

THE COMPANIES ACT 2001

**Regulations made by the Minister under
Section 360 of the Companies Act 2001**

1. These regulations may be cited as the Companies (Purchase of Own Shares) Regulations 2001.

2. In these regulations –

“Act” means the Companies Act 2001

“Board resolution” means a resolution of the Board of directors of a company;

“CDS” means the Central Depository and Settlement Co. Ltd. established under the Securities (Central Depository, Clearing and Settlement) Act 1996;

“company” means a public company admitted for quotation on the Official List of the Stock Exchange;

“Official Bulletin” means the weekly publication of the Stock Exchange of Mauritius Ltd known as such;

“press communiqué” means a communiqué published in the Official Bulletin and in 2 daily newspapers in wide circulation in Mauritius;

“Stock Exchange of Mauritius Ltd” means the Stock Exchange Company referred to in section 14 of the Stock Exchange Act 1988;

“treasury shares” has the same meaning as in sub-Part D of Part IV of the Act;

3. Any offer by a company to purchase or otherwise acquire its own shares on a stock exchange shall, for the purposes of section 69(3) and sub-part D of Part VII of the Act be made in accordance with the following conditions –

(a) no company shall purchase its own shares unless there is a Board resolution authorizing the purchase on the Stock Exchange;

(b) the Board resolution shall specify –

(i) the number and percentage of shares to be purchased;

- (ii) the minimum and maximum prices which may be paid;
and
 - (iii) whether the shares purchase would be cancelled or held as Treasury shares, or would be reissued.
- (c) following the Board resolution, the company shall forthwith issue a press communiqué which shall –
 - (i) contain the information set out in subparagraph (b); and
 - (ii) include a statement to the effect that the notice convening a special meeting accompanied by an explanatory statement setting out the details specified in the Schedule would be issued to the shareholders in due course.
- (d) the company shall –
 - (i) following the Board resolution, pass a special resolution at the special meeting to approve the purchase of its own shares;
 - (ii) file a copy of the special resolution with the Registrar within 7 days from the date of the passing of the resolution;
 - (iii) after consultation with the Commission and the Stock Exchange of Mauritius Ltd, issue a press communiqué to inform the public of -
 - (A) the date on which the purchase operation shall commence;
 - (B) the price at which it is proposing to purchase the shares, which shall not exceed 5 percent of the average market value of those shares for the last 10 business days.
- (e) the company shall, within 24 hours after each session during which it purchases its shares, furnish information related to the said purchase to the Commission and the Stock Exchange of Mauritius Ltd;
- (f) on completion of the purchase operation, the company shall forthwith cause a press communiqué to be published specifying –
 - (i) the outcome of the purchase, including the costs involved in financing the purchase of the shares;

- (ii) the consequential changes on the shareholding structure, the earnings per share, the net asset value per share, the tangible net asset value per share and the debt to equity ratio before and after the purchase;
- (g) the company shall, within 28 days from the completion of the purchase operation, file with the Registrar a return setting out the information specified in subparagraph (f);
- (h) subject to subparagraph (i), where the shares purchased are held as Treasury shares and are re-issued, the company shall disclose to the Registrar, the Commission and the Stock Exchange of Mauritius Ltd all information relating to the price, the number of shares and the names of the persons to whom the shares have been allotted.
- (i) prior to the re-issue of the shares, the company shall hold a special meeting to approve the amount and the price at which the Treasury shares shall be issued, and shall cause a press communiqué to that effect to be published.
- (j) where the shares purchased are cancelled, the company shall inform the CDS of the cancellation and cause the share certificates to be physically destroyed.
- (k) the company shall maintain a record of share certificates which have been cancelled and destroyed;
- (l) the company shall ensure that –
 - (i) for the purpose of the purchase operation any document issued shall contain true factual and material information, and a statement that the directors of the company accept responsibility as to its contents and that the company has complied with all the applicable laws;
 - (ii) no issue of shares, including a bonus issue, shall be made until the closure of the purchase operation;
 - (iii) the consideration for the shares purchased shall be for cash consideration;
 - (iv) no purchase of shares shall be effected when a scheme for amalgamation, compromise or arrangement, pursuant to the provisions of the Act, is pending;
 - (v) shares purchased are freely transferable;
 - (vi) fair treatment is given to all shareholders during the purchase operation;
 - (vii) the consent of the holders of convertible securities or other classes of securities has been obtained before the purchase operation.

4. a company shall not purchase its own shares prior to the expiry of 40 days from the publication of its annual or interim results or during any period when a cautionary announcement is operative in relation to dealings in the company's securities.
5. Where the company has announced that it shall purchase its own shares, it shall proceed with the operation unless the Stock Exchange of Mauritius Ltd authorises the company, on good cause, not to carry out the purchase operation.
6. The Companies (Purchase of Own Shares) Regulations 1999 are repealed.
7. These regulations shall be deemed to have come into operation on 1 December 2001.

Made by the Minister on 1 December 2001

SCHEDULE
(regulation 3(c)(ii))

Details to be set out, specified or otherwise included in the explanatory statement

1. The date of the Board meeting at which the proposal for share purchase was approved by the directors of the company.
2. Information on the purpose of the purchase of the shares.
3. Particulars of the process and method of the purchase of the shares.
4. The minimum and maximum number of shares that the company proposes to purchase, sources of funds and the cost of financing the purchase of the shares.
5. The proposed purchase price of the shares.
6. A report addressed to the Board of directors by the company's auditors stating that -
 - (a) they have inquired into the company's state of affairs;
 - (b) the Board of directors have formed the opinion on reasonable grounds and that the company will not, having regard to its state of affairs, be rendered insolvent within a period of one year from that date.
7. Information relevant to the purchase, including percentage of the total paid up capital and reserves proposed to be used for the purchase.
8. The proposed timetable from opening till the close of the purchase operation.
9. A statement as to whether there has been any offer to sell shares by any member of the Board of directors and any substantial shareholder.
10. Details of the audited accounts of the company for the last 3 years.
11. Stock market data including -
 - (a) high, low and average market price of the shares of the company during the preceding year;

- (b) monthly high and low prices for the 6 months preceding the date of the explanatory statement;
 - (c) periods marked by a change in capital structure, which shall commence from the date the stock exchange recognises the change in the capital structure;
 - (d) the market price immediately after the date of the Board resolution has approved the purchase of shares and the volume of shares traded in each month during the 6 months preceding the date of the public announcement;
 - (e) high, low and average share price of the company; and
 - (f) details relating to the volume of business transacted for the respective 6 months periods.
12. Present capital structure (including the number of fully paid and partly paid shares) and shareholding pattern.

