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PREPARING TO LIST ON JAMAICA STOCK EXCHANGE JUNIOR MARKET



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Much has been in the media about the recent establishment of the Jamaica Stock Exchange Junior Market. The opportunities this presents for Jamaican and other CARICOM Small to Medium Sized Enterprises (SMEs) are fairly attractive and include:

- Access to capital on the open market;
- Expansion through equity rather than debt; and
- Full tax exemption on profits for the first five years

after listing and thereafter tax on 50% of profits for an additional five years.

These opportunities are in addition to advantages presently enjoyed by all listed companies which include an exemption of transfer tax and stamp duty on the transfer of shares traded on the exchange and or exemption from withholding tax on dividends.

The only method by which an SME may list is by making an Initial Public Offering (IPO) which requires the filing of a prospectus. A prospectus is basically a statement to the public of the past performance, the present status and the future prospects of the company. The procedure for the issue of the prospectus, which in some cases may be complicated, time consuming and expensive. This has now been somewhat simplified by the use of a 'shelf prospectus' and other documents required for listing posted by the Jamaica Stock Exchange (JSE) on its web-site. The effect of this initiative is to make the IPO less daunting. The JSE has announced that the listing fees will also be up to 50% lower than the fees payable by a company to list on the Main Board.

The basic requirements for an SME to list are that upon listing the subscribed voting share capital must be no less than \$50M or more than \$500M and it should have at least 25 participating voting shareholders holding no less than 20% of its issued share capital. Where a SME fails to maintain at least this minimum share capital and the number of shareholders the JSE Rules provide that they will be delisted. An SME may also have a 'mentor' on the board prior to listing which, as the word implies, is a person who holds the proverbial 'hands' of the company through its tenure on the JSE by guiding and assisting it in being compliant with the requirements of being a listed company.

However, an SME is required to be eligible to apply to list and to ready itself to do so is somewhat like a child preparing for First Communion! That is, it must be in a particular

state to be admitted to the fold. Firstly, where an SME is a private company it must convert to a public company because:

- a private company may not have more than 20 shareholders and to list, as mentioned above, it must have at least 25 shareholders, and,
- a private company may not make an offer to the public to subscribe for its shares but a public company may do so in accordance with the requirements of the Companies Act.

Secondly, where an SME has articles of association it will be required to adopt new articles of incorporation which contain certain provisions mandated under the JSE Rules. The Rules include a provision that there may be no restrictions on the right to transfer the shares which is an important criterion for any company that is to have its shares traded across the floor of the stock exchange.

Thirdly, on the conversion of an SME to a public company, it must have at least a minimum paid up share capital of \$500,000 in order for the company to obtain a certificate from the Registrar of Companies to carry on business.

Fourthly, the profit and loss accounts and the balance sheet statements for five years preceding the issue of the prospectus must be available for auditors to prepare a report on the financial status of the company to be published in the prospectus for the scrutiny of the public invited to invest in the company.

Fifthly, where the SME is a 'family' company which normally comprises a small board of family members and/or connected persons, the board should be reconfigured to comprise at least three members, preferably with at least one non-executive director who has a reputation for good corporate governance and business acumen. A competent secretary must also be appointed to serve the board.

Finally, the board of an SME should prepare itself to accept the fact that as the board of a listed company it has to change its 'mind-set' from accountability to a few to accountability to potentially hundreds of shareholders and that the company will be required to file quarterly and annual financial reports with the JSE on a timely basis. Failing compliance with these and other JSE Rules, the company may be delisted and be required to pay back the taxes from which it was exempted.

To list or not to list will therefore likely be one of the most significant decisions an SME will make as it involves a mix of business, legal and emotional issues. Generally however, listing can be uneventfully achieved and the advantages from a tax perspective are enticing. A private company planning to go this route may now therefore start the process of preparing itself in advance of listing.

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