



# **Element Investment Managers (Pty) Limited**

## Information Manual

August 2009

Our Manual prepared in terms of Section 51 of the  
Promotion of Access to Information Act 2 of 2000

Independent Active Investors

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ELEMENT INVESTMENT MANAGERS (PTY) LTD REG. NO. 1998/006727/07  
AUTHORISED FINANCIAL SERVICES PROVIDER (LICENCE NUMBER 663)  
DIRECTORS: DR A NAGIA (CHAIRMAN), TR CRAIG, IA JONES, Y MOHAMED\*  
J NAIDOO\*, LL XATE\* (\*NON EXECUTIVE), FOUNDER: JKI FRATER

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## **Preamble**

The Promotion of Access to Information Act No. 2 of 2000 ("the Act") came into operation on 23 November 2001. Section 51 of this Act requires that we as a private body compile a manual giving information to the public regarding the procedure to be followed in requesting information from us for the purpose of exercising or protecting rights.

## **Introduction to this private body**

Element Investment Managers is an independent, owner-managed private body established in 1998. We provide discretionary investment management services to individuals, institutions and retirement funds. The company specializes in investments in the South African market. In addition to segregated portfolios, Element Investment Managers manages a range of unit trust and pooled funds.

Element Investment Managers has been a pioneer in the field of the promotion of ownership. This has been implemented through an overlay of constructive engagement with the management of the companies in which we invest. Element Investment Managers is also one of a few managers in South Africa that manages Shari'ah compliant investment portfolios on behalf of Islamic investors.

We, as a private body, have compiled this manual, not only to comply with the provisions of the Act, but also to foster a culture of transparency and accountability in our environment and to ensure that members of the public have effective access to information in our possession which will assist them in the exercise and protection of their rights.

Inside these pages you will be able to view the categories of information, which we possess. You will also be shown the correct procedure to follow should you require access to any of this information.

A copy of this manual is also available on our website [www.elementim.co.za](http://www.elementim.co.za).

## Section A – Our details

Full Name	Element Investment Managers (Pty) Limited
Registration Number	1998/006727/07
Registered Address	8th Floor 125 Buitengracht Street Cape Town 8001
Postal Address	PO Box 13 Cape Town 8000
Telephone Number	+27 21 426 1313
Fax Number	+27 21 426 0999
Designated Information Officer	Chief Operating Officer
Email Address	ian@elementim.co.za
Website	www.elementim.co.za

## **Section B – The official guide**

Section 10 of the Act requires the South African Human Rights Commission (SAHRC) to publish a Guide containing information reasonably required by a person wishing to exercise or protect any right in terms of this Act.

The Guide will contain the following information:

1. The objects of the Act;
2. Particulars of the information officer of every public body;
3. Particulars of every private body as are practicable;
4. The manner and form of a request for access to information held by a body;
5. Assistance available from both the information officers and the Human Rights Commission in terms of this Act;
6. All remedies in law regarding acts, omissions, rights and duties, including how to lodge an internal appeal and a court application;
7. Schedules of fees to be paid in relation to requests for access to information;
8. Regulations made in terms of the Act.

Copies of this Guide will be available as soon as it is published by the SAHRC. Enquiries regarding the Guide can be addressed to the SAHRC, the contact details of which are as follows:

Post: South African Human Rights Commission  
Promotion of Access to Information Act Unit  
Research and Documentation Department  
Private Bag 2700  
Houghton  
2041

Telephone: +27 11 484-8300  
Fax: +27 11 484-0582  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)  
E-mail: [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

## **Section C – Information available in terms of the Act**

### Categories of information

We hold the following categories of information:

#### **1. Records available in terms of any other legislation**

All records kept and made available in terms of legislation applicable to any of the entities in this manual, as applicable to the specific environment in which the entities operate, are available in accordance with the said legislation. Access may be granted in terms of such other legislation if the manner of request is not more onerous than a request under this Act. If the manner of request is more onerous under other legislation, the request should be made in terms of this Act.

#### **2. Records available without requesting access in terms of the Act**

A private body may, on a voluntary and periodic basis, submit to the Minister a description of categories of records, which are automatically available without a person having to request access in terms of the Act. The Minister must publish any description so submitted by notice in the Gazette.

We have not submitted any such description for publication in the Gazette. Certain records are however freely available on our website [www.elementim.co.za](http://www.elementim.co.za).

#### **3. Records available on request**

Set out below are the subjects and categories of records that encapsulate the entities of this manual:

##### **(i) Personnel Records**

Personnel refers to any person who works for or provides services to or on behalf of the private body and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of the private body. This includes, without limitation, directors, executives, non-executives, permanent, temporary and part-time staff, as well as contract workers.

Personnel records include:

- Personal records provided to the private body by their personnel
- Any records a third party has provided to the private body about any of their personnel
- Conditions of employment and other personnel-related contractual and quasi-legal records
- Internal evaluation records and other internal records and correspondence
- Training schedules and material

##### **(ii) Client-Related Records**

A client includes any natural or juristic entity who receives services from the private body.

Client-related records include:

- Any records a client has provided to a third party acting for or on behalf of the private body
- Any records a third party has provided to the private body
- Records generated by or within the private body pertaining to the client, including transactional records.

### **(iii) Private Body Records**

The following are considered to include but not be limited to records which pertain to the private body's own affairs.

- Financial records
- Operational records
- Databases
- Information technology
- Marketing records
- Internal correspondence
- Product records
- Statutory records
- Internal policies and procedures
- Treasury-related records
- Securities and equities
- Records held by officials

### **(iv) Other Party Records**

The private body may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, service providers. Alternatively, such other parties may possess records which can be said belong to the private body.

The following records fall under this category

- Personnel, client or private body records which are held by another party as opposed to being held by the private body;
- Records held by the private body pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

## **Section D – Procedure for requesting access to the above information**

If you wish to request access to any of the above categories of information, you are required to complete a request form as set out in annexure "A" hereto. These forms are available from:

- ✦ Our information officer (whose contact details are in section A of this manual);
- ✦ The SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za))
- ✦ The Department of Justice and Constitutional Development website ([www.doj.gov.za](http://www.doj.gov.za)).

There is a prescribed fee (payable in advance) for requesting and accessing information in terms of the Act. Details of these fees are contained in the request form.

You may also be requested to pay the additional fees prescribed by regulation for searching for and compiling the information, which you have requested, including copying charges.

It is important to note that access is not automatic – you must identify the right you are seeking to exercise or protect and explain why the record you request is required for the exercise or protection of that right. You will be notified in the manner indicated by you on the request form whether your request has been approved.

## Section E – Grounds for refusal of access to records

The main grounds for the private body to refuse a request for information relates to the –

1. mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
2. mandatory protection of the commercial information of a third party, if the records contain –
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
  - information disclosed in confidence by a third party to the private body, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
3. mandatory protection of confidential information of third parties if it is protected in terms of an agreements;
4. mandatory protection of the safety of individuals and the protection of property;
5. mandatory protection of records which would be regarded as privileged information in legal proceedings;
6. the commercial activities of the private body, which may include –
  - trade secrets of the private body;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the private body;
  - information, which is disclosed could put the private body at a disadvantage in negotiations or commercial competition;
  - a computer program which is owned by the private body, and which is protected by copyright.
7. the research information of the private body or a third party, if its disclosure would disclose the identity of the private body, the researcher or the subject matter of the research and would place the research at a serious disadvantage.

Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

## **ANNEXURE "A"**

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53 (1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))  
[Regulation 10]

**A. Particulars of private body**

The Head:

**B. Particulars of person requesting access to the record**

- (a) The particulars of the person who requests access to the record must be given below.
- (b) The address and/or fax number in the Republic to which the information is to be sent must be given.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number: E-mail address:

Capacity in which request is made, when made on behalf of another person:

**C. Particulars of person on whose behalf request is made**

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

**D. Particulars of record**

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

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1. Description of record or relevant part of the record:

2. Reference number, if available:

3. Any further particulars of record:

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:

Form in which record is required:

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:

copy of record\*

inspection of record

2. If record consists of visual images

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):

view the images

copy of the images\*

transcription of the images\*

3. If record consists of recorded words or information which can be reproduced in sound:

listen to the soundtrack (audio cassette)

transcription of soundtrack\* (written or printed document)

4. If record is held on computer or in an electronic or machine-readable form:

printed copy of record\*

printed copy of information derived from the record\*

copy in computer readable form\* (stiffy or compact disc)

\*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? YES |

Postage is payable.

G. Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected:

2. Explain why the record requested is required for the exercise or protection of the aforementioned right:

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at

this

day of

20

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

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## **ANNEXURE "B"**

AN EXPLANATORY NOTE ON FEES TO BE CHARGED BY A PRIVATE BODY WHEN GRANTING A REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000.

The fees chargeable by private bodies are contained in Part III of Annexure "A" of the Regulations. A copy of Part III is attached for your convenience. The present charges are as follows:

### **1. Copies of a manual**

Should an individual require a copy of the private body's manual, a fee of R1,10 is chargeable for every photocopy of an A4 page or part thereof.

### **2. Reproduction fees 1**

Reproduction fees apply to obtaining copies or transcriptions of information which is automatically available from the private body. The fees are listed in paragraph 2 of Part III of Annexure "A" to the Regulations.

### **3. Access fees 2**

Access fees are chargeable for copies or transcriptions of information requested under this Act. The fees are listed in paragraph 4 of Part III of Annexure "A" to the Regulations.

### **4. Other fees**

- 4.1 A request fee<sup>3</sup> of R50,00 is payable by a requester who is seeking access to a record containing information which is not personal to the requester. See paragraph 6 of Part 1 of this Work.
- 4.2 A search fee<sup>4</sup> may be charged at a rate of R30,00 per hour or part thereof for searching and preparing the record for disclosure provided such time was reasonably required for that purpose.
- 4.3 If the request is not limited to records containing information which is personal to the requester and if the head of the private body is of the opinion that the time taken to give effect to the request will exceed six hours the requester can be called upon to pay a deposit of not more than one third of an estimate of the access fee which will become payable.<sup>5</sup>
- 4.4 If a copy of a record is posted to a requester, the requester is obliged to pay the actual postage payable.

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<sup>1</sup> Section 52(3) and Regulation 1(1).

<sup>2</sup> Section 54(7) and Regulation 11(3).

<sup>3</sup> Section 54(1) and Regulation 11(2).

<sup>4</sup> Annexure "A", Part III, Item 4(1)(f).

<sup>5</sup> Section 54(2).

### PART III - FEES IN RESPECT OF PRIVATE BODIES

1. The fee for a copy of the manual as contemplated in regulation 9 (2) (c) is R1,10 for every photocopy of an A4-size page or part thereof.

2. The fees for reproduction referred to in regulation 11 (1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,75
(c) For a copy in a computer-readable form on—	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00

3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11 (2) is R50,00.

4. The access fees payable by a requester referred to in regulation 11(3) are as follows:

	R
(1) (a) For every photocopy of an A4-size page or part thereof	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,75
(c) For a copy in a computer-readable form on—	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00
(f) To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.	

(2) For purposes of section 54 (2) of the Act, the following applies:

- (a) Six hours as the hours to be exceeded before a deposit is payable; and
- (b) one third of the access fee is payable as a deposit by the requester.

(3) The actual postage is payable when a copy of a record must be posted to a requester