

Guidance Note: Restricted Securities

References	Chapter 8, SIM VSE Listing Rules
	Annexure 8A: Restriction Agreement
	Guide to Listing on SIM VSE

Introduction

This guidance note has been issued to assist listed entities comply with the SIM VSE Listing Rule requirements for restricted securities.

Regulatory objectives

Most stock exchanges impose restrictions on certain persons trading their securities in a listed entity for a certain period of time. These restrictions are generally applied to early investors in an entity and to persons who have provided assets or services to an entity in exchange for securities. By doing so, this delays the time at which a person can potentially realise the value of their securities by selling them.

The purpose of such restrictions is to ensure earlier investors and people who have sold assets or services to a listed entity in exchange for securities cannot realise the value of their securities before the value of their contribution to the listed entity is clearer. This in turn means that other investors in the entity can have greater confidence that business risks are being shared more evenly between themselves and early supporters of the entity.

SIM VSE Listing Rules

Restricted securities are defined in SIM VSE Listing Rule 12.11 as securities that in the opinion of the Exchange should be treated as restricted securities.

SIM VSE Listing Rule 8.1 requires an entity that has issued, or intends issuing, restricted securities to enter into a restriction agreement with the holder, or proposed holder, of the securities. The restriction agreement must be in the form of Annexure 8A unless otherwise required by the Exchange (SIM VSE Listing Rule 8.3).

SIM VSE Listing Rules 8.4 to 8.10 set out a range of requirements in relation to restriction agreements.

What are restricted securities

The Exchange generally regards securities issued to the following persons as restricted securities:

- early investors (ie investors who were issued securities, or the right to subscribe for securities, prior to the entity being approved to list on the Exchange);
- vendors (ie persons who have been issued securities in exchange for assets or services). This may include sellers of assets to an entity, professional advisors who accept securities for their services or promoters of the entity.

The above descriptions are not exhaustive and the Exchange may regard securities issued to other types of people as restricted securities in certain circumstances. The Exchange may also not treat securities as restricted securities in certain circumstances. For example, if an entity has substantial assets and a good track record of profitability.

The Exchange makes the above assessments on a case by case basis taking account of the circumstances of particular situations.

If an entity believes it may be issuing restricted securities the entity is encouraged to consult with the Exchange to determine whether the Exchange will treat the securities as restricted securities.

What restrictions will apply

The Exchange applies different types of restrictions depending upon the circumstances. A guide to the approach taken by the Exchange is set out in the Table below.

Person	Time Of Issue	Escrow Period
Early investor	Before date of listing	6 months, from the date of listing
Vendor of assets	Before date of listing	6 months, from the date of listing
Vendor of assets who is a related party or will hold over 20% of the capital of the entity	After date of listing	6 months, from the date of issue of the securities
Promoter of the entity	Before date of listing	12 months, from the date of listing
Professional or consultant	Before date of listing	12 months, from the date of listing
Promoter or related party who receives securities under an employee incentive scheme	Before date of listing	12 months, from the date of listing

Notes on the Table:

- 1 Where an early investor or vendor of assets before the date of listing is also a promoter or related party of the entity, the Exchange will generally apply a longer escrow period.
- 2 The number of securities treated as restricted securities will often depend upon the consideration for which securities are issued and the difference between that and the price paid by investors under an initial public offering. For example, if an early investor is issued securities for cash that is not significantly different from the price paid by investors under an initial public offering, the Exchange will only treat a portion of the securities as restricted securities.

Scope of guidance note

This guidance note is intended to assist listed entities to comply with their obligations under the SIM VSE Listing Rules. It is not exhaustive, does not in any way act as a substitute for any SIM VSE Listing Rule and is not binding on the Exchange in its application of the Rules in any particular case.

This guidance note does not constitute legal advice by the Exchange. Where appropriate, listed entities should obtain their own professional advice about compliance with their obligations under the SIM VSE Listing Rules.

Queries

If you have queries about this guidance note please contact the SIM VSE Admissions Office on:

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