, the Lender (i.e. the entity which has loaned Secureco funds to enable it to purchase the collateral instruments which are the subject of the primary and secondary security cessions) cannot demand payments under the Subordinated Loan Agreement, at least for the amounts still owed to ABSA and Acacia .. 1. The only exception involves interest payments, but, as I have indicated, those payments, too, will become subordinated when the call options of the Investor have been triggered (for example, by a default in payments to the Investor from Acacia ..1) or when a notice of demand has been delivered by the Investor to Secureco in response to the occurrence of one of the "Trigger Events" referred to in clause 3 of the Secondary Limited Guarantee. Realistically, then, the only potential indebtedness of Secureco would appear to relate to the interest payment obligations in circumstances where a "Call Exercise Notice" or a "Notice of Demand" cannot be delivered – but, in that case, the Investor should be receiving all payments due to it. It follows, too, that, while I am not able to comment directly on the creditworthiness of the collateral instruments which would be used to make interest payments and ultimately repay the principal amount to the lender (Acacia .. 1), the likelihood of Secureco being able to be liquidated by Acacia .. 1 while the Investor is exposed could, in my view, be characterised as remote.

23.2 A key point to note as regards Secureco, on the one hand, and Acacia .. 1 and the Investor, on the other, is that both parties' recourse to Secureco is limited to the rights to the collateral instruments bestowed on them by the respective cession agreements (the Primary Security Cession, in the case of Acacia .. 1, and the Secondary Security Cession, in the case of the Investor). The rights of the Investor to the collateral instruments are also secondary to that of Acacia .. 1, and thus both parties cannot claim the same collateral instruments at the same time. It would therefore appear to be even less likely that the Investor and/or Acacia .. 1 would be in a position to liquidate Secureco.

24. Acacia .. 1, for its part, only really owes obligations to the Investor. Furthermore in terms of the Acacia Agreement, the obligation on Acacia .. 1 to pay amounts on the Acacia issuances is conditional upon

Acacia .. 1 receiving the amounts owed to it by Acacia Trust in respect of the Acacia trust rights. Thus, when Acacia .. 1 has not been placed in funds by Acacia Trust (through payments under the Participation Agreement) to enable Acacia 1 to meet its payment obligations to the Investor, ABSA cannot call Acacia .. 1 to account. In the circumstances, Acacia .. 1 could only really be in a position where its assets exceeded its liabilities if Acacia .. 1 somehow dissipated payments received from Acacia Trust – a scenario which would not be consistent with honest activity. In the normal course, it would therefore seem highly unlikely that Acacia .. 1 would be in danger of being liquidated.

25. Turning finally to the last two categories addressed by ENS under the "*Bankruptcy Remoteness*" section of the ENS Opinion Letter: namely, "*Impeachment Risk*" (paragraphs 51 to 58) and "*Solvency Warranty*" (59 to 63):

25.1 It is correct that, when a company is liquidated, the provisions of sections 26, 29, 30 and 31 of the Insolvency Act are applicable to the company in liquidation, and certain "*dispositions*" (as defined in section 2 of the Insolvency Act) could then be attacked, and potentially set aside.

25.1.1 Section 31, which is concerned with "*collusive dealings*", should not however be triggered in the present matter in the normal course. If a party such as Acacia .. 1 were at a later stage to invoke its existing rights under the Primary Security Cession, it is hard to see how that could be regarded as collusive.

25.1.2 There are also constraints to the application of sections 26, 29 and 30.

25.1.2.1 Section 26, for example, requires (i) that the dispositions be ones which were "*not made for value*", as well as (ii) that the liabilities of the insolvent exceeded his assets immediately after the disposition. There can be no question that the provision of security, in whatever form, constitutes a disposition for the purposes of this section (see

Langeberg Koi:iperasie Bpk v Inverdoorn Farming and Trading Company Ltd 1965 (2) SA 597 (A)). The question of whether value is derived from a disposition is, however, a more difficult one. The *quid pro quo* for the disposition need not be received directly by the person making the disposition: the benefit could for example inure to the advantage of another company in an interlocking structure, and thus indirectly benefit the insolvent.

Nor need the reciprocal benefit be a monetary or tangible one, although it cannot be of nominal or trifling value. (See, for example, Swanee's Boerderv (Edms) Bpk (in liquidation) v Trust Bank of Africa Ltd 1986 (2) SA 850 (A); Terblanche NO v Baxtrans CC and Another 1998 (3) SA 912 (C); Goode, Durrant & Murray Ltd v Hewitt & Cornell, NNO 1961 (4) SA 286 (N).)

25.1.2.2 Section 29 is limited to dispositions, other than those in the ordinary course of business, which were made by a debtor not more than six months before the sequestration of his estate, and in circumstances where the liabilities of the insolvent exceeded his assets immediately after the disposition, and where the disposition had the effect of preferring one of the insolvent's creditors above another and the insolvent cannot prove it was not intended to do so. The time limit in section 29 (the disposition would have to occur within six months of a provisional liquidation) could be particularly important in determining its applicability to any future scenario.

25.1.2.3 Section 30 is confined to situations where a disposition is made at a time when debtor's liabilities already exceed his assets (i.e. when the debtor is already legally insolvent) and with the intention of preferring one creditor above another.

25.1.3 It should also be borne in mind that, although (as mentioned) the

granting of security, such as a pledge, would constitute a "*disposition*", the same would probably not be true of the issuing of .. shares by Acacia .. 1 – as a company's property does not include its own share capital (cf. section 341(1) and (2) of the Companies Act).

25.1.4 In addition, as I understand the position, the agreements which I have referred to in paragraph 8 of this opinion (as opposed to say any cessions or pledges contemplated therein, which are effected at a later stage) should not themselves be vulnerable to attack in an insolvency scenario as the SPVs would not appear to be insolvent after concluding those agreements. Indeed, the "*solvency warranty letter*" would appear to confirm that, at least as far as Acacia is concerned, Secureco is currently solvent (and will remain so, once the various suites of agreements have been signed).

25.1.5 It is therefore by no means a foregone conclusion that any (let alone all) of the aforementioned sections of the Insolvency Act would apply to the transactions in Project T. in the event of an insolvency scenario – although that is something on which one can only speculate at this time. Moreover, at least some of the transactions (such as the issuing of the Acacia equity) would appear to be immune from attack under those provisions.

25.2 The solvency warranty letter, which paragraph 59 of the ENS Opinion Letter indicates will be provided by Acacia to the Investor to confirm the solvency of Secureco (and with which I have been briefed), would provide recourse to a party such as the Investor if it were to transpire that, even without ceding or pledging the collateral instruments, Secureco's assets (including those instruments) were less than its liabilities to Acacia .. 1 under the Limited Recourse Loan Agreement, or any other creditor: or, in other words, if it were to turn out that Secureco was essentially an unviable entity even without the burdens imposed by the primary and secondary security cessions. What the solvency warranty letter would thus in effect be confirming, as I understand it, is that Secureco's obligations under the Limited Recourse Loan Agreement would not imperil its solvency

(with the interest payment obligations, for example, being able to be met from the collateral instruments purchased with the principal amount loaned), and that Secureco also does not have any other financial obligations which would jeopardize its solvency.

25.3 It is difficult at this stage to predict the exact circumstances under which reliance might be placed on the solvency warranty letter in the event of the insolvency of Secureco, but, in my view, it could potentially provide a potential source of redress to the Investor in at least the following two situations:

25.3.1 if a section 26 or 29 attack is successfully mounted on the actual Project T. transaction agreements involving Secureco, after the liquidation of Secureco (as the aforementioned sections of the Insolvency Act should not, as mentioned, apply to the agreements themselves if, as Acacia have warranted, the liabilities of Secureco do not currently exceed its assets); or

25.3.2 if the security provided by Secureco is successfully attacked under section 30 of the Insolvency Act (as that section should not apply if, as Acacia has warranted, the liabilities of Secureco do not exceed its assets at the time any cession or pledge is perfected – as opposed to immediately thereafter: a situation regulated by sections 26 and 29).

25.4 Finally, in regard to bankruptcy remoteness, I have been instructed that Acacia International has undertaken to contribute towards, and underwrite, all costs entailed in the running of Project T. in order that the solvency of the SPVs and Acacia Trust will not be jeopardised as a result of those costs; and clause 25 of the Acacia Trust trust deed in fact recognises that, for example, the fees of the Auditor, the administration expenses of the trustees and other liabilities will be borne by Acacia International.

26. As I read Part C (paragraphs 64 and 65) of the ENS Opinion Letter, and the Enforceability Opinion which is appendix 5 thereto, that section of the ENS Opinion Letter confirms that ENS has done (or will do) the mechanical exercise of checking, with respect to the Acacia .. companies in particular, that: the companies in question have been incorporated; the companies are legally permitted to sign the agreements in question; the signatories to the agreements have been duly authorised to sign on behalf of the companies whom they purport to represent; and the agreements are binding and legally effective. The equivalent investigations have also been carried out (or will be performed) in respect of Acacia Trust. That exercise is in the nature of a "due diligence" one. I am obviously not in a position personally to confirm anything in relation thereto: indeed, as I have indicated, I am providing this opinion at a time when the agreements in question have not yet been signed. But, subject to that proviso, there is nothing of which I am aware which causes me to question what ENS has stated on this score.

Parts D, E and F: Access to Collateral, Security Cession, and Primary vs Secondary Call Option / Limited Guarantee

27. These sections of the ENS Opinion Letter are by and large concerned with the Investor's access to the collateral instruments held by Secureco, as a means of securing its obligations under the Project T. scheme. Thus, for example, Part D *inter alia* addresses the circumstances under which the Investor will have a right of recourse to the collateral instruments under the Secondary Security Cession; Part E confirms that the Secondary Security Cession is valid and enforceable against Secureco, and also addresses the extent to which the Investor's rights thereunder remain in place while the Investor has any exposure under the scheme; while Part F explains the circumstances under which the Secondary Security Cession will become first-ranking upon the lapse of the Primary Call Option Agreement and/or the Primary Limited Guarantee.
28. In very broad outline, the scheme contemplates Acacia .. 1 having the primary security in respect of the collateral instruments (to secure the obligations owed to it by Secureco under the Primary Call Option Agreement and the Primary Limited Guarantee), and the Investor having

secondary rights to those instruments (as security for Secureco's obligations under the Secondary Call Option Agreement and the Secondary Limited Guarantee). The main obligation which Secureco owes to Acacia .. 1 in terms of the security provisions of Project T. – and thus the main obligation which is secured by the collateral instruments – is to pay to Acacia .. 1, upon the occurrence of a "Trigger Event" and a written demand by Acacia .. 1, an amount defined as the "Guarantee Amount". In the event of Acacia .. 1 calling upon Secureco to perform in terms of that obligation, by delivering a Notice of Demand in terms of clause 4 of the Primary Limited Guarantee, the Investor is, however, entitled to itself deliver a Notice of Demand in respect of the same number of Acacia .. shares, in which case the Notice of Demand from Acacia .. 1 *"shall be deemed to have been revoked"* (see clause 4.9 of the Primary Option Agreement, and clauses 4.5 and 4.7 of the Secondary Limited Guarantee). To that extent, the Investor can, notwithstanding only enjoying secondary security rights, effectively enjoy precedence when it comes to a default event. Anyway, given the extremely limited scope Acacia .. 1's activities, the exercise by Acacia .. 1 of its guarantee rights should in the normal course be in order to meet its payment obligations to the Investor under the Acacia .. Share Subscription Agreement, or to protect its own position under that contract.

Part G: Limited Recourse

29. This section of the ENS Opinion Letter addresses two questions: first, the extent to which the Investor is entitled to pursue its claim against either Secureco or Acacia .. 1 (but not both) in the event of default by Acacia .. 1 of its obligations under the Acacia .. Share Subscription Agreement; and secondly, the extent to which Acacia ..'s obligations in terms of the Acacia .. Share Subscription Agreement will be discharged in the event that the Investor is successful in its claim against Secureco (i.e. under the Secondary Limited Guarantee).
30. As ENS has pointed out, if Acacia .. 1 were to default under the Acacia .. Share Subscription Agreement, the Investor would be entitled to exercise its rights under *either* the Acacia .. Share Subscription Agreement or the Secondary Limited Guarantee, and thereby have its obligations discharged

in full. In the event of the Investor choosing the latter option, it would have no further recourse against Acacia .. 1. This is because, in order to exercise its rights under the Secondary Limited Guarantee, the Investor would be required to cede and transfer the Acacia .. shares to Secureco in return for its payment of the "Guarantee Amount".

Part H: Flow of Funds

31. This section, as the heading indicates, deals with the flow of funds between:
 - (i) the issuer of the collateral instruments, Secureco and the Acacia Trust;
 - (ii) the Acacia Trust and Acacia .. 1; and (iii) Acacia .. 1 and the Investor.In other words, it essentially explains how the transaction works.

32. I have explained the transaction structure in very brief outline in paragraph 3 above. To recap, slightly more detail where appropriate:
 - 32.1 The initial investment structure involves the Investor subscribing for investments in the Acacia companies; the Acacia companies then making an investment in to Acacia Trust (in terms of which Acacia Trust will become a beneficiary of the trust and acquire vested rights to receive payments of amounts and capital); Acacia Trust thereafter making funds available to Secureco; and Secureco acquiring stipulated collateral instruments.

 - 32.2 The regular repayment mechanism involves Secureco paying interest to Acacia Trust, in relation to its loan, whenever amounts are required to be paid by Acacia .. 1 to ABSA; Acacia Trust then on the same date distributing amounts (not exceeding the amounts of interest received by the trust) to Acacia .. 1; and Acacia .. 1 paying amounts to ABSA (the Investor) in respect of the latter's .. shares (with those amounts again not exceeding the amounts received by Acacia .. 1).

 - 32.3 In addition, Secureco is required to pay Acacia Trust a capital amount equal to the capital from the trust on the redemption, realisation or repayment of a collateral instrument purchased with

that capital contribution; Acacia .. 1 is entitled to immediate receipt from Acacia Trust of the vested capital which Acacia Trust receives from Secureco in respect of a particular collateral instrument; and Acacia .. 1 is obliged to pay to the Investor amounts in redemption of the Acacia .. shares which do not exceed the amounts received by Acacia .. 1 from the Acacia Trust on the disposal of the applicable "Acacia .. Reference Asset".

33. As is apparent from the above, Secureco, Acacia Trust and the Acacia .. companies have therefore been conceived from a practical perspective as "pass-through" entities, whose in-flows of funds are intended to match the out-flows, with the in-flows and out-flows furthermore taking place, in most instances, virtually simultaneously.⁴ For example, amounts received by Acacia Trust is intended to match Acacia Trust's distribution payments; while any amounts received by Secureco should match its interest payments. There should accordingly not be any substantial cash flows accumulating in the bank accounts of any of those entities.

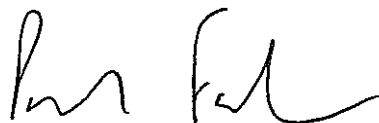
Part 1: Entitlement to Amounts

34. In the section of the ENS Opinion Letter, ENS has addressed the question of whether the ordinary shareholders of Acacia .. 1 (identified in paragraph 10 thereof) will be entitled to receive payment of amounts if

⁴ I am instructed that the only exceptions would be any future, but currently unforeseen, withholdings and other limited deductions described in the Confirmation, which is attached to the AcaciaAgreement, and the relevant option formulae and guarantee formulae.

such payments would prevent Acacia .. 1 from meeting its obligations to the Investor under the Investment Agreement.

35. As ENS has pointed out, the articles of association of Acacia .. 1 do not permit amounts to be paid to ordinary shareholders in circumstances where .. amounts would be compromised. There does not seem to be anything more to add on this score.



P B J FARLAM

Chambers
Cape Town & Sandton
2 September 2009



Annexure C
ABSA Custodial Services
Pledge Statement

Pledge Holding Statement per Counterpart

SecAccount : ACASO (ACACIASL SECCO (PTY) LTD)

Client Code	Client Name	Securities Account	Financial Instrument	FI Description	Asset Nature	Pledgee	Total Pledged	Status	Remaining Quantity	Effective Date	Pledge Date	Maturity Date
ACCSO	ACACIASL SECCO (PTY) LTD	ACASO	ABFRL090910	ABSA BANK FRN 0/090914J7.285IMSTI ABFRL090910/090914J7.285		ABSA BANK	200,000,000	PLEGGED	200,000,000	15/09/2010	15/09/2010	09/09/2014
ACCSO	ACACIASL SECCO (PTY) LTD	ACASO	SCNCD140909	SONIC 140909IMSTI SCNCD140909/140909IMSTI		ABSA BANK	280,000,000	PLEGGED	280,000,000	15/09/2010	15/09/2010	01/10/2012



Annexure D

NCD Example

PRICING SUPPLEMENT dated 14 September 2009

The Standard Bank of South Africa Limited

(Incorporated with limited liability in South Africa under registration number 1962/000738/06)

Issue of Unlisted MTNS 241 - ZAR300,000,000 Senior Unsecured Floating Rate Note

Due 30 September 2012

Under its ZAR 40 billion Domestic Medium Term Note Programme

This document constitutes the Pricing Supplement relating to the issue of Notes described herein. Terms used herein shall be deemed to be defined as such for the purposes of the terms and conditions (the "**Terms and Conditions**") set forth in the Programme Memorandum dated 6 December 2006 (the "**Programme Memorandum**"), as updated and amended from time to time. This Pricing Supplement must be read in conjunction with such Programme Memorandum. To the extent that there is any conflict or inconsistency between the contents of this Pricing Supplement and the Programme Memorandum, the provisions of this Pricing Supplement shall prevail.

DESCRIPTION OF THE NOTES

MTNS241 - 410022

1. Issuer	The Standard Bank of South Africa Limited
2. Status of Notes	Senior Unsecured
3. Tranche Number	48
Series Number	5
4. Aggregate Principal Amount	ZAR 300,000,000
5. Interest Basis	Floating Rate Notes
6. Form of Notes	Bearer Notes
7. Automatic/Optional Conversion from one Interest/Payment Basis to another	N/A
8. Issue Date	14 September 2009
9. Business Centre	Johannesburg
10. Additional Business Centre	N/A
11. Specified Denomination	ZAR 10,000,000
12. Issue Price	ZAR 300,000,000
13. Interest Commencement Date	14 September 2009
14. Maturity Date	30 September 2012
15. Specified Currency	ZAR



16. Applicable Business Day Convention	Following Business Day Convention
17. Calculation Agent	Issuer
18. Paying Agent	Issuer
19. Specified office of the Paying Agent	4 th Floor, 3 Simmonds Street, Johannesburg
20. Agent	Issuer
21. Final Redemption Amount	ZAR 300,000,000

PARTLY PAID NOTES

22. Amount of each payment comprising the Issue Price	N/A
23. Date upon which each payment is to be made by Noteholder	N/A
24. Consequences (if any) of failure to make any such payment by Noteholder	N/A
25. Interest Rate to accrue on the first and subsequent instalments after the due date for payment of such instalments	N/A

INSTALMENT NOTES

26. Instalment Dates	N/A
27. Instalment Amounts (expressed as a percentage of the aggregate Principal Amount of the Notes)	N/A

FIXED RATE NOTES

28. (a) Fixed Interest Rate(s)	N/A
(b) Interest Payment Date(s)	N/A
(c) Initial Broken Amount	N/A
(d) Final Broken Amount	N/A
(e) Any other terms relating to the particular method of calculating interest	N/A

FLOATING RATE NOTES

29. (a) Interest Payment Date(s)	4 January 2010; 31 March 2010; 30 June 2010; 30 September 2010; 31 December 2010; 31 March 2011; 30 June 2011; 30 September 2011;
----------------------------------	--

31 December 2011;
31 March 2012;
30 June 2012; and
30 September 2012

- (b) Interest Period(s) "Interest Period" means each period from, and including, one Interest Payment Date to, but excluding, the next following applicable Interest Payment Date, except that the first Interest Period, shall commence on and include, the Interest Commencement Date and the final Interest Period shall end on, but exclude, the Maturity Date
- (c) Definitions of Business Day (if different from that set out in Condition 1) N/A
- (d) Interest Rate(s) Screen Rate Determination plus Margin
- (e) Minimum Interest Rate N/A
- (f) Maximum Interest Rate N/A
- (g) Other terms relating to the method of calculating interest (e.g., Day Count Fraction, rounding up provision, if different from Condition 8.2) N/A
30. Manner in which the Interest Rate is to be determined Screen Rate Determination
31. Margin 1.3%
32. If ISDA Determination
- (a) Floating Rate N/A
- (b) Floating Rate Option N/A
- (c) Designated Maturity N/A
- (d) Reset Date(s) N/A
33. If Screen Rate Determination
- (a) Reference Rate (including relevant period by reference to which the Interest Rate is to be calculated) 3 month ZAR- JIBAR-SAFEX
- (b) Interest Determination Date(s) Issue Date;
4 January 2010;
31 March 2010;
30 June 2010;
30 September 2010;
31 December 2010;
31 March 2011;
30 June 2011;



30 September 2011;
31 December 2011;
31 March 2012; and
30 June 2012

(c) Relevant Screen Page and Reference Code Reuters Page SAFETY Code ZA01209
or any successor page

34. If Interest Rate to be calculated otherwise than by reference to 32 or 33 above, insert basis for determining Interest Rate/Margin/Fall back provisions N/A
35. If different from the Calculation Agent, agent responsible for calculating amount of principal and interest N/A

MIXED RATE NOTES

36. Period(s) during which the interest rate for the Mixed Rate Notes will be (as applicable) that for:
- (a) Fixed Rate Notes N/A
 - (b) Floating Rate Notes N/A
 - (c) Indexed Notes N/A
 - (d) Other N/A

ZERO COUPON NOTES

37. (a) Implied Yield N/A
- (b) Reference Price N/A
- (c) Any other formula or basis for determining amount(s) payable N/A

INDEXED NOTES

38. (a) Type of Indexed Notes N/A
- (b) [Index] / [Formula] by reference to which Final Redemption Amount is to be determined N/A
- (c) Manner in which the Final Redemption Amount is to be determined N/A
- (d) Interest Payment Date(s) N/A
- (e) If different from the Calculation Agent, agent responsible for calculating amount of principal and interest N/A
- (f) Provisions where calculation by reference to Index and/or Formula is impossible or impracticable N/A

EXCHANGEABLE NOTES



39.	Mandatory Exchange applicable?	N/A
40.	Noteholders' Exchange Right applicable?	N/A
41.	Exchange Securities	N/A
42.	Manner of determining Exchange Price	N/A
43.	Exchange Period	N/A
44.	Other	N/A

OTHER NOTES

45.	If the Notes are not Partly Paid Notes, Instalment Notes, Fixed Rate Notes, Floating Rate Notes, Mixed Rate Notes, Zero Coupon Notes or Indexed Notes, Exchangeable Notes or if the Notes are a combination of any of the foregoing, set out the relevant description and any additional Terms and Conditions relating to such Notes	N/A
-----	--	-----

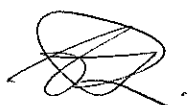
**PROVISIONS REGARDING REDEMPTION/
MATURITY**

46.	Prior consent of Registrar of Banks required for any redemption prior to the Maturity Date	No
47.	Redemption at the option of the Issuer: if yes:	No
	(a) Optional Redemption Date(s)	N/A
	(b) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s)	N/A
	(c) Minimum period of notice	N/A
	(d) If redeemable in part:	
	Minimum Redemption Amount(s)	N/A
	Higher Redemption Amount(s)	N/A
	(e) Other terms applicable on Redemption	N/A
48.	Redemption at the option of the Noteholders: if yes:	Applicable
	(a) Optional Redemption Date(s)	Any Business Day
	(b) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s)	The Principal Amount of each Certificate put by the Noteholder to the Issuer in accordance with Condition 11.4, plus accrued Interest thereon less any unwind costs as determined by the Issuer.
	(c) Minimum period of notice	2 (two) Business Days in writing or

		telephonically
(d)	If redeemable in part:	Applicable
	Minimum Redemption Amount(s)	ZAR 10,000,000
	Higher Redemption Amount(s)	
(e)	Other terms applicable on Redemption	The Issuer shall be entitled to determine and deduct any unwind costs in relation to the early Redemption of this Note as determined by the Issuer in its sole and absolute discretion in accordance with the then prevailing market rates and condition.
		In addition the Issuer will take into consideration a further 20 basis point penalty in determining the unwind costs.
(f)	Attach <i>pro forma</i> put notice(s)	N/A
49.	Early Redemption Amount(s) payable on redemption for taxation reasons or on Event of Default	100% of Principal Amount

GENERAL

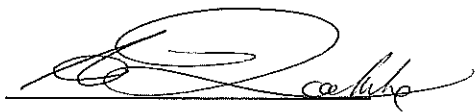
50.	Qualification of Notes as Secondary Capital under the Banks Act, 1990	No
51.	Qualification of Notes as Tertiary Capital under the Banks Act, 1990	No
52.	Condition 7.4 to apply (deferral of interest and principal payments)?	No
53.	Additional selling restrictions	N/A
54.	(a) International Securities Numbering (ISIN)	N/A
	(b) Stock Code	N/A
55.	Financial Exchange	N/A
56.	If syndicated, names of managers	N/A
57.	Receipts attached? If yes, number of Receipts attached	No
58.	Coupons attached? If yes, number of Coupons attached	No
59.	Talons attached? If yes, number of Talons attached	No
60.	Credit Rating assigned to Notes (if any)	N/A
61.	Stripping of Receipts and/or Coupons prohibited as provided in Condition 16.5?	No



- | | | |
|-----|--|-----|
| 62. | Governing law (if the laws of South Africa are not applicable) | N/A |
| 63. | Other Banking Jurisdiction | N/A |
| 64. | Last Day to Register | N/A |
| 65. | Stabilisation Manager (if any) | N/A |
| 66. | Other provisions: | N/A |

Signed at JOHANNESBURG on this 14th day of September 2009

THE STANDARD BANK OF SOUTH AFRICA LIMITED



Name: *Arno DAEHNKE*

Designation: *DIRECTOR: MONEY MARKETS*

2100
R1280 M
14 September 2009
01 October 2012

Negotiable Certificate of Deposit

ZAR300,000 SENIOR UNSECURED FLOATING RATE NOTE

DUE: 01 OCTOBER 2012

Issued by The Standard Bank of South Africa Limited ("the Issuer")
under its Domestic Medium Term Note Programme

SCNCD (W990) 2100 R1280 M



Standard Bank

015382
Certificate Number

Series/
Tranche: 5
48 MTNS241
Instrument Code

INFINITY 410022
Cash account number/
reference number

14 September 2009
Issue Date

R 10,000,000.00
Principal Amount

Serial number
410022

The Notes represented by this Certificate have not been, and will not be, registered under the United States Securities Act of 1933, as amended. The Notes may not be offered, sold or delivered within the United States or to United States persons except in accordance with Regulation S under the Securities Act of 1933, as amended.

6055 F
1200
410022

Registered address

The Standard Bank of South Africa Limited
Registration No. 1992/00738/06
9th Floor, Standard Bank Centre, 5 Simons Street, Johannesburg 2001
South Africa

This certifies that the sum of TEN MILLION RAND ONLY has been deposited with The Standard Bank of South Africa Limited.

Payable to BEARER on 01 October 2012 together with interest at the rate of AS PER ATTACHED PRICING SUPPLEMENT

Payment of principal and any interest thereon will be made upon presentation of this Certificate to the Issuer, Global Markets 3rd floor, Entrance 5, Standard Bank Centre, 3 Simons Street, Johannesburg 2001. This Note is issued by the Issuer on the terms and conditions described in the Pricing Supplement attached hereto and the terms and conditions set out in the Programme Memorandum dated 06 DECEMBER 2006, as amended or supplemented, relating to the Issuer's Domestic Medium Term Note Programme, which terms and conditions are incorporated herein by reference.

Terms defined in the Programme Memorandum and/or the attached Pricing Supplement have the same meaning where used in this Certificate. This Certificate must be surrendered upon redemption of the Notes. A copy of the Programme Memorandum may be obtained from the Issuer. This Note is governed by South African law.

For and on behalf of The Standard Bank of South Africa Limited

[Signature]

Authorised signatory

[Signature]

Authorised signatory

Authenticated (without recourse, warranty or liability) by
Standard Bank Nominees (Transvaal) (Proprietary) Limited

Due date (YYYY-MM-DD)	Amount	Date Paid (YYYY-MM-DD)	Payment details	Signed	Due date (YYYY-MM-DD)	Amount	Date Paid (YYYY-MM-DD)	Payment details	Signed
04/01/2010	R			1		R			2
31/03/2010	R			1		R			2
30/06/2010	R			1		R			2
30/09/2010	R			1		R			2
03/01/2011	R			1		R			2
31/03/2011	R			1		R			2
30/06/2011	R			1		R			2
30/09/2011	R			1		R			2
02/01/2012	R			1		R			2
02/04/2012	R			1		R			2
02/07/2012	R			1		R			2
01/10/2012	R			1		R			2
	R			1		R			2

Endorsements

STANDARD BANK OF S.A.
Global Markets
2010-01-04

Standard Bank of S.A.
Global Markets
30 JUN 2010
DOMESTIC TREASURY OPS
00-23-05

STANDARD BANK OF S.A.
Global Markets
2010-03-31
PAID SAMOS 2805
Domestic Ops

Standard Bank of S.A.
Global Markets
30 SEP 2010
PAID SAMOS 2805
Domestic Ops

The Standard Bank of South Africa Limited

(Incorporated with limited liability in South Africa under registration number 1962/000738/06)

Issue of Unlisted MTNS 241 - ZAR300,000,000 Senior Unsecured Floating Rate Note

Due 1 October 2012

Under its ZAR 40 billion Domestic Medium Term Note Programme

This document constitutes the Pricing Supplement relating to the issue of Notes described herein. Terms used herein shall be deemed to be defined as such for the purposes of the terms and conditions (the "Terms and Conditions") set forth in the Programme Memorandum dated 6 December 2006 (the "Programme Memorandum"), as updated and amended from time to time. This Pricing Supplement must be read in conjunction with such Programme Memorandum. To the extent that there is any conflict or inconsistency between the contents of this Pricing Supplement and the Programme Memorandum, the provisions of this Pricing Supplement shall prevail.

This Pricing Supplement supersedes any previous MTNS 241 Pricing Supplement or other communication with respect to the transaction set out below and evidences a complete and binding agreement between you and us.

DESCRIPTION OF THE NOTES

1. Issuer	The Standard Bank of South Africa Limited
2. Status of Notes	Senior Unsecured
3. Tranche Number	48
Series Number	5
4. Aggregate Principal Amount	ZAR 300,000,000
5. Interest Basis	Floating Rate Notes
6. Form of Notes	Bearer Notes
7. Automatic/Optional Conversion from one Interest/Payment Basis to another	N/A
8. Issue Date	14 September 2009
9. Business Centre	Johannesburg
10. Additional Business Centre	N/A
11. Specified Denomination	ZAR 10,000,000
12. Issue Price	ZAR 300,000,000

- | | | |
|-----|--------------------------------------|---|
| 13. | Interest Commencement Date | 14 September 2009 |
| 14. | Maturity Date | 1 October 2012 |
| 15. | Specified Currency | ZAR |
| 16. | Applicable Business Day Convention | Following Business Day Convention |
| 17. | Calculation Agent | Issuer |
| 18. | Paying Agent | Issuer |
| 19. | Specified office of the Paying Agent | 4 th Floor, 3 Simmonds Street,
Johannesburg |
| 20. | Agent | Issuer |
| 21. | Final Redemption Amount | ZAR 300,000,000 |

PARTLY PAID NOTES

- | | | |
|-----|--|-----|
| 22. | Amount of each payment comprising the Issue Price | N/A |
| 23. | Date upon which each payment is to be made by Noteholder | N/A |
| 24. | Consequences (if any) of failure to make any such payment by Noteholder | N/A |
| 25. | Interest Rate to accrue on the first and subsequent instalments after the due date for payment of such instalments | N/A |

INSTALMENT NOTES

- | | | |
|-----|---|-----|
| 26. | Instalment Dates | N/A |
| 27. | Instalment Amounts (expressed as a percentage of the aggregate Principal Amount of the Notes) | N/A |

FIXED RATE NOTES

- | | | |
|-----|---|-----|
| 28. | (a) Fixed Interest Rate(s) | N/A |
| | (b) Interest Payment Date(s) | N/A |
| | (c) Initial Broken Amount | N/A |
| | (d) Final Broken Amount | N/A |
| | (e) Any other terms relating to the particular method of calculating interest | N/A |

FLOATING RATE NOTES

- | | | |
|-----|------------------------------|--|
| 29. | (a) Interest Payment Date(s) | 4 January 2010;
31 March 2010;
30 June 2010;
30 September 2010; |
|-----|------------------------------|--|

3 January 2011;
 31 March 2011;
 30 June 2011;
 30 September 2011;
 2 January 2012;
 2 April 2012;
 2 July 2012; and
 1 October 2012

- (b) Interest Period(s) "Interest Period" means each period from, and including, one Interest Payment Date to, but excluding, the next following applicable Interest Payment Date, except that the first Interest Period, shall commence on and include, the Interest Commencement Date and the final Interest Period shall end on, but exclude, the Maturity Date
- (c) Definitions of Business Day (if different from that set out in Condition 1) N/A
- (d) Interest Rate(s) Screen Rate Determination plus Margin
- (e) Minimum Interest Rate N/A
- (f) Maximum Interest Rate N/A
- (g) Other terms relating to the method of calculating interest (e.g., Day Count Fraction, rounding up provision, if different from Condition 8.2) Actual / 365
30. Manner in which the Interest Rate is to be determined Screen Rate Determination
31. Margin 1.3%
32. If ISDA Determination
- (a) Floating Rate N/A
- (b) Floating Rate Option N/A
- (c) Designated Maturity N/A
- (d) Reset Date(s) N/A
33. If Screen Rate Determination
- (a) Reference Rate (including relevant period by reference to which the Interest Rate is to be calculated) 3 month ZAR- JIBAR-SAFEX
- (b) Interest Determination Date(s) Issue Date;
 4 January 2010;
 31 March 2010;
 30 June 2010;

30 September 2010;
3 January 2011;
31 March 2011;
30 June 2011;
30 September 2011;
2 January 2012;
2 April 2012;
2 July 2012

(c) Relevant Screen Page and Reference Code Reuters Page SAFETY Code ZA01209
or any successor page

34. If Interest Rate to be calculated otherwise than by reference to 32 or 33 above, insert basis for determining Interest Rate/Margin/Fall back provisions N/A
35. If different from the Calculation Agent, agent responsible for calculating amount of principal and interest N/A

MIXED RATE NOTES

36. Period(s) during which the interest rate for the Mixed Rate Notes will be (as applicable) that for:
- (a) Fixed Rate Notes N/A
 - (b) Floating Rate Notes N/A
 - (c) Indexed Notes N/A
 - (d) Other N/A

ZERO COUPON NOTES

37. (a) Implied Yield N/A
- (b) Reference Price N/A
- (c) Any other formula or basis for determining amount(s) payable N/A

INDEXED NOTES

38. (a) Type of Indexed Notes N/A
- (b) [Index] / [Formula] by reference to which Final Redemption Amount is to be determined N/A
- (c) Manner in which the Final Redemption Amount is to be determined N/A
- (d) Interest Payment Date(s) N/A
- (e) If different from the Calculation Agent, agent responsible for calculating amount of principal and interest N/A

- (f) Provisions where calculation by reference to Index and/or Formula is impossible or impracticable N/A

EXCHANGEABLE NOTES

39. Mandatory Exchange applicable? N/A
 40. Noteholders' Exchange Right applicable? N/A
 41. Exchange Securities N/A
 42. Manner of determining Exchange Price N/A
 43. Exchange Period N/A
 44. Other N/A

OTHER NOTES

45. If the Notes are not Partly Paid Notes, Instalment Notes, Fixed Rate Notes, Floating Rate Notes, Mixed Rate Notes, Zero Coupon Notes or Indexed Notes, Exchangeable Notes or if the Notes are a combination of any of the foregoing, set out the relevant description and any additional Terms and Conditions relating to such Notes N/A

PROVISIONS REGARDING REDEMPTION/ MATURITY

46. Prior consent of Registrar of Banks required for any redemption prior to the Maturity Date No
 47. Redemption at the option of the Issuer: if yes: No
 (a) Optional Redemption Date(s) N/A
 (b) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s) N/A
 (c) Minimum period of notice N/A
 (d) If redeemable in part:
 Minimum Redemption Amount(s) N/A
 Higher Redemption Amount(s) N/A
 (e) Other terms applicable on Redemption N/A
 48. Redemption at the option of the Notcholders: if yes: Applicable
 (a) Optional Redemption Date(s) Any Business Day
 (b) Optional Redemption Amount(s) and method, if any, of calculation of such Certificate put by the Notcholder to the

amount(s)	Issuer in accordance with Condition 11.4, plus accrued Interest thereon less any unwind costs as determined by the Issuer.
(c) Minimum period of notice	2 (two) Business Days in writing or telephonically
(d) If redeemable in part:	Applicable
Minimum Redemption Amount(s)	ZAR 10,000,000
Higher Redemption Amount(s)	
(e) Other terms applicable on Redemption	The Issuer shall be entitled to determine and deduct any unwind costs in relation to the early Redemption of this Note as determined by the Issuer in its sole and absolute discretion in accordance with the then prevailing market rates and condition. In addition the Issuer will take into consideration a further 20 basis point penalty in determining the unwind costs.
(f) Attach <i>pro forma</i> put notice(s)	N/A
49. Early Redemption Amount(s) payable on redemption for taxation reasons or on Event of Default	100% of Principal Amount

GENERAL

50. Qualification of Notes as Secondary Capital under the Banks Act, 1990	No
51. Qualification of Notes as Tertiary Capital under the Banks Act, 1990	No
52. Condition 7.4 to apply (deferral of interest and principal payments)?	No
53. Additional selling restrictions	N/A
54. (a) International Securities Numbering (ISIN)	N/A
(b) Stock Code	N/A
55. Financial Exchange	N/A
56. If syndicated, names of managers	N/A
57. Receipts attached? If yes, number of Receipts attached	No
58. Coupons attached? If yes, number of Coupons attached	No
59. Talons attached? If yes, number of Talons	No

attached

- | | | |
|-----|--|-----|
| 60. | Credit Rating assigned to Notes (if any) | N/A |
| 61. | Stripping of Receipts and/or Coupons prohibited as provided in Condition 16.5? | No |
| 62. | Governing law (if the laws of South Africa are not applicable) | N/A |
| 63. | Other Banking Jurisdiction | N/A |
| 64. | Last Day to Register | N/A |
| 65. | Stabilisation Manager (if any) | N/A |
| 66. | Other provisions: | N/A |

Signed at JOHANNESBURG on this 15th day of September 2009

THE STANDARD BANK OF SOUTH AFRICA LIMITED



Name: A. DAEHNYE

Designation: Director & Head Money Markets

ACASO - R200M

Certificate No: 190565

Our reference No:

1423955

MB PR 2090910/090914 J

NEGOTIABLE CERTIFICATE OF DEPOSIT
issued by **ABSAS BANK LIMITED** (the "Issuer")

BEARER

This is to certify that _____ (the "First Holder")
or any subsequent Holder of this Negotiable Certificate of Deposit ("this NCD"), is entitled, subject to the terms and conditions of this NCD, to
payment of interest (if any) on the Principal Amount of this NCD calculated and payable as specifically provided for in this NCD
and on the Redemption Date to payment of the Redemption Amount.

The following are salient terms of this NCD:

Issue Date: 09 SEPTEMBER 2010

Principal Amount: *****10,000,000.00 TEN MILLION RAND ONLY

Redemption Date: 09 SEPTEMBER 2014

Base Interest Rate: 3 MONTH JIBAR

Margin: PLUS 1.10%

Interest Date(s):
03.01.2011;31.03.2011;30.06.2011;30.09.2011
03.01.2012;02.04.2012;02.07.2012;01.10.2012
02.01.2013;01.04.2013;01.07.2013;30.09.2013

02.01.2014;31.03.2014;30.06.2014;09.09.2014

This NCD comprises (i) a covering page which sets out the salient terms of this NCD as well as (ii) on the reverse side the general terms and conditions of this NCD and (iii) the interest schedule for purposes of recording the payment(s) of Interest (if any) on the Interest Payment Date(s). This NCD shall not be binding on the Issuer unless two authorised representatives of the Issuer have, on behalf of the issuer, signed this page of this NCD in full.

For and on behalf of Absa Bank Limited on the Issue Date

Raxu

Authorised Signature

Cuan Schalkhuyk

Authorised Signature



Annexure E

Credit Rating

AcaciaSL 4 Investments (Pty) Limited

South Africa Structured Finance Ratings Update

December 2012

Security class	Rating scale	Currency	Rating ¹	Rating outlook	Next review
Preference Shares SL401A	National	Rand	AA+(RSA)	Stable	05/2011
Long term unsecured	National	Rand	AA+(RSA)		

Key counterparties:**Primary issuer:**

AcaciaSL 4 Investments (Pty) Ltd ("PreCo 4")

Reference issuer:

AcaciaSL-Conf e Trust (Pty) Ltd ("ACT")

Investor:

Stanlib Dividend Income Fund ("the Investor") which is managed by Stanlib Collective Investments Limited ("the Manager") and in trust of SESA Bank Limited.

Security SPV:

AcaciaSL Secco (Pty) Ltd ("SecureCo")

Administrator:

Acacia International Limited ("AIL")

Collateral issuer:

Standard Bank of South Africa Limited ("SBSA")

Summary of transaction:**General statistics:**

Asset class:	Preference Shares
Outstanding amount:	R200m
Dividend Rate:	92% of 3-month JIBARs at the first date of the calculation period
Payment frequency:	Quarterly
Main Dates:	
Sale date tranche 1:	9 September 2009
Term of maturity:	10 years + 1 day
Preference Shares Sales Update:	

Tranche Amount	Yield	# Shares	Rating
1 R200m	Dividend Rate	20,000	AA+(RSA)

Structural Enhancement Summary:**Security / Collateral Instruments:**

Negotiable certificate of deposit by SBSA (AA+ rated).

Primary Limited Guarantee:

PreCo 4 has the right to sell the preference shares it holds in ACT to SecureCo upon non-performance.

Secondary Limited Guarantee:

Investor has the right to sell the Preference Shares to SecureCo on non-performance.

Standby Investor facility:

Upon defined liquidity events for the Investor and upon meeting certain criteria, SecureCo is required to (i) purchase units in the Investor to meet liquidity requirements or (ii) to make a qualifying bid to purchase the Preference Shares.

Related research:

*Standard Bank South Africa Limited Rating Report

*AcaciaSL 4 Investments (Pty) Limited Rating Report (September 2009)

GCR contacts:

Marc Chadwick/Alfons Kider

+27 11 784 1771

marcchad@globelratings.net

alider@globelratings.net

Website: www.globelratings.net

Rating Update

Global Credit Ratings ("GCR") affirmed the rating of the Preference Shares SL401A at AA+(RSA), and accorded a stable outlook² to them. Concurrently, GCR affirmed the corporate long term unsecured rating of PrefCo 4 at AA+(RSA), and accorded a stable outlook to it.

Rating Panel Highlights

- PrefCo 4 issued R200m of redeemable preference shares (the "Preference Shares") to the Investor on 9 September 2009. In return, the Investor is entitled to receive quarterly cumulative preferred dividends at the Dividend Rate and repayment of capital at maturity.
- PrefCo 4 entered into the Primary Limited Guarantee Agreement with SecureCo pursuant to which PrefCo 4 has the right to put (upon stipulated conditions) the preference shares it holds in ACT to SecureCo in exchange for the Primary Guarantee Amount. SecureCo ceded (through a first ranking cession) the Collateral Instruments to the Issuer as security for its obligations under the Primary Limited Guarantee Agreement.
- The Investor entered into Secondary Limited Guarantee Agreement with SecureCo pursuant to which the Investor has the right to put (upon stipulated conditions) the Preference Shares to SecureCo in exchange for the Secondary Guarantee Amount. SecureCo ceded (through a second ranking cession) the Collateral Instruments to the Investor as security for its obligations under the Secondary Limited Guarantee Agreement. The exercise of this secondary put option will prevail over the exercise of the primary put option. The legal opinion states that the Guarantee Agreements are enforceable.
- The current long term ZAR currency national scale rating of SBSA is AA+(double A plus). The rating of the Preference Shares and the Issuer derives from the credit rating of the Collateral Instruments, and therefore from SBSA (being the issuer of the Collateral Instruments). Any changes to the rating of SBSA will result in a similar change to the rating of the Preference Shares.

1 Note that the rating relies on (i) Limited (as opposed to much) reassessment of dividends and capital, (2) exclude an assessment of the ability to pay any early payment penalties, (3) exclude an assessment of structural market value (flowing to the Collateral Instruments), and (4) exclude an assessment of counterparty risk. SUFF codes have been included for structural finance securities to reflect that the rating is a national scale rating. The SUFF code identifies to which country the rating refers. (SUFF) refers to United States of America.

2 Having outlooks have been introduced for South Africa structured finance markets to provide more forward looking information to the market. A outlook indicates the likely direction of any rating change over a one-year period.





Annexure F

Pricing

SCHEDULE 2.1.63

MASTER PREFERENCE SHARE SUBSCRIPTION AGREEMENT SL4

SUBSCRIPTION CONFIRMATION [INSERT DESIGNATION]

1. This subscription confirmation shall be completed and executed as a Subscription Confirmation to the master preference share subscription agreement SL4 concluded between AcaciaSL 4 Investments (Proprietary) Limited and Absa Bank Limited, in trust for the Stanlib Dividend Income Fund on [insert date] (the "**Master Preference Share Subscription Agreement**").
2. By execution of this Subscription Confirmation the parties enter into a preference share subscription agreement in respect of Transaction [insert designation], with effect from the Closing Date specified below, on the terms, *mutatis mutandis*, contained in the Master Preference Share Subscription Agreement.
3. For the purposes of the subscription pursuant to the Master Preference Share Subscription Agreement in respect of Transaction [insert designation] and this Subscription Confirmation:
 - 3.1. Auditor for the purpose of clause 17.2 means: [insert];
 - 3.2. Domicilium details:
 - 3.2.1. The Subscriber at: 17 Melrose Boulevard, Melrose Arch, Johannesburg, 2196;
Telefax No.: (011) 448-6669;
Attention: Henning Bischoff;
 - 3.2.2. The Issuer at: 9 Fricker Road, Illovo, Johannesburg, 2196;
Telefax No.: +27(11) 268 0532;
Attention: Thomas Cutten;
 - 3.2.3. The Subscriber at: 17 Melrose Boulevard, Melrose Arch, Johannesburg, 2196;
Telefax No.: 011) 448-6669 (Martin Rabe); and
(011) 8601-05395 (Victor Mphaphuli); and
Attention: Martin Rabe (Risk Legal and Compliance) and Victor Mphaphuli (Portfolio Manager);

- 3.3. "Closing Date" means **[insert]**;
- 3.4. "Credit Spread" means **[insert]** **["Credit Spread" to be inserted as per each Transaction]**;
- 3.5. "Deductions" means in respect of:
- 3.5.1. the applicable Preference Dividends:
- 3.5.1.1. any deduction or withholding for or on account of any Taxes required by applicable law or any Taxes payable by the Issuer on behalf of the Holder pursuant to the declaration, payment and/or distribution of the Preference Dividends, as determined by the Calculation Agent; and/or
- 3.5.1.2. any Taxes which become payable by or are imposed on Secureco as a result of a Change in Law, in connection with the disposal or realisation of the reference assets acquired by Secureco pursuant to the applicable transaction effected in terms of the Transaction Documents, including but not limited to securities transfer taxes and withholding taxes, as determined by the Calculation Agent;
- 3.5.2. the applicable Redemption Amount:
- 3.5.2.1. any deduction or withholding for or on account of any Taxes required by applicable law or any Taxes payable by the Issuer on behalf of the Holder pursuant to the redemption of the applicable Redeeming Preference Shares, as determined by the Calculation Agent; and/or
- 3.5.2.2. any Taxes which become payable by or are imposed on Secureco as a result of a Change in Law, in connection with the disposal or realisation of the reference assets acquired by Secureco pursuant to the applicable transaction effected by the Transaction Documents, including but not limited to securities transfer taxes and withholding taxes, to the extent to which such Taxes are not deducted from the applicable Preference Dividends in accordance with clause 3.5.1.2, as determined by the Calculation Agent;
[Deductions to be agreed as per each Transaction]
- 3.6. "Dividend Rate" means JIBAR [as at the first date of the Calculation Period], plus the Credit Spread, less **[insert]** basis points **["Dividend Rate" to be inserted as per each Transaction]**;

- 3.7. “Dividend Formula” means the following formula to be applied by the Calculation Agent in respect of the calculation of the Scheduled Preference Dividends and Final Preference Dividends payable to the Subscriber in respect of the applicable Preference Shares:

$$A = (C * E * D / 365) - F$$

Where:

A = the Scheduled Preference Dividend or Final Preference Dividend (as applicable) calculated per Preference Share, calculated in respect of each Calculation Period;

C = the Dividend Rate in respect of each Calculation Period;

D = in respect of each Calculation Period, the number of days in the relevant Calculation Period;

E = the Issue Price of each applicable Preference Share;

F = all applicable Deductions,

- 3.8. **[“Fixed Dates” means [insert] [“Fixed Dates” variable to be applied under the Dividend Formula if JIBAR reset dates will be applicable as per the relevant Collateral Instruments.]**
- 3.9. **[“JIBAR” means the mid-market rate for deposits denominated in ZAR for a period of [Drafting Note: to insert applicable period] that appears on the Reuters Screen SAFEY Page, next to the caption “YLD” (or any replacement page) as at 11h00 Johannesburg time, on the relevant date, provided that if such rate does not appear on the Reuters Screen SAFEY Page (or any replacement page), on the relevant date, the rate will be determined as if the parties had, in respect of that period, specified JIBAR-Reference Banks as the applicable rate;][“JIBAR” definition to be agreed per Transaction with reference to the relevant Collateral Instruments]**
- 3.10. **[“JIBAR-Reference Banks” means the mid-market deposit rate denominated in ZAR for a period of [insert period] quoted by the Reference Banks at approximately 11h00 Johannesburg time, on the date on which the period commences, on the basis that the Calculation Agent will request the principal Johannesburg office of each Reference Bank to provide a quotation as at the relevant date and the rate will be the arithmetic mean of the rates quoted, unless only one quotation is provided, in which event the rate will be that rate;][“JIBAR-Reference Banks” definition to be agreed per Transaction with reference to the relevant Collateral Instruments]**
- 3.11. “Issuer Account”:
Bank and Branch details: Standard Bank, Sandton;

Account Number: 023257075;
 Account Holder: Acacia SL 4 Investments (Pty) Ltd; and
 SWIFT: SBZAZAJJ;

- 3.12. "Issue Price" means, in respect of each Preference Share, the amount for which that Preference Share will be issued on the Closing Date which shall be ZAR[insert], being the aggregate of its par value of ZAR0.1 plus a premium of ZAR[insert];
- 3.13. "Memorandum and Articles Amendment Date" means: **[insert date referred to at clauses 5.1.3, 10.3 and 14.3]**
- 3.14. "Preference Shares" means **[insert]** cumulative redeemable preference shares with the designation **[insert designation]** with a par value of ZAR0.1 each in the capital of the Issuer, to be issued to Absa Bank Limited, in trust for the Stanlib Dividend Income Fund in accordance with the Preference Share Terms;
- 3.15. "Scheduled Preference Dividend Date" means, subject to the Modified Following Business Day Convention, each of the dates listed in the table below and, where the Redemption Date of any Preference Share does not fall on one of those dates, the Redemption Date;

Scheduled Preference Dividend Dates

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

[insert]

- 3.16. “Scheduled Redemption Date” means [insert];
- 3.17. “Subscriber Account”:
- | | |
|--------------------------|--|
| Bank and Branch details: | Standard Bank of South Africa, Johannesburg; |
| Account Number: | 000402184; |
| Account Holder: | STANLIB Collective Investment Limited; |
- 3.18. “Subscription Price” means ZAR[insert], calculated by multiplying the number of Preference Shares by the Issue Price per Preference Share; and
- 3.19. the number of share certificates to be delivered pursuant to clause 4.3 of the Master Preference Share Subscription Agreement shall be [insert], each in respect of [insert] shares.
4. The Issuer hereby represents and warrants to the Subscriber as at the Confirmation Signature Date that:
- 4.1. it is a “resident” as defined in section 1 of the Income Tax Act;
- 4.2. as at the following dates, there are reasonable grounds for the directors of the Issuer to believe that each of the following dividends is, at such dates, a “dividend” as defined in section 1 of the Income Tax Act:
- 4.2.1. any Scheduled Preference Dividends on the relevant Scheduled Preference Dividend Date;
- 4.2.2. any Additional Preference Dividends on the relevant Additional Preference Dividend Date; and
- 4.2.3. any Final Preference Dividend as at the relevant Final Preference Dividend Date;
- 4.2.4. the Preference Dividends declared by the Issuer in respect of the Preference Shares shall not constitute “foreign dividends” as defined in section 1 of the Income Tax Act;

- 4.3. subject to changes in applicable law, the Preference Dividends declared by the Issuer in respect of the Preference Shares shall be exempt from income tax in terms of section 10(1)(k) of the Income Tax Act;
 - 4.4. the Issuer is not at the Confirmation Signature Date and will not become while the Preference Shares are in issue, a "controlled foreign company" as defined in section 9D of the Income Tax Act;
 - 4.5. no Preference Dividends declared by the Issuer in respect of the Preference Shares shall be paid out of the share capital or share premium account of the Issuer from time to time;
 - 4.6. as at the Confirmation Signature Date, the consolidated assets of the Issuer fairly valued are not less than the consolidated liabilities of the Issuer.
5. The parties agree that an Adjustment Event shall not include the occurrence of an event or circumstance arising from a Change in Law resulting in the phasing out of secondary tax on companies and the introduction of a dividend tax on shareholders, to the extent the Change in Law strictly accords with the Revenue Laws Amendment Act, No.60 of 2008 and the draft Taxation Laws Amendment Bill of 2009 as released on 1 June 2009.
6. This Subscription Confirmation:
- 6.1. may be executed in separate counterparts, none of which need contain the signatures of all of the parties, each of which shall be deemed to be an original and all of which taken together constitute one agreement;
 - 6.2. shall be valid and binding upon the parties thereto, notwithstanding that one or more of the parties may sign a facsimile copy thereof and whether or not such facsimile copy contains the signature of any other party.
7. Capitalised terms in this Subscription Confirmation shall have the same meaning as ascribed thereto in the Master Preference Share Subscription Agreement.
8. This Subscription Confirmation is governed by South African law.

For: **ABSA BANK LIMITED, IN TRUST FOR THE STANLIB DIVIDEND INCOME FUND**

Signed by **STANLIB COLLECTIVE INVESTMENTS LIMITED**, being duly authorised thereto, for and on behalf of ABSA Bank Limited in trust for the Stanlib Dividend Income Fund

Signature: [Draft: Not for Signature] _____

Name: _____

Date: _____

Place: _____

For: **ACACIASL 4 INVESTMENTS (PROPRIETARY) LIMITED**

Signature: [Draft: Not for Signature] _____

Name: _____

Date: _____

Place: _____