

## INVESTEC BANK LIMITED

Incorporated in the Republic of South Africa

(Registration number 1969/004763/06)

JSE share code: INLP

ISIN: ZAE000048393

LEI No.: 549300RH5FFHO48FXT69

("IBL" or "the Company")

## FIRM INTENTION ANNOUNCEMENT BY THE COMPANY IN RESPECT OF A REPURCHASE OFFER TO IBL PREFERENCE SHAREHOLDERS TO ACQUIRE THEIR PREFERENCE SHARES, TO BE IMPLEMENTED BY WAY OF A SCHEME OF ARRANGEMENT OR A STANDBY GENERAL OFFER

### 1. INTRODUCTION

1.1. The board of directors of IBL ("**Board**") is pleased to announce that it has resolved to propose a repurchase ("**Proposed Repurchase**") of all or some of the outstanding non-redeemable, non-cumulative, non-participating, preference shares with a par value of 1c each in the issued share capital of IBL ("**Preference Shares**") by way of:

1.1.1. an offer to all of the holders of Preference Shares ("**Eligible Shareholders**") to acquire all of their Preference Shares ("**Scheme Shares**") for a cash consideration of R99.52 per Scheme Share ("**Scheme Consideration**"), in accordance with the provisions of section 114(1) and section 115(2)(a) of the Companies Act, No. 71 of 2008, as amended ("**Companies Act**"), by way of a scheme of arrangement ("**Scheme**"), which if successfully implemented will result in all the Preference Shares being repurchased, cancelled and removed from the issued Preference Shares of IBL and subsequently delisted from the securities exchange operated by the JSE Limited ("**JSE**"); or

1.1.2. alternatively, a general offer ("**Standby Offer**") by IBL to Eligible Shareholders, to acquire all (or a portion) of their Preference Shares ("**Standby Offer Shares**") for a cash consideration of R95.54 per Standby Offer Share ("**Standby Offer Consideration**"), in accordance with the provisions of sections 48(8)(a), 48(8)(b), 114 and 115 of the Companies Act, which Standby Offer may be accepted or rejected by Eligible Shareholders (in whole or in part) and which will be implemented only if the Scheme fails and, if successfully implemented, will result in only those Preference Shares which have been voluntarily tendered being repurchased, cancelled and removed from the issued Preference Shares of IBL, and the subsequent delisting of those repurchased Preference Shares from the JSE.

1.2. The Scheme and the Standby Offer are proposed concurrently on the basis that the implementation of the Standby Offer will be conditional upon, amongst others, the Scheme

not becoming unconditional and operative. In the event that the Scheme becomes unconditional and operative, the Standby Offer will lapse. Alternatively, if the Scheme does not become unconditional and operative, the Standby Offer will become applicable.

- 1.3. The Board further confirms that, as a registered bank, IBL has obtained the consent of the South African Reserve Bank's Prudential Authority in terms of the Regulations relating to Banks, 2012 to proceed with the Proposed Repurchase.
- 1.4. The contents of this announcement ("**Firm Intention Announcement**") constitute a firm intention by IBL to propose an affected transaction as contemplated in Chapter 5 of the Companies Act and Chapter 5 of the Companies Regulations, 2011, promulgated under the Companies Act (which includes the "**Takeover Regulations**" issued pursuant to sections 120 and 223 of the Companies Act) ("**Companies Regulations**").
- 1.5. IBL has constituted an independent board of directors of the Company ("**Independent Board**") for purposes of the Proposed Repurchase, including, for the purposes of evaluating the terms and conditions of the Scheme and the Standby Offer and advising Shareholders thereon, as required by the Companies Act. The Independent Board comprises of KL Shuenyane, ZBM Bassa and D Friedland.
- 1.6. The purpose of this Firm Intention Announcement is to advise Shareholders of the Proposed Repurchase and specifically the terms and conditions of the Scheme and the Standby Offer.

## 2. **BACKGROUND AND RATIONALE FOR THE PROPOSED REPURCHASE**

- 2.1. IBL has issued and 14 917 559 Preference Shares were subscribed for, which Preference Shares are currently listed on the Main Board of the JSE Limited under the abbreviated name Investec -P.
- 2.2. These Preference Shares were issued in 4 tranches from 13 August 2003 to 21 May 2010 as part of regulatory capital under then prevailing Basel II requirements, ranging from an issue price of R96.47 to R100 per Preference Share. The Preference Shares have a blended average carrying value on IBL's balance sheet of R99.30 per Preference Share. The quoted closing price of the Preference Shares on 28 October 2021, the day preceding the Firm Intention Announcement was R85.50 per Preference Share

- 2.3. The Preference Shares experience low trading volumes and low liquidity, which have contributed to Preference Shares trading at a material discount to their issue prices and blended average carrying value.
- 2.4. The Preference Shares' contribution towards regulatory capital has been reducing over time as these instruments have been phased-out in terms of Basel III regulatory requirements, and accordingly, from 1 January 2022 IBL will not derive any regulatory capital benefit associated with the Preference Shares. Furthermore, in terms of the Financial Sector Laws Amendment Bill the Preference Shares will also not qualify as 'First Loss After Capital' (FLAC) instruments. As a result thereof, IBL has deemed it appropriate not to continue to have the Preference Shares in its issued share capital and the appropriate manner of achieving this is through the repurchase of the Preference Shares.

### 3. TERMS AND CONDITIONS OF THE SCHEME

The Scheme constitutes an "affected transaction" as defined in section 117(1)(c)(iii) of the Companies Act and, as such, is regulated by the Companies Act and the Takeover Regulations. The salient terms of and other information pertaining to the Scheme are set out below:-

#### 3.1. Terms of the Scheme

- 3.1.1. The Scheme will be proposed by the Board between the Company and Eligible Shareholders.
- 3.1.2. The Scheme will be subject to the fulfilment of the Scheme Conditions set out in paragraph 3.3 below.
- 3.1.3. In the event that the Scheme becomes unconditional and operative, Eligible Shareholders, excluding those Eligible Shareholders who validly exercise their appraisal rights in accordance with section 164 of the Companies Act as a consequence of the approval of the Scheme and whose rights have not been reinstated as envisaged in sections 164(9) and 164(10) of the Companies Act, or who have not been ordered by any South African court of competent jurisdiction ("**Court**") to withdraw their demands in terms of section 164(15)(c)(v)(aa) of the Companies Act ("**Scheme Participants**"), will be deemed to have disposed of all of their Scheme Shares at the Scheme Consideration, such that IBL will acquire all of the Scheme Shares held by the Scheme Participants, whereafter the listing of all the Scheme Shares on the JSE will be terminated.

#### 3.2. Scheme Consideration

The Scheme Participants shall receive the Scheme Consideration, being an amount of R99.52 per Scheme Share held by such Scheme Participant.

#### 3.3. Scheme Conditions

- 3.3.1. The Scheme is subject to the fulfilment of the following suspensive conditions (“**Scheme Conditions**”) by not later than 31 March 2022 or such later date as IBL may in its sole discretion determine (“**Scheme Conditions Fulfilment Date**”), or waiver, as the case may be:-
- 3.3.1.1. the Shareholder approvals required to give effect to the Scheme have been obtained, being:-
- 3.3.1.1.1. the passing of a special resolution by the Shareholders to approve the Scheme in terms of sections 114(1) and section 115(2)(a) of the Companies Act (“**Scheme Resolution**”) at the general meeting of all Shareholders expected to be held on or about 2 December 2021 (or any other adjourned or postponed date and time, as applicable) (“**Combined General Meeting**”) in order to *inter alia* consider and, if deemed fit, pass the Scheme Resolution;
- 3.3.1.1.2. the passing of a voluntary special resolution by the Eligible Shareholders to approve the Scheme at the general meeting of Eligible Shareholders expected to be held on or about 2 December 2021 (or any other adjourned or postponed date and time, as applicable) (“**Eligible Shareholders General Meeting**”) in order to consider and, if deemed fit, pass this voluntary resolution;
- 3.3.1.2. within the period prescribed by section 164(7) of the Companies Act, no valid demands (relating to appraisal rights in terms of section 164 of the Companies Act) have been received by IBL from any Shareholder in terms of that section read with section 115(8) of the Companies Act, pursuant to the Scheme Resolution;
- 3.3.1.3. to the extent that the provisions of section 115(2)(c) read with section 115(3) of the Companies Act become applicable:-
- 3.3.1.3.1. the Scheme Resolution being approved by the Court unconditionally or, if subject to conditions, IBL confirms in writing that the conditions are acceptable to it;
- 3.3.1.3.2. the Scheme Resolution not being set aside by the Court; or
- 3.3.1.3.3. IBL not treating the Scheme Resolution as a nullity in terms of section 115(5)(b) of the Companies Act; and
- 3.3.1.4. the approvals, consents or waivers from those South African regulatory authorities as may be necessary for IBL to implement the Scheme, being (1)

the Takeover Regulation Panel, established in terms of section 196 of the Companies Act ("**TRP**"), by means of the issue of a compliance certificate in relation to the Scheme as required by section 115(1)(b) (read with sections 119(4)(b) and section 121(b)(i)) of the Companies Act, (2) the approvals required in terms of the Banks Act, No. 71 of 2008, as amended ("**Banks Act**"), and (3) the approvals required in terms of the Exchange Control Regulations, are obtained on an unconditional basis or, to the extent that any such approvals, consents or waivers are obtained subject to any condition or qualification, IBL confirms in writing that the condition or qualification is acceptable to it.

3.3.2. IBL shall be entitled to waive (in whole or in part) in writing the Scheme Condition stipulated in paragraph 3.3.1.2 at any time (including after the fulfilment date of this Scheme Condition). The remaining Scheme Conditions stipulated above are not capable of waiver.

3.3.3. The Scheme Conditions Fulfilment Date may be extended by IBL, subject to any approval as may be required from the TRP. An announcement will be released on SENS and published in the South African press as soon as reasonably practicable after all the Scheme Conditions have been fulfilled or waived, if the Scheme Conditions are not fulfilled or waived timeously, or if the time and/or date for fulfilment or waiver of the Scheme Conditions is extended.

#### 3.4. Termination of the Scheme

The Scheme shall terminate and cease with immediate effect if any of the Scheme Conditions have not been fulfilled or waived (as the case may be) on or by the Scheme Conditions Fulfilment Date.

## 4. TERMS AND CONDITIONS OF THE STANDBY OFFER

### 4.1. Terms of the Standby Offer

4.1.1. Simultaneously with the Scheme, IBL will make a concurrent voluntary Standby Offer, to Eligible Shareholders to acquire all (or a portion) of their Standby Offer Shares at the Standby Offer Consideration per Standby Offer Share in terms of sections 48(8)(a), 48(8)(b), 114 and 115 of the Companies Act.

4.1.2. For the avoidance of doubt, implementation of the Standby Offer will be conditional on, amongst others, the Scheme not becoming unconditional and operative. In the event that the Scheme does become unconditional and operative, the Standby Offer will lapse and be of no force and effect.

4.1.3. In the event that the Standby Offer becomes unconditional and is implemented, IBL will acquire all of the Standby Offer Shares tendered and previously held by those Eligible Shareholders who have accepted the Standby Offer ("**Standby Offer Participants**").

### 4.2. Standby Offer Consideration

Standby Offer Participants shall, if they accept the Standby Offer, receive the Standby Offer Consideration, being an amount of R95.54 per Standby Offer Share tendered by such Standby Offer Participant.

#### 4.3. Standby Offer Conditions

4.3.1. The Standby Offer is subject to the fulfilment of the following suspensive conditions ("**Standby Offer Conditions**") by no later than 31 March 2022 or such later date as IBL may, in its sole discretion, determine ("**Standby Offer Conditions Fulfilment Date**") or waiver, as the case may be:-

4.3.1.1. the Scheme does not become unconditional and operative (meaning that a Scheme Condition has not been fulfilled or waived by the Scheme Conditions Fulfilment Date);

4.3.1.2. the Shareholder approvals required to give effect to the Standby Offer have been obtained, being the passing of special resolutions of Shareholders in terms of sections 48(8)(a) and 48(8)(b) of the Companies Act (collectively the "**Companies Act Repurchase Resolutions**") (the section 48(8)(b) of the Companies Act resolution being the "**Section 48(8)(b) Resolution**") at the Combined General Meeting to authorise the Proposed Repurchase by way of the Standby Offer;

4.3.1.3. within the period prescribed by section 164(7) of the Companies Act, no valid demands (relating to appraisal rights in terms of section 164 of the Companies Act) have been received by IBL from any Shareholder in terms of that section read with section 115(8) of the Companies Act, pursuant to the Section 48(8)(b) Resolution;

4.3.1.4. to the extent that the provisions of section 115(2)(c) read with section 115(3) of the Companies Act become applicable:-

4.3.1.4.1. the Section 48(8)(b) Resolution being approved by the Court unconditionally or, if subject to conditions, IBL confirms in writing that the conditions are acceptable to it;

4.3.1.4.2. the Section 48(8)(b) Resolution not being set aside by the Court; and

4.3.1.4.3. IBL not treating the Section 48(8)(b) Resolution as a nullity in terms of section 115(5)(b) of the Companies Act; and

4.3.1.5. the approvals, consents or waivers from those South African regulatory authorities as may be necessary for IBL to implement the Standby Offer, being (1) to the extent required, the TRP, by means of the issue of a compliance certificate in relation to the Standby Offer as required by sections 119(4)(b) and 121(b)(i) of the Companies Act, (2) the approvals required in terms of the Banks Act, and (3) the approvals required in terms of the

Exchange Control Regulations, are obtained on an unconditional basis or, to the extent that any such regulatory approvals, consents or waivers are obtained subject to any condition or qualification, IBL confirms in writing that the condition or qualification is acceptable to it.

4.3.2. IBL shall be entitled to waive (in whole or in part) in writing the Standby Offer Condition stipulated in paragraph 4.3.1.3 at any time (including after the fulfilment date of this Standby Offer Condition). The remaining Standby Offer Conditions stipulated above are not capable of waiver.

4.3.3. The Standby Offer Conditions Fulfilment Date may be extended by IBL, subject to any approval as may be required from the TRP. An announcement will be released on SENS and published in the South African press as soon as reasonably practicable after all the Standby Offer Conditions have been fulfilled or waived, if the Standby Offer Conditions are not fulfilled or waived timeously, or if the time and/or date for fulfilment or waiver of the Standby Offer Conditions is extended.

#### 4.4. Termination of the Standby Offer

The Standby Offer shall terminate and cease with immediate effect if the Scheme is implemented or if any of the Standby Offer Conditions have not been fulfilled or waived (as the case may be) on or by the Standby Offer Fulfilment Date (or such extended date, as applicable).

## 5. **SOLVENCY AND LIQUIDITY**

5.1. It is recorded, in respect of the Proposed Repurchase, that -

5.1.1. in terms of section 46(1)(a)(ii) of the Companies Act, the Board has authorised the Proposed Repurchase, by way of a resolution;

5.1.2. in terms of section 46(1)(b) of the Companies Act, the Board is satisfied that it reasonably appears that IBL will satisfy the solvency and liquidity test as set out in section 4 of the Companies Act, immediately after completing the Proposed Repurchase, and, in this regard, the different considerations offered under each of the Scheme and the Standby Offer have been taken into account;

5.1.3. in terms of section 46(1)(c) of the Companies Act, the Board has, by resolution, acknowledged that it has applied the solvency and liquidity test, as set out in section 4 of the Companies Act, and reasonably concluded that IBL will satisfy the solvency and liquidity test immediately after completing the Proposed Repurchase; and

5.1.4. since the solvency and liquidity test was performed, there have been no material changes to the financial position of IBL.

5.2. The financial effect of the Proposed Repurchase on IBL is a maximum cash outflow of approximately R1 484 595 472 and a debit against Preference Share capital.

## 6. **INDEPENDENT EXPERT AND FAIR AND REASONABLE OPINION**

- 6.1. In accordance with the Companies Act, the Independent Board has appointed BDO Corporate Finance (Pty) Ltd as the independent expert in terms of section 114(2) of the Companies Act and regulation 90 of the Companies Regulations ("**Independent Expert**") to provide the Independent Board with external advice in relation to the Scheme and the Standby Offer, in the form of a fair and reasonable opinion ("**Independent Expert's Report**").
- 6.2. The full substance of the Independent Expert's Report in connection with the Scheme and the Standby Offer, once procured, will be more fully set out in the Circular to be distributed to Shareholders as referred to in paragraph 10 below.

## 7. **VIEWS OF THE INDEPENDENT BOARD**

The views of the Independent Board, taking into account the report of the Independent Expert, will be more fully set out in the Circular to be distributed to Shareholders as referred to in paragraph 10 below.

## 8. **RESPONSIBILITY STATEMENTS**

The Independent Board and the Board, individually and collectively, accept full responsibility for the accuracy of the information contained in this Firm Intention Announcement which relates to IBL, the Scheme and the Standby Offer, and certify that, to the best of their knowledge and belief, such information is true, and that this Firm Intention Announcement does not omit any facts that would make any of the information false or misleading or would be likely to affect the importance of any information contained in this Firm Intention Announcement. The Independent Board and the Board have made all reasonable enquiries to ascertain that no facts have been omitted and that this Firm Intention Announcement contains all information required by law, the Companies Act and the Listings Requirements of the JSE.

## 9. **CASH CONFIRMATION**

IBL will use its available cash resources within the Investec Bank Group to fund the Scheme Consideration or Standby Offer Consideration, as applicable. In accordance with Regulation 111(4) and Regulation 111(5) of the Companies Regulations, IBL has provided an irrevocable bank guarantee to the TRP which confirms that, in aggregate, IBL has sufficient cash resources in terms of Regulation 111 to satisfy payment of the maximum possible consideration in respect of the Proposed Repurchase.

## 10. **POSTING OF THE CIRCULAR AND NOTICE OF THE COMBINED GENERAL MEETING AND THE ELIGIBLE SHAREHOLDERS GENERAL MEETING**

- 10.1. A circular providing full details of the Scheme and the Standby Offer, and containing a notice of the Combined General Meeting and the Eligible Shareholders General Meeting, the Independent Expert's Report, the recommendations of the Independent Board, the salient dates and times relating to the Scheme and the Standby Offer and the necessary forms in order to effect the Scheme and the



Standby Offer, is expected to be distributed to Shareholders on or about 3 November 2021 (“Circular”).

- 10.2. The Combined General Meeting is expected to be held on or about 2 December 2021.
- 10.3. The Eligible Shareholders General Meeting is expected to be held on or about 2 December 2021.
- 10.4. The Combined General Meeting and the Eligible Shareholders General Meeting will be conducted entirely through electronic communication. The electronic meeting facilities will permit all Shareholders to be able to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting. Voting via the electronic facility will be the only method available to Shareholders to vote their shares at these meetings.
- 10.5. A further announcement setting out details of the salient dates and times will be published on SENS in due course.

Sandton  
29 October 2021

**CORPORATE ADVISOR AND SPONSOR**

Investec Bank Limited

**INDEPENDENT SPONSOR**

Nedbank Corporate and Investment Banking, a division of Nedbank Limited

**LEGAL ADVISOR**

Cliffe Dekker Hofmeyr

**INDEPENDENT EXPERT**

BDO Corporate Finance Proprietary Limited

**TRANSFER SECRETARY**

Computershare Investor Services Proprietary Limited