

THIS DOCUMENT (“PROSPECTUS”) CONTAINS IMPORTANT INFORMATION ABOUT THE COMPANY AND ITS SECURITIES AND SHOULD BE READ CAREFULLY BEFORE INVESTING. IF YOU HAVE ANY QUESTIONS ABOUT THE CONTENTS OF THIS PROSPECTUS YOU SHOULD CONSULT YOUR PROFESSIONAL ADVISOR.

The directors of NewGold Issuer Limited, whose names are set out on pages 18 and 22 of this Prospectus, collectively and individually, accept full responsibility for the accuracy of the information contained in this Prospectus and certify that, to the best of their knowledge and belief, no facts have been omitted the omission of which would make any statement in this Prospectus false or misleading and that they have made all reasonable enquiries to ascertain such facts and that the Prospectus contains all information required by law and the JSE Listings Requirements.

[7B22 6.8(b)]



NewGold

NEWGOLD ISSUER LIMITED

(Incorporated in the Republic of South Africa)

(Registration number 2004/014119/06)

(formerly Lexpub 39 Investments Limited)

(“NewGold”)

Abbreviated name: “NewGold”

Symbol: “GLD”

ISIN Code: ZAE000060067

PROSPECTUS

relating to an initial offering (the “**Initial Offer**”) to institutional and retail investors in the Republic of South Africa to subscribe for unsecured redeemable Gold Bullion Debentures referencing in total a maximum of 500 000 fine troy ounces of Gold Bullion to be issued by NewGold (on the terms and subject to the conditions set out in Annexure A to this Prospectus and as more fully described in this Prospectus)

Originator



Attorneys



Sponsor



Auditors



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| Opening date of the Initial Offer | 27 October 2004 |
| Closing date of the Initial Offer | 29 October 2004 |
| Announcement of Offer Price in respect of Initial Offer (In Specie Subscriptions) | 1 November 2004 |
| Ramp-up Period commences | 1 November 2004 |
| Listing date (In Specie Subscriptions) | 2 November 2004 |
| Announcement of Offer Price in respect of Initial Offer (cash subscriptions) | One Business Day after the expiry of the Ramp-up Period |
| Listing date (cash subscriptions) | Two Business Days after the expiry of the Ramp-up Period [7C9] |

A copy of this Prospectus in the English language, accompanied by copies of the documents available for inspection (as described in this Prospectus) was registered by the Registrar of Companies on 26 October 2004 pursuant to section 155(1) of the Companies Act, 61 of 1973, as amended. The legal advisers, financial advisers, auditors, transfer secretaries, sponsors and commercial bankers whose names are included in this Prospectus have given and have not, prior to the registration of this Prospectus, withdrawn their written consents to the inclusion of their names in their capacities stated.

Date of issue of Prospectus: 27 October 2004

Prospective investors in the Gold Bullion Debentures, as with any other Exchange Traded Fund, should ensure that they fully understand the nature of the Gold Bullion Debentures and the extent of their exposure to risks, and that they consider the suitability of the Gold Bullion Debentures as an investment in light of their own circumstances and financial position. The JSE’s approval of the listing of the Gold Bullion Debentures should not be taken in any way as an indication of the merits of NewGold or of the Gold Bullion Debentures. The JSE has not verified the accuracy and truth of the contents of the documentation submitted to it and, to the extent permitted by law, the JSE will not be liable for any claim of whatever kind. Claims against the JSE Guarantee Fund may only be made in respect of trading in Gold Bullion Debentures on the JSE and in accordance with the rules of the Guarantee Fund and can in no way relate to the new issue of Gold Bullion Debentures by NewGold.

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OVERVIEW

Words used in this section shall have the same meaning as defined on pages 4 to 10 of this Prospectus, unless they are defined in this section or the use thereof is clearly inappropriate from the context.

NewGold is a special purpose, newly incorporated company that will enable investors to invest in a debt instrument, the value of which tracks the price of Gold Bullion. NewGold will do so by –

- issuing Gold Bullion Debentures on the terms and subject to the conditions more fully described in this Prospectus, each of which will reference and be linked to a specified quantity of Gold Bullion and the value of which (both upon first issue and subsequent redemption) will be equal to the value of that quantity of Gold Bullion at the time;
- using the proceeds of the issue of each Gold Bullion Debenture to acquire the Initial Quantity of Gold Bullion. The Gold Bullion so acquired will be in the form of London Good Delivery Bars, which Gold Bullion will be retained in safe custody with the Custodian pursuant to the Custody Agreement; and
- allowing the holders of Gold Bullion Debentures to either trade same in the form of an Exchange Traded Fund listed on the JSE or by redeeming Blocks of Gold Bullion Debentures for cash. To the extent that any such holder is a Qualifying Debenture Holder, NewGold will, if so requested by that Qualifying Debenture Holder, sell to the relevant Qualifying Debenture Holder (at the time of redemption by that Qualifying Debenture Holder of a Block) a quantity of Gold Bullion equal to the Reference Quantity to which those Gold Bullion Debentures so redeemed are linked as at their Redemption Date, thus entitling such a Qualifying Debenture Holder to receive physical unwrought gold.

In order to meet the requirements of the regulatory environment in which NewGold will operate, the debt instruments issued by NewGold have been structured such that they will not give a Debenture Holder any ownership or title to any Gold Bullion held by NewGold. Further, so as to comply with the regulatory framework in which it will operate, NewGold has:

- obtained the approval of the Exchange Control Department of the South African Reserve Bank to buy, borrow, lend and sell Gold Bullion as contemplated in Exchange Control Regulation 2 and has been exempted from Exchange Control Regulation 5;
- obtained a licence issued by the Commissioner of South African Police under sections 144(1)(a) and 144(1)(b) of the Mining Rights Act, 20 of 1967;
- obtained the approval of the JSE for the listing of the Gold Bullion Debentures on the JSE; and
- registered this Prospectus with the Registrar of Companies pursuant to section 155(1) of the Companies Act, 61 of 1973.

In order to fund the costs of maintaining the corporate status of NewGold and to meet the liabilities of NewGold in respect of management, marketing and custodial fees (as described in this Prospectus) NewGold will borrow funds from ABSA and will, at fixed monthly intervals, sell a fixed, prescribed quantity of Gold Bullion in order to meet the Monthly Gold Sales Charge. The quantity of Gold Bullion so sold will effectively reduce the Reference Quantity of Gold Bullion in accordance with the formula set out on page 9. All amounts repayable by NewGold to ABSA pursuant to such borrowings will be repaid in priority to the amounts payable by NewGold upon the redemption of any Gold Bullion Debentures.

NewGold, being a special purpose company, will have no employees and, accordingly, the management of NewGold will be outsourced to the Manager which is another special purpose, newly incorporated company, NewGold Managers (Proprietary) Limited.

This Prospectus describes in greater detail NewGold and its business, the terms and conditions of the Gold Bullion Debentures to be issued by NewGold, the provisions of the Custody Agreement between NewGold and the Custodian pursuant to which the Gold Bullion will be retained by the Custodian in safe custody for NewGold, the provisions of the Management Agreement between NewGold and the Manager pursuant to which the Manager will undertake to manage and administer the affairs and business of NewGold, the provisions of the Marketing Agreement between NewGold and Specialised Investment Solutions LLP, pursuant to which NewGold will receive marketing assistance, the provisions of the Bridging Loan Agreement between NewGold and ABSA and related matters.

This Prospectus also describes the Initial Offer to be made by NewGold to institutional and retail investors in the Republic of South Africa for such potential investors to subscribe for Gold Bullion Debentures referencing a maximum of 500 000 fine troy ounces of Gold Bullion at a minimum subscription price of ZAR1 000. The expected timetable for the Initial Offer of Gold Bullion Debentures is as follows:

- opening time and date of the Initial Offer: 09:00 on 27 October 2004;
- closing time and date of the Initial Offer: 12:00 on 29 October 2004;
- announcement of Offer Price in respect of Initial Offer (In Specie Subscriptions): 1 November 2004;

- Ramp-up Period commences 1 November 2004;
- proposed listing date of the Gold Bullion Debentures (In Specie Subscriptions) on the JSE: 2 November 2004;
- announcement of Offer Price in respect of the Initial Offer (cash subscriptions): One Business Day after the expiry of the Ramp-up Period; and
- proposed listing date of Gold Bullion Debentures (cash subscriptions) on the JSE: Two Business Days after the expiry of the Ramp-up Period;

This Prospectus also describes the basis of Subsequent Issues of Gold Bullion Debentures to be made by NewGold after the Initial Offer and the basis on which Gold Bullion Debentures may be redeemed.

Subscribing for and investing in the Gold Bullion Debentures involves risks. See the section entitled “Risk Factors” beginning on page 33 of this Prospectus for a description for some of the risks inherent therein.

INTERPRETATION

In this Prospectus, unless the context clearly indicates a contrary intention, the following expressions have the following meanings:

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| “ABSA” | ABSA Bank Limited (registration number 1986/004794/06), a public company duly incorporated in accordance with the laws of the RSA and registered as a bank in terms of the Banks Act, 94 of 1990; |
| “Accounting Records” | the books of account and accounting systems of NewGold; |
| “ACMB” | ABSA Corporate and Merchant Bank, a division of ABSA; |
| “Allocated Bullion Account” | an allocated bullion account held with the Custodian to which a quantity of Gold Bullion may be credited; |
| “Applicable Laws” | in relation to any entity, all and any: <ul style="list-style-type: none">– statutes and sub-ordinate legislation;– regulations, ordinance and directions;– by-laws;– codes of practice, circulars, guidance notices, judgements and decisions of any competent authority; and– other similar provisions, from time to time, compliance with which is mandatory for that entity; |
| “Applicable Procedures” | the rules and operating procedures for the time being of the JSE, STRATE and/or the STRATE settlement agents, as the case may be; |
| “Applicant” | a person or entity which makes an offer to NewGold to subscribe for Gold Bullion Debentures by completing an Application Form on the basis described in this Prospectus; |
| “Application Form” | an application form in the form attached as Annexure C1, C2 or C3 to this Prospectus, as may be applicable; |
| “Auditors” | the statutory auditors of NewGold for the time being, being KPMG Inc. as at the date of the Prospectus, or such other internationally recognised auditing firm appointed by NewGold from time to time; |
| “Block” | 400 000 Gold Bullion Debentures; |
| “Bridging Loan Agreement” | the written bridging loan agreement concluded between ABSA, NewGold and the Manager dated 15 October 2004, in terms of which, inter alia, ABSA undertakes to lend money to NewGold; |
| “Business Day” | a day (other than a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 36 of 1994) on which commercial banks are generally open to settle payments in Rand in Johannesburg; |
| “Certificated Debenture” | a Gold Bullion Debenture that has not been Dematerialised, title to which is represented by a physical document of title; |
| “Companies Act” | the Companies Act, 61 of 1973; |
| “Conditions to Issue” | the conditions which must be fulfilled prior to the issue of any Gold Bullion Debentures (both in respect of the Initial Offer and each Subsequent Issue), being: <ul style="list-style-type: none">– the receipt by NewGold of one or more valid Application Forms in respect of such Gold Bullion Debentures;– in the case of cash subscriptions in respect of the Initial Offer, the receipt by NewGold of the Offer Price in respect of the Gold Bullion Debentures applied for and the application by NewGold of such monies in the acquisition of Gold Bullion pursuant thereto; |

- in the case of In Specie Subscriptions, the receipt by NewGold of confirmation from the Custodian that the Initial Quantity of Gold Bullion in respect of the Gold Bullion Debentures applied for, has been deposited with the Custodian together with an instruction from the relevant Applicant to transfer such Gold Bullion to the Allocated Bullion Account of NewGold; and
- the receipt by NewGold of the Creation Fee in respect of such Gold Bullion Debentures;

“Conditions to Redemption”

the conditions which must be fulfilled prior to a Debenture Holder being entitled to redeem a Gold Bullion Debenture in accordance with the provisions of Debenture Condition 7, being:

- a Gold Bullion Debenture may only be redeemed together with and as part of so many other Gold Bullion Debentures as will constitute a Block, or more than one Block; and
- a Gold Bullion Debenture may only be redeemed on a Trading Day;

“Controlled Client”

an investor whose funds and uncertificated securities are in the control of a Settlement Agent and whose settlements take place via a CSDP as if the investor’s funds or uncertificated securities were under the control of a Settlement Agent;

“Creation Fee”

the fee payable by an Applicant to NewGold for the issue of the Gold Bullion Debentures applied for by such Applicant, being an amount equal to 0,15% of the Offer Price (excluding VAT) of such Gold Bullion Debentures. The Creation Fee may, however, be waived in the discretion of NewGold;

“CSDP”

a participant (as defined in the Custody and Administration Act) duly accepted by STRATE as a participant in terms of section 2(1A) of the Custody and Administration Act;

“Custodian”

Rand Refinery Limited (registration number 1920/006598/06), a public company duly incorporated in accordance with the laws of the RSA, or such other custodian as may be appointed by NewGold from time to time;

“Custody and Administration Act”

the Custody and Administration of Securities Act, 85 of 1992;

“Custody Agreement”

the written custody agreement (as amended, novated and/or replaced from time to time) concluded between NewGold and the Custodian dated 15 October 2004, in terms of which, inter alia, the Custodian is appointed as custodian of the Gold Bullion of NewGold from time to time;

“Debenture Conditions”

the terms and conditions of the Gold Bullion Debentures incorporated in this Prospectus as Annexure A, subject to and in accordance with which the Gold Bullion Debentures are issued;

“Debenture Holder”

in relation to any Gold Bullion Debenture, the person or entity whose name is entered in the Register as the holder of such Gold Bullion Debenture;

“Delivery Date”

in relation to the exercise of any Gold Option, the date which is the later of:

- the third Trading Day after the Redemption Date of the Gold Bullion Debentures in respect of which such Gold Option has been exercised, if the Gold Option has been exercised in respect of Gold Bullion Debentures having in aggregate a Redemption Value of less than ZAR1 000 000 000; or
- the fifth Trading Day after the Redemption Date of the Gold Bullion Debentures in respect of which such Gold Option has been exercised, if the Gold Option has been exercised in respect of Gold Bullion Debentures having in aggregate a Redemption Value of ZAR1 000 000 000 or more; or
- the Delivery Date specified in the Redemption Notice pursuant to which such Gold Option is exercised;

“Dematerialised”

the process whereby physical debenture certificates and other documents of title are replaced with electronic records evidencing ownership of Gold Bullion Debentures for the purposes of the STRATE System, as contemplated in the Custody and Administration of Securities Act;

“Dematerialised Debenture”

a Gold Bullion Debenture that has been Dematerialised;

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| “ETF” | the exchange traded fund established by the Transaction Documents and to be operated by NewGold, as described in this Prospectus; |
| “Event of Default” | <p>the occurrence of any of the following events –</p> <ul style="list-style-type: none"> (a) NewGold being wound up, liquidated and/or placed under judicial management (in any case whether provisional or final), provided that an offer of compromise in terms of section 311 of the Companies Act on terms and conditions approved by the Debenture Holders by an Extraordinary Resolution to that effect and in circumstances where NewGold is solvent shall not constitute a winding-up of NewGold for purposes of this (a); or (b) NewGold having any application or other proceedings brought against it, in terms of which NewGold is sought to be wound up or placed in liquidation or under judicial management (whether provisional or final); or (c) subject to the proviso in (a) which shall apply mutatis mutandis, NewGold committing any act which is or would, if NewGold were a natural person, be an act of insolvency as defined in the Insolvency Act, 24 of 1936; or (d) subject to the proviso in (a) which shall apply mutatis mutandis, NewGold compromising or attempting to compromise with or attempting to defer payment of debt owing by it to its creditors generally; or (e) subject to the proviso in (a) which shall apply mutatis mutandis, any procedural steps being taken by NewGold with a view to effecting a compromise or arrangement with its creditors generally; or (f) NewGold ceasing to carry on NewGold’s Business in a normal and regular manner or materially changing the nature of NewGold’s business or, through an official act of NewGold’s Board, NewGold threatening to cease to carry on NewGold’s Business; |
| “Exchange Control Regulations” | the Exchange Control Regulations, promulgated in terms of section 9 of the South African Currency and Exchanges Act, 9 of 1933; |
| “Extraordinary Resolution” | a resolution passed at a properly constituted meeting of Debenture Holders by a majority consisting of not less than three-quarters of the number of Gold Bullion Debentures represented at the meeting (present in person or by Proxy and voting whether on a show of hands or on a poll); |
| “Form of Proxy” | an instrument in writing signed by a Debenture Holder holding a Certificated Debenture or, in the case of a Debenture Holder holding a Certificated Debenture which is a company or other juristic person, signed on its behalf by a Representative of the company or juristic person appointing a Proxy; |
| “GAAP” | South African Statements of Generally Accepted Accounting Practice consistently applied in the RSA from time to time, as amended or restated from time to time; |
| “Good Delivery Standard” | the refining standard and weights set by the LBMA for gold bars as set out in “The Good Delivery Rules for Gold and Silver Bars” published by the LBMA from time to time; |
| “Gold Bullion” | physical unwrought gold in the form of London Good Delivery Bars; |
| “Gold Bullion Debenture” | a gold bullion debenture issued by NewGold in accordance with the Debenture Conditions; |
| “Gold Bullion Sale Agreement” | the sale agreement deemed to have been concluded between NewGold and a Qualifying Debenture Holder pursuant to the exercise by such Qualifying Debenture Holder of a Gold Option, as set out in Debenture Condition 8; |
| “Gold Option” | the right and option of any Qualifying Debenture Holder redeeming one or more Blocks of Gold Bullion Debentures to require NewGold, under Debenture Condition 8, to sell to such Qualifying Debenture Holder a quantity of Gold Bullion equal to the Reference Quantity of the Gold Bullion Debentures so redeemed; |
| “Initial Beneficiary” | the initial capital and income beneficiary of the NewGold Owner Trust, namely ABSA; |
| “Initial Offer” | the first offer to be made by NewGold to institutional and retail investors in the RSA to subscribe for Gold Bullion Debentures referencing in total a maximum of 500 000 fine troy ounces of Gold Bullion (valued at the Last Practicable Date at approximately ZAR1 300 000 000), as described in this Prospectus; |

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| “Initial Quantity” | in relation to a Gold Bullion Debenture, the quantity of Gold Bullion to which that Gold Bullion Debenture was referenced and linked on the Issue Date of that Gold Bullion Debenture which, in respect of the Gold Bullion Debentures issued pursuant to the Initial Offer, shall be one-hundredth of one fine troy ounce of Gold Bullion and, in respect of each Subsequent Issue, shall be the Reference Quantity of the Gold Bullion Debentures already in issue as at the Issue Date of the Gold Bullion Debentures issued under such Subsequent Issue; |
| “In Specie Subscription” | a subscription for Gold Bullion Debentures effected by the delivery by a Qualifying Applicant of Gold Bullion to NewGold, as opposed to a cash subscription; |
| “Issue Date” | in relation to a Gold Bullion Debenture, the date of actual issue thereof; |
| “JSE” | the JSE Securities Exchange South Africa, a voluntary association licensed to operate as a stock exchange and financial market under the Stock Exchanges Control Act, 1 of 1985, and the Financial Markets Control Act, 55 of 1989, and includes any successor exchange to the JSE; |
| “JSE Listings Requirements” | the listings requirements of the JSE from time to time and for the time being, as published by the JSE; |
| “Last Practicable Date” | the last practicable date prior to finalisation of this Prospectus, being 18 October 2004; |
| “LBMA” | the London Bullion Market Association; |
| “Letter of Allocation” | a letter of allocation issued by NewGold to a successful Applicant in respect of the Gold Bullion Debentures to be issued to the holder of such letter of allocation upon fulfilment of the Conditions to Issue; |
| “London Good Delivery Bar” | <p>the requirements with which a gold bar should conform according to the Good Delivery Standard of the LBMA, being the following –</p> <ul style="list-style-type: none"> – in respect of weight – <ul style="list-style-type: none"> – the minimum gold content should be 350 fine troy ounces (approximately 10,9kg); – the maximum gold content should be 430 fine troy ounces (approximately 13,4kg); and – the gross weight of a bar should be expressed in fine troy ounces, in multiples of 0,025, rounded down to the nearest 0,025 of a troy ounce; – in respect of dimension – <ul style="list-style-type: none"> – the top surface should be 255mm x 81mm; – the bottom surface should be 236mm x 577mm; and – the thickness should be 37mm; – in respect of fineness, the minimum acceptable fineness is 99,5%; and – lastly in respect of marks, it should contain – <ul style="list-style-type: none"> – the serial number; – the assay stamp of the refiner; – the fineness (to four significant figures); and – the year of manufacture (expressed in four digits); |
| “London PM Fix” | the afternoon session of the twice daily fix of the price of an ounce of gold which starts at 15:00 (London time) and is performed in London by the five members of the London gold fix; |
| “Management Agreement” | the written management agreement (as amended, novated and/or replaced from time to time) concluded between NewGold and the Manager dated 15 October 2004, in terms of which, inter alia, the Manager is appointed by NewGold to manage and administer the affairs of NewGold and NewGold’s Business and to advise NewGold in relation to the conduct of NewGold’s Business; |

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| “Manager” | NewGold Managers (Proprietary) Limited (registration number 2004/007543/07), a private company duly incorporated in accordance with the laws of the RSA, or such other manager of NewGold as may be appointed by NewGold in terms of the Management Agreement; |
| “Monthly Gold Sales Charge” | an amount sufficient inter alia, to meet the monthly fees and expenses of NewGold and to declare and pay dividends to NewGold’s shareholders from time to time, which are funded through the sale of Gold Bullion. The amount currently thought to be sufficient to meet such fees and expenses and to declare and pay dividends to the NewGold shareholders is 0,40% per annum of the Gold Bullion held by NewGold from time to time in excess of 430 fine troy ounces. The Monthly Gold Sales Charge may be increased at any time, provided the requisite notice period referred to on page 20 of this Prospectus is given; |
| “Marketing Agreement” | the written marketing agreement (as amended, novated and/or replaced from time to time) concluded between NewGold and Specialised Investment Solutions LLP dated 21 October 2004, in terms of which, inter alia, Specialised Investment Solutions LLP undertakes to provide NewGold with certain marketing assistance from time to time; |
| “NewGold” | NewGold Issuer Limited (formerly Lexpub 39 Investments Limited) (registration number 2004/014119/06), a public company duly incorporated in accordance with the laws of the RSA; |
| “NewGold’s Board” | the board of directors of NewGold from time to time; |
| “NewGold’s Business” | the business conducted by NewGold from time to time, being the issue of Gold Bullion Debentures, the acquisition and holding of Gold Bullion and the sale of Gold Bullion as described or envisaged in this Prospectus and the Transaction Documents; |
| “NewGold Owner Trust” | The NewGold Owner Trust, a trust inter vivos duly established in terms of the NewGold Owner Trust Deed and registered with the Master of the High Court of South Africa (Transvaal Provincial Division) under reference number IT8350/04, which NewGold Owner Trust has been established with the sole purpose of beneficially holding all of the shares in the issued share capital of NewGold; |
| “NewGold Owner Trust Deed” | the written trust deed (as amended, novated and/or replaced from time to time) concluded by ABSA (in its capacity as donor) and Maitland Trust Limited (in its capacity as trustee) on 7 September 2004, in terms of which the NewGold Owner Trust is established; |
| “Nominated Bullion Account” | the relevant Allocated Bullion Account or Unallocated Bullion Account of a Qualifying Debenture Holder into which the Sale Bullion to be delivered to such Qualifying Debenture Holder pursuant to the exercise of a Gold Option shall be credited; |
| “Non Controlled Client” | an investor, other than a Controlled Client, who has appointed and whose settlements take place directly with a CSDP; |
| “Offer Price” | in relation to each Gold Bullion Debenture, the price (expressed in Rand) at which such Gold Bullion Debenture is issued on the Issue Date thereof, being an amount calculated with reference to the value of the Initial Quantity of Gold Bullion linked to that Gold Bullion Debenture as at the Issue Date thereof and published on SENS; |
| “Originator” | ACMB; |
| “Participating Broker” | ABSA Stockbrokers (Proprietary) Limited (registration number 1973/010798/07), a private company duly incorporated in accordance with the laws of the RSA; |
| “Priority of Payments” | the priority in which creditors of NewGold are to be repaid, as set out in Debenture Condition 9; |
| “Prospectus” | this prospectus, together with the annexures and application forms attached hereto; |
| “Proxy” | a person duly appointed under a Form of Proxy to act for and on behalf of a Debenture Holder holding a Certified Debenture in connection with any meeting or proposed meeting of Debenture Holders; |
| “Qualifying Applicant” | an Applicant owning and holding at least 4 000 fine troy ounces of Gold Bullion with the Custodian and who satisfies the Manager that it is in possession of all necessary licences, consents and approvals (including, without limitation, the required approvals in terms of the Mining Rights Act, 20 of 1967, and under Regulations 2 and 5 of the Exchange Control Regulations) to buy, own, be in possession of and/or otherwise deal in Gold Bullion; |

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| “Qualifying Debenture Holder” | a Debenture Holder holding one or more Blocks of Gold Bullion Debentures and who satisfies the Manager that it is in possession of all necessary licences, consents and approvals (including, without limitation, the required approvals in terms of the Mining Rights Act, 20 of 1967, and under Regulations 2 and 5 of the Exchange Control Regulations) to buy, own, be in possession of and/or otherwise deal in Gold Bullion; |
| “Ramp-up Period” | the period succeeding the closing date of the Initial Offer during which NewGold will acquire Gold Bullion with the proceeds derived from the applications for cash subscriptions for Gold Bullion Debentures pursuant to such Initial Offer. The duration of the ramp-up period will be variable depending on prevailing market conditions but shall be a maximum period of three Trading Days for cash subscriptions equal to or less than ZAR1 000 000 000 and a maximum period of five Trading Days for cash subscriptions in excess of ZAR1 000 000 000; |
| “Rand” or “ZAR” | Rand, the legal currency of the RSA; |
| “Redemption Date” | in relation to a Gold Bullion Debenture, the date on which such Gold Bullion Debenture is actually redeemed in accordance with the Debenture Conditions; |
| “Redemption Fee” | the fee payable by a Debenture Holder on the redemption of a Gold Bullion Debenture held by it, being an amount equivalent to 0,15% of the Redemption Value (excluding VAT) of such Gold Bullion Debenture; |
| “Redemption Notice” | a notice delivered by or on behalf of a Debenture Holder exercising its right to require the redemption of all or some of the Gold Bullion Debentures held by it, which redemption notice shall comply with all relevant requirements of the Debenture Conditions and shall be in the form of annexure D to this Prospectus; |
| “Redemption Value” | in relation to a Gold Bullion Debenture and as at the Redemption Date thereof, an amount equal to the Sale Proceeds realised or that would have been realised by NewGold pursuant to a sale of NewGold of the Reference Quantity of Gold Bullion to which such Gold Bullion Debenture is linked; |
| “Reference Quantity” | in relation to a Gold Bullion Debenture, the specific quantity of Gold Bullion to which that Gold Bullion Debenture is referenced and linked as at any given point in time, being a quantity calculated in accordance with the following formula – $RQ = \frac{IQ}{\left(1 + \frac{R}{365}\right)^D}$ where – RQ = the Reference Quantity to be determined, expressed in fine troy ounces; IQ = the Initial Quantity of that Gold Bullion Debenture, expressed in fine troy ounces; D = the number of days between the Issue Date of the first Gold Bullion Debenture to be issued and the Redemption Date of the Gold Bullion Debenture in respect of which the Reference Quantity is to be determined; and $R = \left(\left(\frac{1}{1-L} \right)^{1/365} - 1 \right) \times 365$ where for purposes of determining R – L = the Monthly Gold Sales Charge, which Monthly Gold Sales Charge accrues daily and will be deducted monthly in arrears; |
| “Register” | the register of Gold Bullion Debentures, which register shall, in the case of Dematerialised Debentures, be kept by STRATE and, in the case of Certificated Debentures, be kept by the Transfer Secretaries; |
| “Representative” | a person authorised by a resolution of a corporate Debenture Holder’s directors or other governing body to act as its representative in connection with any meeting or proposed meeting of Debenture Holders; |
| “Residual Beneficiary” | the residual beneficiary of the NewGold Owner Trust, namely The Nelson Mandela Children’s Fund (Non-Profit Organisation, registration number 004-638); |
| “RSA” | the Republic of South Africa; |

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|---|---|
| “Sale Bullion” | the Gold Bullion to be sold by NewGold to a Qualifying Debenture Holder exercising a Gold Option in terms of a Gold Bullion Sale Agreement; |
| “Sale Proceeds” | the proceeds realised by NewGold from the sale of Gold Bullion in the spot market in the London PM Fix on redemption of all or any of the Gold Bullion Debentures issued by it, less the costs of arranging and completing such sale, storage costs, insurance costs and all applicable Taxation payable in connection with such sale; |
| “SENS” | the Securities Exchange News Service, an office of the JSE; |
| “Settlement Agent” | a CSDP approved in terms of the Applicable Procedures to perform electronic net settlements of both funds and scrip on behalf of market participants; |
| “Specialised Investment Solutions LLP” | Specialised Investment Solutions LLP, a limited liability partnership duly registered and incorporated in accordance with the laws of the United Kingdom; |
| “STRATE” | STRATE Limited (registration number 1998/022242/06), a public company duly incorporated in accordance with laws of the RSA; |
| “STRATE System” | the electronic settlement system utilised by the JSE and administered by the central securities depository, STRATE, which facilities the electronic clearing and settlement for all transactions concluded on the JSE; |
| “Subsequent Issue” | an issue of further Gold Bullion Debentures by NewGold to one or more specifically named subscribers therefor made subsequent to the date of the Initial Offer, as described in this Prospectus; |
| “Taxation” | all taxes, duties, assessments, levies and/or governmental charges (including any penalty in respect thereof and interest thereon) payable to any governmental authority or any political sub-division thereof or any authority or agency therein or thereof having the power to tax, including income tax, VAT and regional services levies; |
| “Trading Day” | a day on which trading takes place on the JSE; |
| “Transfer Form” | the written form for transfer of any Gold Bullion Debenture evidenced by a certificate in a form approved by the Transfer Secretaries and signed by the transferor and the transferee; |
| “Transaction Documents” | collectively – <ul style="list-style-type: none"> – the Debenture Conditions; – the Management Agreement; – the Custody Agreement; – the Marketing Agreement; – the NewGold Owner Trust Deed; – the memorandum and articles of association of NewGold; and – the Bridging Loan Agreement, all as amended, novated and/or replaced from time to time; |
| “Transfer Secretaries” | ACMB, in its capacity as such, whose address is at ABSA Towers North, 180 Commissioner Street, Johannesburg, 2001 (PO Box 5013, Johannesburg, 2000); |
| “Trustee” | the trustee for the time being of the NewGold Owner Trust, currently Maitland Trust Limited; |
| “Unallocated Bullion Account” | an unallocated bullion account held with the Custodian to which a quantity of Gold Bullion may be credited; |
| “UST” | uncertificated securities tax levied in terms of the Uncertificated Securities Tax Act, 31 of 1998; |
| “VAT” | value-added tax levied in terms of the Value-Added Tax Act, 89 of 1991; |
| “World Gold Council” | a Swiss based not for profit organisation formed and funded by the world’s leading gold mining companies with the aim of stimulating and maximising the demand for, and holding of gold by consumers, investors, industry and the government sector. |

All references in this Prospectus to any Act, regulation, or other statutory provision shall be a reference to such Act, regulation or other statutory provision as amended and/or re-promulgated from time to time and for the time being.

All expressions in this Prospectus which denote the singular shall include the plural, any gender shall include the other genders, and a natural person shall include artificial or juristic persons and vice versa.

MARKET OVERVIEW

Gold Holdings

At the end of 2003, Gold Fields Mineral Services Limited (“GFMS”) estimated that above-ground world-wide stocks of gold represented a total volume of approximately 150,500 tonnes, of which 61% had been mined since 1950. The following table shows an estimated breakdown of those stocks –

| Above-ground gold stocks | 2003 (tonnes) |
|--------------------------------|----------------|
| Jewellery | 76,800 |
| Government sector ¹ | 29,200 |
| Private investment | 23,600 |
| Other fabrication ² | 17,300 |
| Unaccounted | 3,600 |
| Total | 150,500 |

Source: Gold Fields Mineral Services Ltd: Gold Survey 2004.

Demand and Supply

The following two tables show the main sources of demand and supply of gold.

| | 2001 | 2002 | 2003 | % Change (tons) 2003 vs 2002 |
|---|--------------|--------------|--------------|---------------------------------------|
| Supply | | | | |
| <i>Mine production</i> | 2,621 | 2,590 | 2,593 | 0.1% |
| <i>Net producer hedging</i> | -151 | -423 | -310 | -26.6% |
| Total mine supply | 2,470 | 2,167 | 2,283 | 5.3% |
| Government sector sales ³ | 527 | 545 | 617 | 13.1% |
| Old gold scrap | 708 | 836 | 945 | 13.0% |
| Total supply | 3,705 | 3,549 | 3,845 | 8.3% |
| Demand | | | | |
| <i>Jewellery</i> | 3,026 | 2,680 | 2,532 | -5.6% |
| <i>Industrial and dental</i> | 365 | 360 | 385 | 7.1% |
| Total fabrication | 3,391 | 3,040 | 2,917 | -4.1% |
| Bar and coin retail investment ⁴ | 359 | 373 | 314 | -15.8% |
| Total demand | 3,749 | 3,413 | 3,231 | -5.3% |
| Balance⁵ | -44 | 136 | 614 | -5.3% |

Source: Gold Fields Mineral Services Ltd: Gold Survey 2004.

¹ Excluding metal lent to the market.

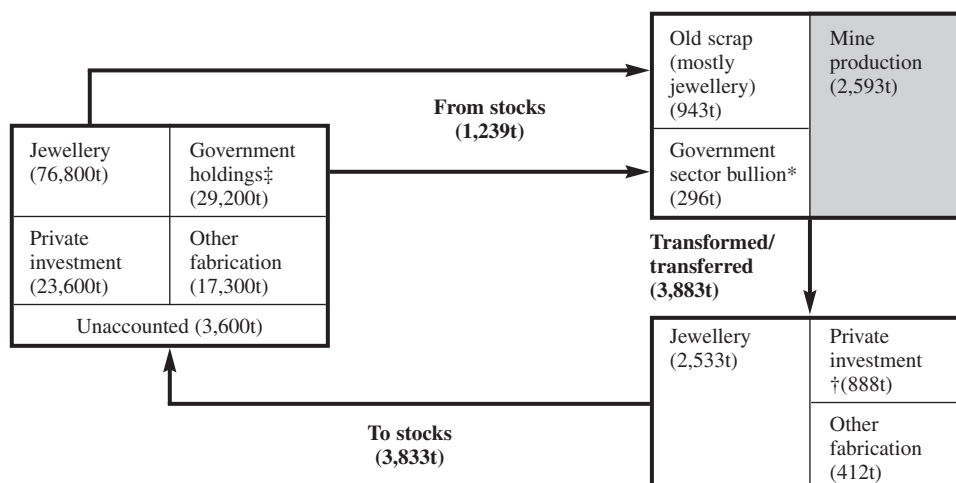
² Industrial and dental uses.

³ Excluding any delta hedging of central bank options.

⁴ Bar hoarding plus medal, official coin and imitation coin fabrication.

⁵ This is the residual from combining all of the other data in the table. It includes institutional investment, stock movements and other elements as well as any residual error.

The following diagram combines the holdings and the supply and demand figures to show the gold transfers to and from global above-ground stocks in 2003 –



Notes:

* Government sector sales plus change in producer hedging.

† Includes bar hoarding, net investment and coins.

‡ Excluding gold lent or supplied.

Totals may not add due to independent rounding.

Source: Gold Fields Mineral Services Ltd: Gold Survey 2004.

Gold Market

The global trade in gold consists of over-the-counter (“OTC”) transactions in spot, forwards, and options and other more exotic derivatives, together with exchange-traded futures and options. Over-the-counter transactions take place between principals, not through exchanges. The flexibility of the OTC market, in contrast to the relative rigidity of transactions on the exchanges, means that OTC trading accounts form by far the greater portion of the global trading in gold, unlike the situation in other commodities where exchanges tend to dominate.

The OTC market operates on a 24-hour per day basis around the world although intra-day liquidity will vary. The main centres for OTC dealings are London, New York, and Zurich, which are wholesale markets with the lowest transaction size typically not less than 1,000 fine troy ounces. In general, mining companies and central banks tend to transact their business through London and New York. The New York market also services manufacturers of jewellery and industrial products, and investment and speculative business. Zurich specialises in supplying physical gold to manufacturers of jewellery and industrial products. Centres such as Dubai and several cities in the Far East also transact important OTC business, typically involving jewellery and small bars (of one kilogram or less) for private investment. A number of bullion dealers have offices around the world and the majority will operate one trading book, which is handed on from office to office during the working day. Most of the major bullion dealers around the world are either members or associate members of the LBMA.

Most OTC trades are cleared through London, although the physical market itself is distributed globally. London clearing market statistics are published monthly by the LBMA.

Trading in spot, forwards, options and other derivatives is offered on a continuous basis. Business is generally conducted over the phone and over the electronic dealing system. Twice daily during London trading hours there is a “fix” which offers reference prices for that day’s trading. Many long-term contracts will be priced on the basis of either the morning or afternoon London fix, and the market will usually refer to one or other of these prices when looking for a basis for valuations.

The most significant futures exchanges are the COMEX, a division of the New York Mercantile Exchange, and the Tokyo Commodity Exchange (“TOCOM”). Trading on these exchanges is based on fixed delivery dates and transaction sizes for the futures and options contracts traded. Trading costs are negotiable.

Market Liquidity

Although the gold market is relatively small compared to the stock and bond markets, it is a deep and liquid market in which it is relatively easy to execute trades.

The table below shows that, while the gold market is only some 13% of the size of the New York Stock Exchange by market capitalisation, its turnover to market capitalisation ratio is 3.4 times higher. In addition trades of up to five tonnes (US\$50 million approximately) have been executed without having any significant impact on price.⁶

| Market for the year ended 31 December 2003 ⁷ | Market Capitalisation (US\$ billion) | Turnover (US\$ billion) | Turnover to Market Capitalisation Ratio |
|--|--|----------------------------|--|
| NYSE | \$11,329 | \$9,691 | 0.855 |
| LSE | \$2,460 | \$3,610 | 1.467 |
| JSE | \$168 | \$101 | 0.601 |
| Gold ⁸ | \$1,540 | \$4,497 | 2.920 |

As shown, the gold market is deep and usually liquid. However, liquidity in the OTC market can vary from time to time during the course of the 24-hour trading day. The period of greatest liquidity in the gold market is typically that time of the day when trading in the European time zones overlaps with trading in the United States, that is, when OTC market trading in London, New York and other centres coincides with futures and options trading on the COMEX. This period lasts for approximately four hours.

Given the fact that the bullion underlying the Gold Bullion Debentures as well as the reference gold price will conform to the standards used in the London bullion market, a brief description of this market is given below.

London Bullion Market

The London Bullion Market is a two way market place in which investors can sell or buy both gold and silver. Market makers mainly quote prices in US dollars per troy ounce for spot and forward delivery. Forward prices and options quoted by market makers enable producers and industrial consumers to hedge their future commitments and provide access for investors and speculators.

LBMA

The LBMA is an association which represents the interests of the participants of the London Bullion Market. One of its primary tasks is to ensure that refiners of gold and silver meet the required standards of quality before their inclusion in the Market's Good Delivery lists. The LBMA maintains close links with the Bank of England, the latter being responsible for the supervision of the most active members of the market and for publishing the Code of Conduct.

Allocated Accounts

An allocated account is an account held with a dealer in a customer's name evidencing that uniquely identifiable bars of gold have been "allocated" to the customer and are segregated from other metal held in the vault of that dealer. The client has full title to this gold with the dealer holding it as custodian.

Unallocated Accounts

Most gold traded in the London market is traded and settled in unallocated form. Gold held in this form does not entitle the holder to specific bars of gold but gives the holder a right to require the delivery of certain amounts of gold. Subject to the terms of a client's account agreement, a client may make exchanges between allocated and unallocated gold accounts (provided the client has a sufficient balance).

Trading Unit

The trading unit for gold is one fine troy ounce ("fine" meaning pure-gold irrespective of the purity of a particular bar). The conversion factors between fine troy ounces and metric used by the LBMA are –

- 1 fine troy ounce = 31.1034768 grams; and
- 1 kilogram = 32.1507465 fine troy ounces.

Even though the London Bullion Market is a wholesale market, where minimum traded amounts are generally 1,000 fine troy ounces of gold, the fact that it is an over-the-counter market gives dealers flexibility to deal in whatever quantities they wish.

⁶ Reference: World Gold Council.

⁷ Source: World Federation of Exchanges.

⁸ 12 months to March 2003; Source: World Gold Council.

London AM and PM Fix

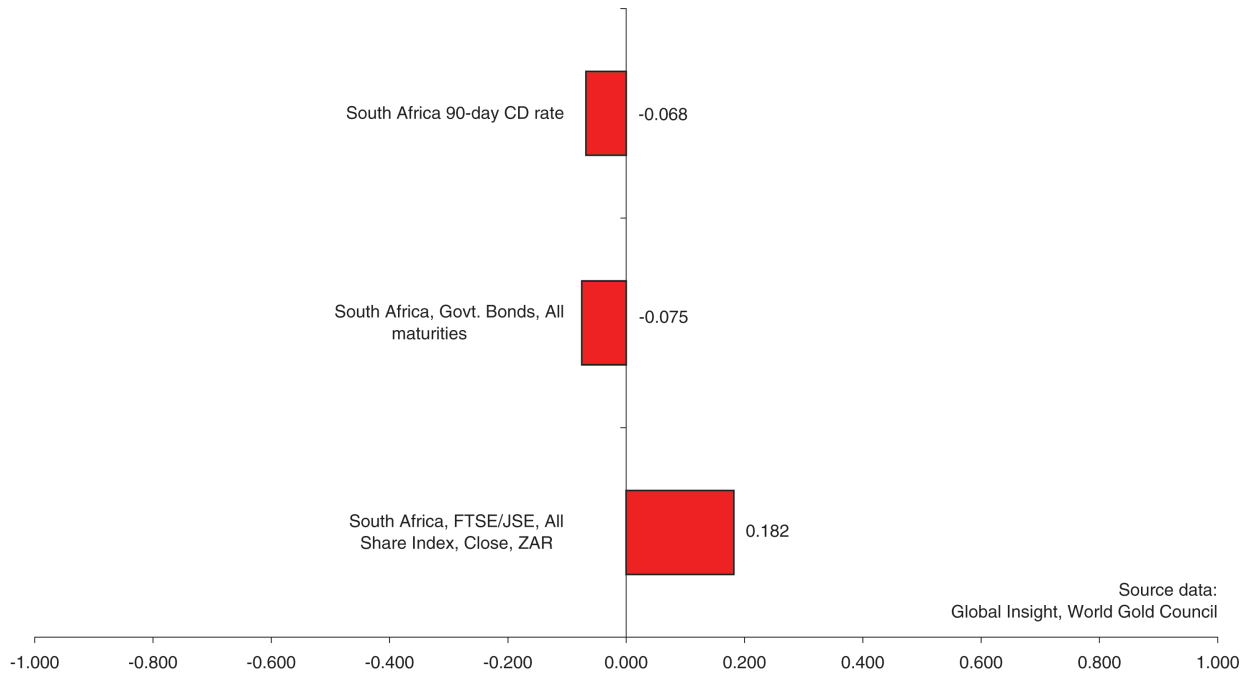
The London market provides a unique gold fixing service, whereby twice a day all purchases and sales, whether for larger or smaller amounts, are conducted solely on the basis of a single published fixing price. The fixing commences at 10.30 a.m. (the London AM fix) and at 3.00 p.m. (the London PM fix) London time. These are fully transparent benchmarks and are widely accepted as the basis for pricing spot transactions as well as a variety of other transactions.

Gold as Investment

Several factors might influence a decision to invest in gold or gold-linked instruments such as Gold Bullion Debentures –

- (a) Gold is uncorrelated or negatively correlated with other asset classes making it an effective portfolio diversifier –

South Africa: five year correlation of weekly returns on key asset classes and gold (ZAR)



- (b) Gold returns are less volatile than the returns on gold equities –

South Africa: annualised historical volatility of returns

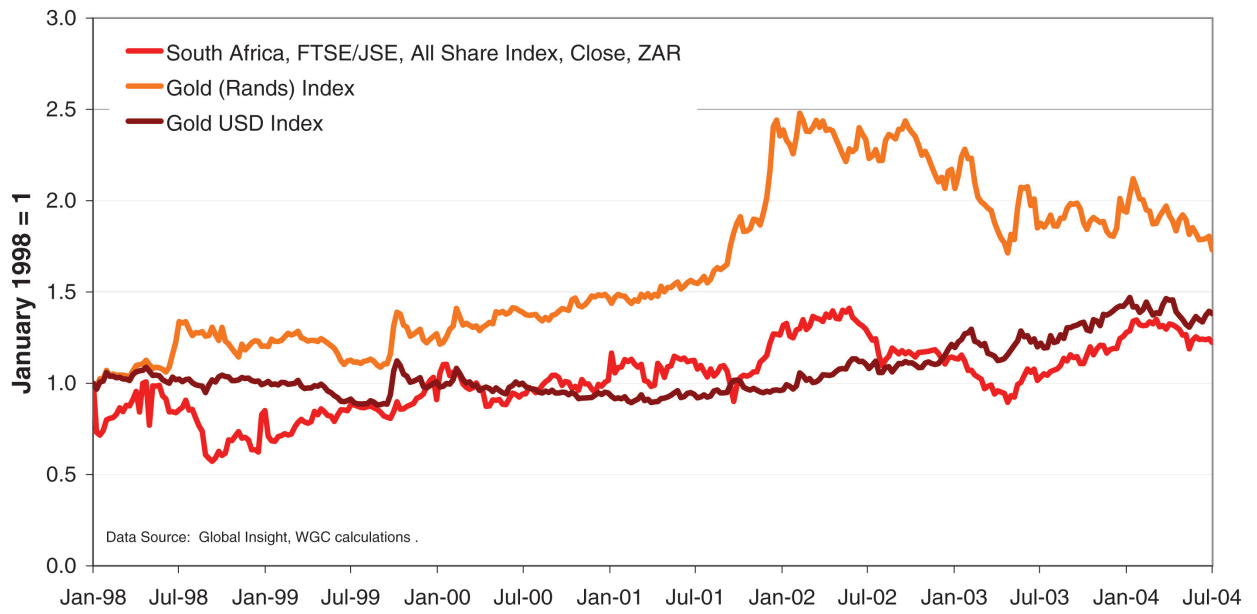
| Period ended: 31 July 2004 | One month | Rank | Three month | Rank | Six month | Rank | Twelve month | Rank |
|------------------------------|---------------|----------|---------------|-----------|---------------|-----------|---------------|-----------|
| JSE Midcap | 7.05% | 2 | 25.45% | 5 | 18.43% | 3 | 14.30% | 1 |
| Gold (USD/oz) | 13.39% | 3 | 15.86% | 1 | 16.00% | 1 | 15.21% | 2 |
| JSE All Share | 14.26% | 4 | 25.23% | 4 | 19.69% | 4 | 17.71% | 3 |
| JSE Top 40 Tradeable Index | 16.10% | 6 | 25.71% | 6 | 20.42% | 5 | 18.84% | 4 |
| Gold (ZAR/oz) | 14.96% | 5 | 16.17% | 2 | 17.16% | 2 | 18.98% | 5 |
| ZAR/USD | 21.433% | 7 | 17.63% | 3 | 20.54% | 6 | 20.38% | 6 |
| JSE Smallcap | 5.62% | 1 | 51.00% | 8 | 36.12% | 7 | 26.18% | 7 |
| JSE Diamond Index | 41.87% | 10 | 46.44% | 7 | 37.06% | 8 | 33.23% | 8 |
| JSE Platinum Mining Index | 27.86% | 8 | 68.10% | 9 | 51.02% | 9 | 42.38% | 9 |
| JSE Gold Mining Index | 31.57% | 9 | 73.95% | 10 | 55.78% | 10 | 46.20% | 10 |

All prices are closing prices.

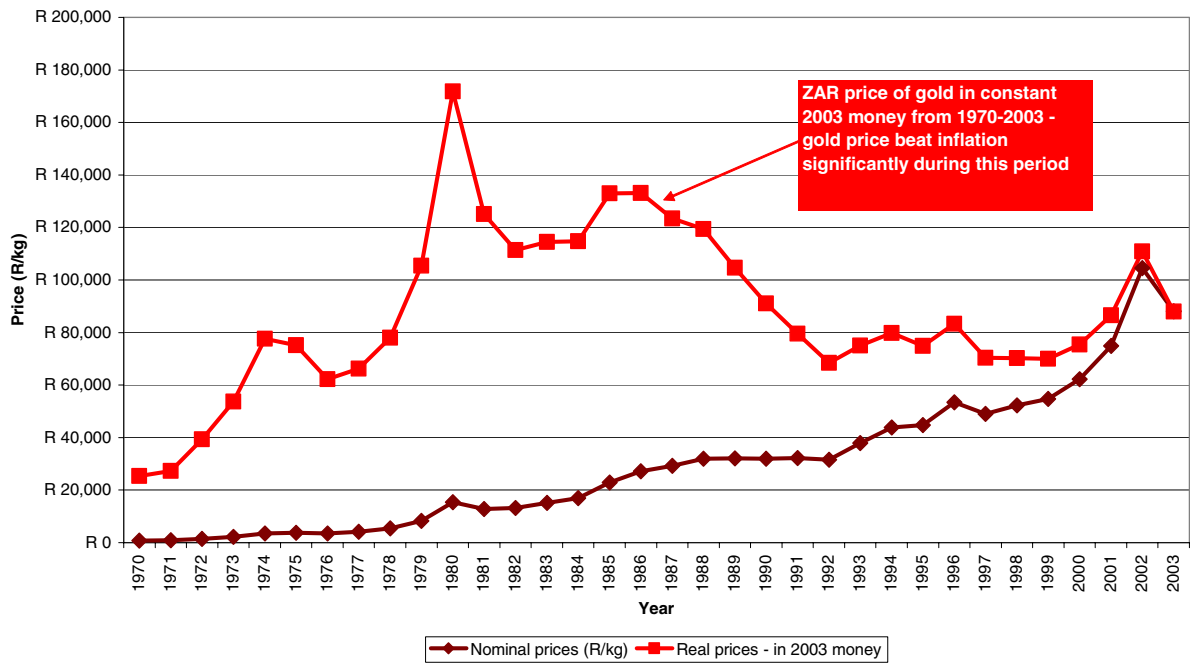
Data source: Global Insight, World Gold Council calculation.

(c) Gold has a positive track record in terms of returns, compared to the broad market –

Gold and South African equities



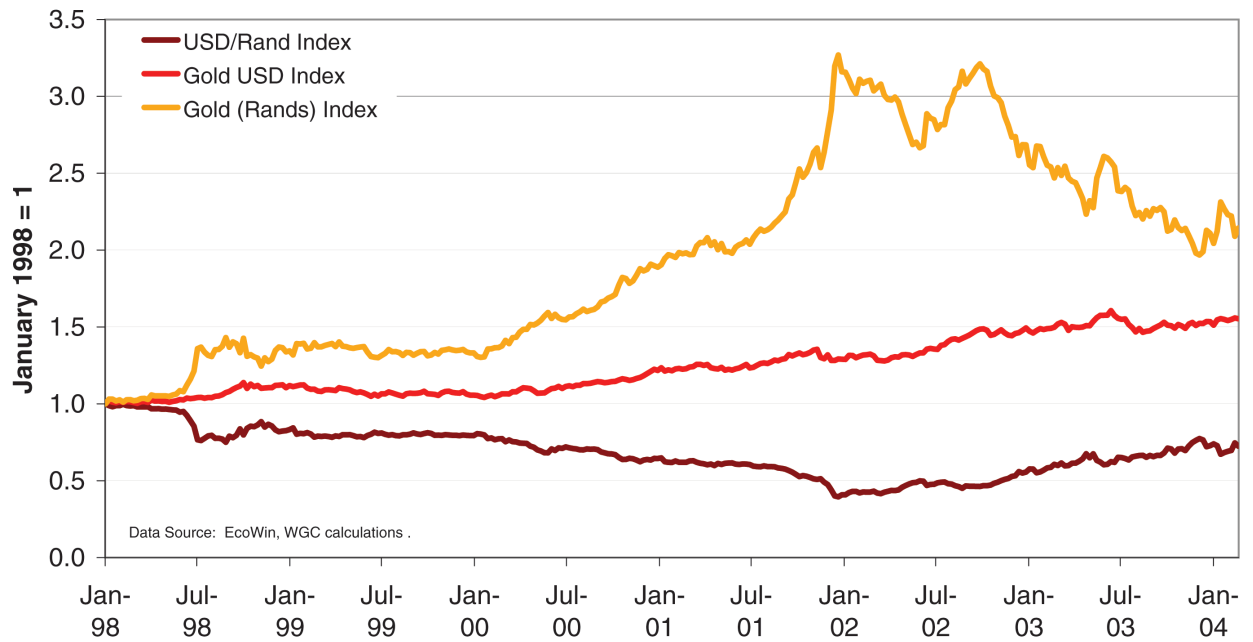
(d) Gold has increased its purchasing power over a long time period⁹ –



⁹ Sources: World Gold Council and Reuters.

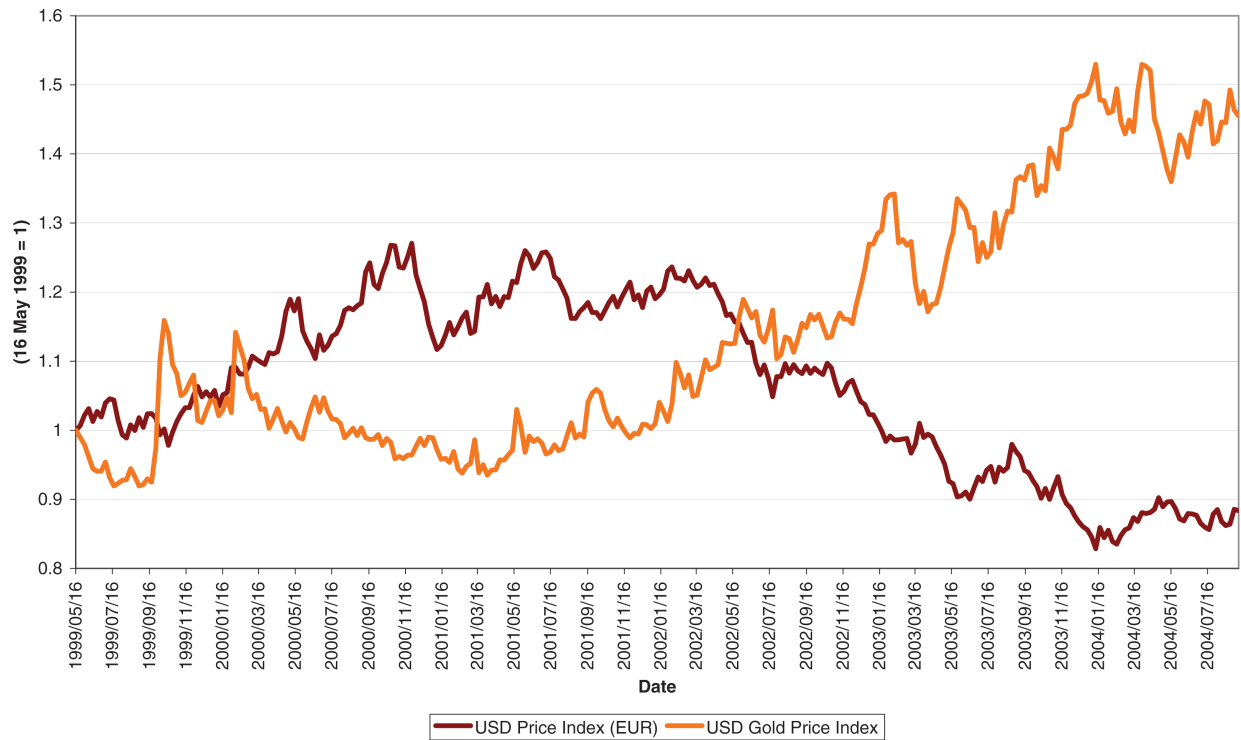
(e) Gold is a Rand hedge (i.e. Rand price of gold tends to increase when the Rand depreciates against the US dollar) –

Gold, USD and ZAR



(f) Gold is a US dollar hedge (i.e., when US dollar weakens, US dollar denominated gold price tends to rise)¹⁰ –

Gold as an USD Hedge



¹⁰ Source: Reuters.

DESCRIPTION OF STRUCTURE AND GOLD BULLION DEBENTURES

Words used in this section shall have the same meaning as defined on pages 4 to 10 of this Prospectus, unless they are defined in this section or the use thereof is clearly inappropriate from the context.

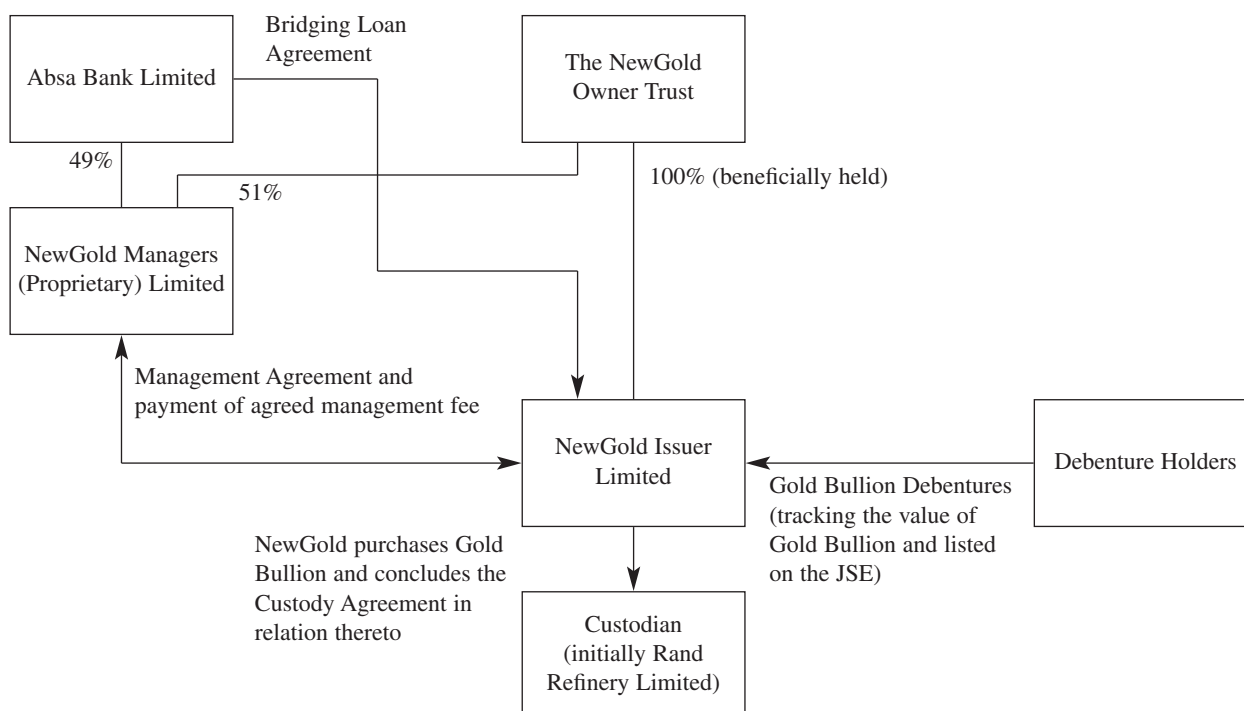
The following description of structure and of the Gold Bullion Debentures consists of a summary of the ETF and of the Debenture Conditions. As such, it does not purport to be complete. Accordingly, this summary is qualified in its entirety by reference to the Transaction Documents (which are available for inspection at the places and during the times described in this Prospectus) and the Debenture Conditions which are Annexure A to this Prospectus.

Introduction and Schematic Diagram

NewGold will issue the Gold Bullion Debentures to institutional and retail investors in the RSA and will use the proceeds of the Gold Bullion Debentures to acquire Gold Bullion. The Gold Bullion acquired and held by NewGold will be held in safe custody by the Custodian for, on behalf and in the name of NewGold in terms of the Custody Agreement. NewGold will fund and defray its fees and expenses and pay dividends to its shareholder, The NewGold Owner Trust, by selling Gold Bullion at monthly intervals, thereby reducing the Reference Quantity of Gold Bullion to which each Gold Bullion Debenture is linked by a pro rata portion of the Monthly Gold Sales Charge. Timing mismatches in funding the fees and expenses will be funded by making draw downs under the Bridging Loan Agreement from time to time.

NewGold, being a special purpose company, does not and will not have any employees. Accordingly, in terms of the Management Agreement, the Manager will manage and administer the business and affairs of NewGold and will advise NewGold in relation to the conduct of NewGold's Business.

The diagram below describes, in schematic form, the various entities and relationships referred to above.



NewGold Owner Trust [1(b)]

NewGold is a subsidiary of the NewGold Owner Trust. The NewGold Owner Trust is an independent trust which has been specifically established in the RSA on 10 September 2004 in terms of the NewGold Owner Trust Deed with the sole purpose of beneficially holding the entire issued share capital of NewGold. The NewGold Owner Trust is the registered and beneficial owner of 94 ordinary par value shares of ZAR1 each in the issued share capital of NewGold (constituting 94% of the issued shares in NewGold) and is the beneficial (but not registered) owner of the remaining 6 ordinary par value shares of ZAR1 each in the issued share capital of NewGold (such balance constituting the remaining 6% of the issued shares in NewGold). The NewGold Owner Trust is registered with the Master of the High Court of South Africa (Transvaal Provincial Division) under reference number IT8350/04. The principal place of business of the NewGold Owner Trust is at 1st Floor, 1 Protea Place, Sandown, Sandton. The trustee of the NewGold Owner Trust is currently Maitland Trust Limited.

The Initial Beneficiary is a discretionary capital and income beneficiary. The Trustee is under no obligation to make any award to the Initial Beneficiary but shall consider (without being under any obligation to do so), making awards to the Initial Beneficiary on the last Business Day of each calendar quarter.

The person appointed as the Trustee may be disqualified from acting as such in certain circumstances including if the Initial Beneficiary in its discretion, so determines.

Upon the winding-up of the NewGold Owner Trust after all of the liabilities of the NewGold Owner Trust have been discharged, the Residual Beneficiary shall be entitled to the remainder of the assets of the NewGold Owner Trust.

NewGold [1(a), 2(a), 2(b), 2(c) and 6(b)]

NewGold is a special purpose, newly incorporated public company having a share capital, which has been incorporated in the RSA in terms of the Companies Act on 27 May 2004 for the specific purpose of conducting the ETF. NewGold is ringfenced and “insolvency remote” in that the memorandum and articles of association of NewGold limit NewGold’s legal capacity to conduct any business or incur any liability other than that permitted in terms of the Transaction Documents, without the prior consent of the JSE and the Debenture Holders by an Extraordinary Resolution to that effect.

Being a newly incorporated company, NewGold has not, prior to the Initial Offer, conducted any business, issued (or offered to issue) any shares or debentures, or held or occupied any immovable or other property.

NewGold has an authorised share capital of 1 000 ordinary par value shares of ZAR1 each, of which 100 ordinary par value shares of ZAR1 each have been issued. As set out above, all of these issued shares are beneficially owned by the NewGold Owner Trust, although 6 of such issued shares are held by nominees. Each such nominee has executed a declaration of trust acknowledging that he holds such share on behalf of and for the benefit of the NewGold Owner Trust, that he will not be entitled to deal or otherwise transact with such share without the prior written consent of the NewGold Owner Trust and that any benefit which he may receive as a result of a being a shareholder of NewGold will be passed on to the NewGold Owner Trust.

In terms of the memorandum and articles of association of NewGold, NewGold’s Board must at all times comprise at least three directors. Two of these directors will be appointed (and from time to time replaced) by the NewGold Owner Trust. Both directors appointed by the NewGold Owner Trust must be independent of the Originator of the ETF, ACMB. The third director of NewGold is to be appointed (and from time to time replaced) by ACMB. In addition, the memorandum and articles of association of NewGold require that each and every resolution passed by NewGold’s Board must be passed with the approval of such independent directors and that no meeting of NewGold’s Board will be quorate unless both such independent directors are present. The memorandum and articles of association of NewGold further provide that neither a director nor an alternate director shall be obliged to hold qualifying shares in NewGold. The directors shall not be paid any remuneration by NewGold for their services as such but will be paid a fee by the Manager.

The full names, ages, addresses and occupations of the directors of NewGold are set out below –

(a) **GERHARDUS JACOBUS PRETORIUS** (Chairman)

- (i) age: 52;
- (ii) nationality: South Africa;
- (iii) qualifications: B.Proc (Admitted Attorney); H Dip Tax; CFP (Certified Financial Planner);
- (iv) business address: 1st Floor, Protea Place, Sandton, 2146;
- (v) occupation and experience: Regional Manager of Maitland Trust Limited. Fifteen years management experience;
- (vi) directorships/partnerships in the five years preceding the date of this Prospectus: Technologies Acceptable Receivables (Proprietary) Limited, Technologies Acceptable Receivables Security SPV (Proprietary) Limited, Out of the Blue Originator (Proprietary) Limited, Corporate Finance Solutions Receivables (Proprietary) Limited, Corporate Finance Solutions Security SPV (Proprietary) Limited, Collateralised Auto Receivables Securitisation 1 (Proprietary) Limited, Safair Lease Finance (Proprietary) Limited, Fintech Receivables 1 (Proprietary) Limited, Newrand (Trackhedge), Asset Backed Arbitrage Securities, Main Street 65 (Proprietary) Limited, Blue Titanium and South African Quantum Homeloans (Proprietary) Limited.

(b) **ANTHONY ADDISON**

- (i) age: 67;
- (ii) nationality: South African;
- (iii) qualifications: Admitted Attorney;
- (iv) business address: 1st Floor, Protea Place, Sandton, 2146;
- (v) occupation and experience: Estates Manager of Maitland Trust Limited. He has practised as a qualified attorney for forty-five years;
- (vi) directorships/partnerships in the five years preceding the date of this Prospectus: Asset Backed Arbitrated Securities (Proprietary) Limited, Eagle Securityco Number One (Proprietary) Limited, Eagle Newco Number One (Proprietary) Limited, Fintech Receivables 1 (Proprietary) Limited and Trackhedge (Proprietary) Limited.

(c) **TJAART FRANS KRUGER**

- (i) age: 37;
- (ii) nationality: South African;
- (iii) qualifications: B Compt Hons, H Dip Tax, CA(SA);
- (iv) business address: 1st Floor, Absa Towers North, 180 Commissioner Street, Johannesburg, 2001;
- (v) occupation and experience: Merchant Banker;
- (vi) directorships/partnerships in the five years preceding the date of this Prospectus: Sanlam Home Loans (Proprietary) Limited, Sanlam Home Loans 101 (Proprietary) Limited, Sanlam Home Loans 102 (Proprietary) Limited and Sanlam Home Loans Guarantee Company (Proprietary) Limited.

None of these directors of NewGold has been appointed for any specific term of office and they will not retire by rotation. Each of these directors of NewGold will accordingly hold office until he resigns, is replaced by the person that appointed him or otherwise becomes ineligible to be a director of a company. None of the directors of NewGold will, in his capacity as such, be remunerated.

None of the directors of NewGold has been involved in or has been subject to any –

- (i) bankruptcies, insolvencies or individual voluntary compromise arrangements;
- (ii) receiverships, compulsory liquidations, creditors' voluntary liquidations, administrations, company voluntary arrangements, or any compromise or arrangement with creditors generally or any class of creditors of any company where the director is or was a director with an executive function at the time of or within twelve months preceding such events;
- (iii) compulsory liquidations, administrations, or partnership voluntary arrangements of any partnerships where the director was a partner at the time of or within twelve months preceding such events;
- (iv) receiverships or any asset/s of such person or of a partnership of which the individual is or was a partner at the time of or within the twelve months preceding such event;
- (v) public criticism by statutory or regulatory authorities or disqualified by a court from acting as a director or in the management or conduct of the affairs of any company; or
- (vi) offence involving dishonesty.

NewGold has no employees (and is not in terms of its memorandum and articles of association permitted to have any employees) and, accordingly, NewGold has, in order to ensure the efficient running and management of NewGold's Business, concluded the Management Agreement.

Gold Bullion Debentures [9(a)(i), 9(a)(iii), 9(a)(iv) and 18(b)]

The Gold Bullion Debentures will be issued by NewGold in the form of debentures as contemplated in the Companies Act. The Gold Bullion Debentures will constitute senior, unsecured obligations of NewGold and will be issued in denominations linked to the value of the Initial Quantity in accordance with the Debenture Conditions attached to this Prospectus as Annexure A.

The creation and redemption feature of the Gold Bullion Debentures enables new Gold Bullion Debentures to be created and for existing Gold Bullion Debentures to be redeemed at any time.

The Offer Price of each Gold Bullion Debenture will be linked to the value of the Initial Quantity (initially being one hundredth of a single fine troy ounce of Gold Bullion) acquired during the Ramp-up Period preceding the Issue Date, in the case of cash subscriptions in respect of the Initial Offer; and in all other cases, the value of the Initial Quantity of Gold Bullion deposited with the Custodian by a Qualifying Applicant as at the Issue Date of the relevant Gold Bullion Debentures. A Gold Bullion Debenture may be subscribed for by an Applicant in cash (in respect of the Initial Offer only) or in specie by completing the relevant Application Form and delivering it either directly to its CSDP, a broker or the Participating Broker as more fully described in the section of this Prospectus entitled "Offer, use of Proceeds and Redemptions".

A Gold Bullion Debenture will only be issued if the Conditions to Issue have been fulfilled.

The Gold Bullion Debentures will not bear interest and will rank *pari passu* amongst each other. A Gold Bullion Debenture will only evidence the financial indebtedness of NewGold to the relevant Debenture Holder (the amount of which will be dependant on the value at any point in time of the Reference Quantity of Gold Bullion to which such Gold Bullion Debenture is linked) and will not grant or constitute any ownership, right or beneficial or other interest in or to any Gold Bullion. A Debenture Holder will, accordingly, not have or acquire any ownership, right or beneficial or other interest in or to any Gold Bullion held by NewGold from time to time.

The JSE has granted a listing for the Gold Bullion Debentures in the "Traded Index Funds" sector of the JSE list under the abbreviated name "NewGold", symbol "GLD" and ISIN Code ZAE000060067. The Gold Bullion Debentures will be issued in Dematerialised form and all trades and transactions will have to be made through the STRATE System in accordance with the Applicable Procedures.

A Debenture Holder may, by delivering a Redemption Notice to NewGold in the prescribed form, redeem a Gold Bullion Debenture held by it at any time, provided that a Gold Bullion Debenture may only be redeemed on a Trading Day on the JSE and as part of one or more Blocks. A Debenture Holder is required to give NewGold not less than three Trading Days' (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value of less than ZAR1 000 000 000) and not less than five Trading Days' (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value of ZAR1 000 000 000 or more) notice of

such redemption. Any Redemption Notice delivered by a Debenture Holder is irrevocable and a Debenture Holder will be obliged to redeem its Gold Bullion Debenture following the delivery of such notice.

NewGold is entitled to require the redemption of the Gold Bullion Debentures if any of the Transaction Documents become illegal or unenforceable and such illegality or unenforceability cannot be remedied through reasonable measures, or if, as a result of any change to or amendment of the application or interpretation of any existing or future law, NewGold is required to make any withholdings or any deduction from payments to be made under the Gold Bullion Debentures and such requirement cannot be avoided through reasonable measures available to NewGold. In either such eventuality, NewGold is required to give the Debenture Holders not less than thirty days' and not more than ninety days' notice of such redemption. NewGold is also entitled to redeem Gold Bullion Debentures held by a specific Debenture Holder in the event that NewGold is reasonably of the view that the investment by such Debenture Holder in the Gold Bullion Debentures may result in NewGold falling foul of the provisions of the Financial Intelligence Centre Act, 38 of 2001, or any other Applicable Law.

Should a Debenture Holder wish to redeem its Gold Bullion Debentures in accordance with the Debenture Conditions, the Debenture Holder will be required to deliver a Redemption Notice either directly to its CSDP, a broker or the Participating Broker, indicating the number of Blocks that are to be redeemed and stating the date on which such redemption is to take place. Redemption Notices that are received by NewGold's CSDP prior to 09:00 RSA time on any Trading Day will be deemed to have been received on and will be dealt with on that Trading Day. Redemption Notices received after that time will be deemed to have been received on and will be dealt with on the succeeding Trading Day.

All Gold Bullion Debentures will be redeemed at their Redemption Value as at the Redemption Date thereof in accordance with the Priority of Payments. The Redemption Value will be calculated having regard to the Sale Proceeds realised (in the event where a Gold Option is not exercised) or the Sale Proceeds that would have been realised (in the event of an exercise of a Gold Option) through the sale of the Reference Quantity of Gold Bullion in the London PM Fix on the relevant Redemption Date thereof. Any premium or discount to the price in the London PM Fix obtained or incurred by NewGold will be passed on to the relevant Debenture Holder. This Reference Quantity will be less than the Initial Quantity as it will take into account the Monthly Gold Sales Charge. On and with effect from the first Issue Date, NewGold will sell Gold Bullion at the end of each month in an amount equal to the Monthly Gold Sales Charge and will use the proceeds of such sale to pay its fees and expenses and to declare and pay dividends to its shareholders. The Monthly Gold Sales Charge will accrue daily on all Gold Bullion held by NewGold from time to time in excess of 430 fine troy ounces, be deducted monthly in arrears and will initially be set at 0,40% per annum (including VAT). The Monthly Gold Sales Charge will be used to pay, inter alia, fees to the Custodian and the Manager and to pay dividends to the NewGold shareholders, which dividends will be equal to the remainder of the Monthly Gold Sales Charge after all fees and expenses (as described on page 25) have been deducted.

Accordingly, the Initial Quantity will reduce each day as the Monthly Gold Sales Charge accrues.

Both the Monthly Gold Sales Charge and the Reference Quantity of each Gold Bullion Debenture as the end of each month will be published and released by NewGold through SENS.

Should the fees and expenses of NewGold be higher than anticipated, the Monthly Gold Sales Charge may be varied by NewGold at any time on ninety days' prior notice through SENS, provided that should NewGold be or become obliged to pay any amount in respect of Taxation on short notice, only thirty days' prior written notice of the variation of the Monthly Gold Sales Charge shall be required.

Any Qualifying Debenture Holder will have the right and option, upon the redemption of his Gold Bullion Debentures, to require NewGold to sell to the Qualifying Debenture Holder the Reference Quantity of Gold Bullion as at the Redemption Date thereof. In order for any Qualifying Debenture Holder to exercise this Gold Option, such Qualifying Debenture Holder must have opened a Nominated Bullion Account with the Custodian, into which NewGold can transfer the relevant Sale Bullion on the Delivery Date. Should any Qualifying Debenture Holder exercise this Gold Option, the obligation of NewGold to pay the Redemption Value of the relevant number of Gold Bullion Debentures to such Qualifying Debenture Holder on the relevant Redemption Date, will be off-set against the obligation of the relevant Qualifying Debenture Holder to effect payment to NewGold of the purchase price for the Sale Bullion on the same Redemption Date. NewGold will deliver the Sale Bullion to the relevant Qualifying Debenture Holder that exercised the Gold Option on the Delivery Date by instructing the Custodian to credit the Sale Bullion to the Nominated Bullion Account of the relevant Qualifying Debenture Holder.

Since the Gold Bullion Debentures are settled through STRATE, NewGold will be obliged to pay STRATE (as the registered holder of the Gold Bullion Debenture) the Redemption Value, in order for STRATE to pay such amount to the relevant CSDP. Accordingly, should a Qualifying Debenture Holder holding Dematerialised Debentures wish to exercise the Gold Option and enter into a Gold Bullion Sale Agreement, it will be required, at the time of exercising the Gold Option, to deliver to the Manager, NewGold and its CSDP an irrevocable instruction in terms of which such Qualifying Debenture Holder instructs its CSDP to waive its right to receive payment of the Redemption Value by NewGold and to redeem the relevant Gold Bullion Debentures against receipt of confirmation from the JSE that the Sale Bullion has been sold to the relevant Qualifying Debenture Holder and that the purchase price payable by the relevant Qualifying Debenture Holder therefore has been set-off against the Redemption Value of the relevant Gold Bullion Debentures. The JSE will issue such confirmation against receipt of confirmation from the sponsor (initially Java Capital (Proprietary) Limited) that the Manager has confirmed that the Sale Bullion has been delivered to the Qualifying Debenture Holder by the Custodian. In the event that a Qualifying Debenture Holder exercising the Gold Option has not appointed a CSDP, such instruction should be delivered to its broker or the Participating Broker.

Subject to what is set out above, all amounts payable by NewGold in respect of the Gold Bullion Debentures will be paid by NewGold in Rand in cash in accordance with the Priority of Payments. All such payments in respect of the Gold Bullion Debentures will further be made without withholding or deduction for or on account of any present or future Taxation, unless such withholding or deduction is required by Applicable Law. If so required, NewGold will make such payments after such withholding or deduction has been made (where applicable) and NewGold will not be obliged to make any additional payments to Debenture Holder in respect of such withholding or deduction.

Creation and Redemption Fees

NewGold will not charge Creation Fees or Redemption Fees to investors who buy and sell the Gold Bullion Debentures on the secondary market, including the JSE. Such fees will only be payable on the creation and redemption of Gold Bullion Debentures.

However, a Creation Fee will be charged to each Applicant for a single creation of a Gold Bullion Debenture, which Creation Fee will (subject to variation as further detailed below) be equal to 0,15% of the Offer Price of the Gold Bullion Debenture so created (excluding VAT). Payment of the Creation Fee will be deducted from the subscription monies for the Gold Bullion Debentures and in the case of In Specie Subscriptions, will be required to be paid to NewGold as a condition to Issue.

NewGold will also charge a Redemption Fee to each Debenture Holder exercising its right to have all or some of its Gold Bullion Debentures redeemed. Such Redemption Fee will be equal to 0,15% of the Redemption Value (excluding VAT) for any single redemption of Gold Bullion Debentures, regardless of the number of Gold Bullion Debentures being redeemed. In addition, if NewGold exercises its rights to require the redemption of some or all of the Gold Bullion Debentures in accordance with the Debenture Conditions, it will charge each Debenture Holder a Redemption Fee equal to 0,15% of the Redemption Value (excluding VAT).

NewGold may vary the Creation Fees or Redemption Fees payable at any time by giving one month's prior notice through SENS.

Procedures for Creations

Further Gold Bullion Debentures may be created at any time succeeding the date of this Prospectus. There is no minimum or maximum number of Gold Bullion Debentures that must be in issue at any point in time.

An Applicant may subscribe for Gold Bullion Debentures by delivering an Application Form to either its nominated CSDP, its broker or the Participating Broker as more fully described in the section of this Prospectus entitled "Offer, Use of Proceeds and Redemptions". Subscriptions in respect of the Initial Offer may be done either in cash or in specie but all subscriptions in respect of subsequent offers may only be done in specie and cash subscriptions will not be permitted.

Applicants should, however, be aware that the Creation Fee, in the case of cash subscriptions, will be deducted from any payment accompanying their applications and, accordingly, only the net amount will be utilised in subscribing for Gold Bullion Debentures. Qualifying Applicants making applications in specie will be required to pay the Creation Fee in cash together with their applications.

Letters of Allocation in respect of Gold Bullion Debentures will only be issued after the Conditions to Issue have been fulfilled. The Letters of Allocation will not be listed and will not be transferable.

After fulfilment of the Conditions to Issue, the Gold Bullion Debentures applied for will be allotted to each relevant Applicant and, after the Ramp-up Period in respect of cash subscriptions made in respect of the Initial Offer, issued to the holders of the Letters of Allocation unless the relevant Application Form has been rejected by NewGold. NewGold reserves the right not to accept an Application Form for Gold Bullion Debentures in its discretion. If NewGold elects not to accept an application, it will notify the Applicant forthwith and ensure that any Gold Bullion and/or monies plus any interest accrued thereon received from the relevant Applicant is returned to the Applicant as soon as possible.

Preceding the Issue Date in respect of cash subscriptions made in relation to the Initial Offer there will be a Ramp-up Period during which NewGold will acquire the appropriate quantity of Gold Bullion. The duration of this Ramp-up Period will depend on the prevailing market conditions and the aggregate amounts received by NewGold (or the Manager on behalf of NewGold) in respect of cash subscriptions. The number of Gold Bullion Debentures to be allotted to each Applicant subscribing in cash will be equal to the number of fine troy ounces of Gold Bullion (expressed to three decimal places) acquired by NewGold during the Ramp-up Period pursuant to the receipt of the Offer Price from such Applicant divided by the Initial Quantity on the Issue Date.

In respect of all applications for In Specie Subscriptions, the number of Gold Bullion Debentures to be allotted and issued to each Qualifying Applicant will be equal to the number of the fine troy ounces of Gold Bullion (expressed to three decimal places) deposited by such Qualifying Applicant with the Custodian pursuant to an application, divided by the Initial Quantity as at the relevant Issue Date.

Applicants will be returned any excess Gold Bullion and/or monies received by NewGold in connection with the creation of Gold Bullion Debentures, whether arising from an error by the Applicant or from rounding.

Procedures for Redemptions

A Debenture Holder may, at any time, by delivering a Redemption Notice to the Manager, require the redemption of one or more Blocks of Gold Bullion Debentures held by it, in cash.

Redemptions will be settled on the later of three Trading Days (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value of less than ZAR1 000 000 000) and five Trading Days (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value of ZAR1 000 000 000 or more) following the date on which a valid Redemption Notice is lodged with NewGold or the Manager and the Redemption Date specified in such Redemption Notice. Redemption Notices lodged after 09:00 or on a day which is not a Trading Day will be treated as having been received on the next Trading Day.

All monies paid out by NewGold pursuant to the redemptions of Gold Bullion Debentures will be paid in accordance with the Priority of Payments set out in Debenture Condition 9.

A Qualifying Debenture Holder who elects to exercise a Gold Option –

- (a) will have the relevant Sale Bullion transferred to its Nominated Bullion Account on the Delivery Date; and
- (b) will be obliged to pay to NewGold the Redemption Fee and any VAT payable on the purchase price of the Sale Bullion in cash.

Where the Gold Option is not exercised simultaneously with the redemption of Gold Bullion Debentures, NewGold will sell the Gold Bullion represented by such Gold Bullion Debentures in the spot market in the London PM Fix. Any premium or discount to the price set at the London PM Fix obtained or incurred as part of the sale of Gold Bullion will be passed on to the relevant Debenture Holder. The Sale Proceeds will be converted into Rand at the Rand/US Dollar exchange rate quoted by ACMB as at 16:00 on the relevant Redemption Date. NewGold will deduct the Redemption Fee from the Sale Proceeds of such Gold Bullion and, after the deduction of such fee, will utilise the Sale Proceeds to pay the Redemption Value to the Debenture Holder within five Business Days of the later of the receipt by the Manager of the relevant Redemption Notice or the Redemption Date specified in such Redemption Notice.

Debenture Holders will be required to pay for all Taxation associated with the sales of Gold Bullion (and associated sales or purchases of currency, if any) and these amounts will generally be deducted by NewGold from the Sale Proceeds. The amount of Taxation payable will depend on the tax status of the Debenture Holder in question.

Manager [2(d)]

The Manager is a special purpose, newly incorporated private company having a share capital, which has been incorporated in the RSA in terms of the Companies Act on 18 March 2004 for the specific purpose of acting as manager of NewGold in terms of the ETF. The Manager has an authorised share capital of 1 000 ordinary par value shares of ZAR1 each, of which 100 ordinary par value shares of ZAR1 each have been issued. These issued shares are held as to 49 thereof (constituting 49% of the issued shares of the Manager) by ABSA and as to 51 thereof (constituting 51% of the issued shares of the Manager) by the NewGold Owner Trust. The Manager's main business is the provision of asset management and administration services to NewGold. The full names, ages, addresses and occupations of the directors of the Manager are set out below –

(a) ANTHONY ADDISON

- (i) age: 67;
- (ii) nationality: South African;
- (iii) qualifications: Admitted Attorney;
- (iv) business address: 1st Floor, Protea Place, Sandton, 2146;
- (v) occupation and experience: Estates Manager of Maitland Trust Limited. He has practised as a qualified attorney for forty-five years.

(b) GERHARDUS JACOBUS PRETORIUS

- (i) age: 52;
- (ii) nationality: South Africa;
- (iii) qualifications: B.Proc (Admitted Attorney); H Dip Tax; CFP (Certified Financial Planner);
- (iv) business address: 1st Floor, Protea Place, Sandton, 2146;
- (v) occupation and experience: Regional Manager of Maitland Trust. Fifteen years management experience.

(c) GABRIEL JOSHUA DU PREEZ

- (i) age: 30;
- (ii) nationality: South African;
- (iii) qualifications: CA(SA);
- (iv) business address: 1st Floor, Absa Towers North, 180 Commissioner Street, Johannesburg, 2001;
- (v) occupation and experience: General Manager of ABSA Bank Limited. Head: Transaction Management. Five years experience in merchant banking.

Management Agreement

In terms of the Management Agreement, NewGold has appointed the Manager as the agent of NewGold to act as its manager, inter alia –

- (a) to oversee the issuing of Gold Bullion Debentures from time to time;
- (b) to utilise the proceeds derived from the issue of Gold Bullion Debentures to acquire Gold Bullion on behalf of and in the name of NewGold so as to ensure that NewGold's liabilities under the Gold Bullion Debentures are at all times fully hedged;
- (c) to monitor the performance of the Custodian in terms of the Custody Agreement;
- (d) to dispose of Gold Bullion at monthly intervals so as to meet the obligations of NewGold in respect of fees and expenses payable from time to time;
- (e) to monitor the fees and expenses payable by NewGold from time to time and, where applicable, to publish through SENS any alterations necessary to the Monthly Gold Sales Charge, the Creation Fee and/or the Redemption Fee;
- (f) to manage the redemption of the Gold Bullion Debentures including, where applicable, the delivery of Sale Bullion to Qualifying Debenture Holders exercising a Gold Option;
- (g) to act as calculation agent under the Gold Bullion Debentures in relation to, inter alia, the Offer Price, the Creation Fee, the Redemption Value and the Redemption Fee in respect of the Gold Bullion Debentures;
- (h) to render administrative, bookkeeping and clerical advice and services to NewGold, including –
 - (i) the maintenance of all Accounting Records;
 - (ii) the preparation of all Taxation returns and the submission thereof to the relevant authorities;
 - (iii) the operation and opening of all bank accounts on behalf of and in the name of NewGold;
 - (iv) the appointment and dismissal of professional and other advisers, including brokers, auditors and attorneys, after consultation with NewGold; and
 - (v) liaising with the JSE and other exchanges on which the Gold Bullion Debentures may from time to time be listed, with STRATE and all regulatory bodies having jurisdiction over NewGold and/or the Gold Bullion Debentures; and
- (i) to ensure compliance by NewGold with all Applicable Laws.

The Manager has been appointed as the exclusive agent and manager of NewGold and is not entitled to act as manager to any other person or entity. In rendering its services to NewGold in terms of the Management Agreement, the Manager has to comply with the instructions given to it by NewGold's Board and is obliged to report to NewGold's Board in relation to the activities of the Manager and the performance by it of its duties under the Management Agreement.

The Manager is, in terms of the Management Agreement, entitled to sub-contract certain or all of its obligations under the Management Agreement with the prior written consent of NewGold's Board. However, notwithstanding the entering into of such sub-contracts, the Manager will remain liable to NewGold for the performance of each sub-contractor.

In consideration for the services rendered by the Manager to NewGold in terms of the Management Agreement, the Manager is entitled to a management fee and to be reimbursed for all costs incurred by it in relation to the services performed by it in terms of the Management Agreement. The management fee shall never exceed an amount equivalent to the Monthly Gold Sales Charge, after deduction of the additional fees and expenses of NewGold further detailed in the table on page 7 hereof. NewGold will meet its obligations in respect of payment of the aforementioned management fee by disposing of Gold Bullion monthly and reducing the Reference Quantity of Gold Bullion in the Monthly Gold Sales Charge.

The appointment of the Manager in terms of the Management Agreement will terminate upon the liquidation or dissolution of NewGold. In addition, the Management Agreement may be terminated by either the Manager or NewGold on not less than thirty Trading Days' prior written notice to the other of them to such effect. The Management Agreement may also be terminated by NewGold at any time in the event that the Manager is wound-up (whether provisionally or finally) or placed under judicial management or otherwise breaches its obligations under the Management Agreement.

The Manager is not liable for any loss suffered by NewGold in connection with the performance of the Manager's duties under the Management Agreement, except where such loss results from fraud, wilful default or gross negligence on the part of the Manager or in connection with the performance or non-performance of, or the reckless disregard by the Manager of its obligations and duties under the Management Agreement. NewGold has further indemnified the Manager against all liabilities, damages, costs, claims and expenses incurred by it in the performance or non-performance of its obligations and duties under the Management Agreement, save for instances where such loss arises from the fraud, wilful default or gross negligence by the Manager in the performance or non-performance of its obligations and duties or, from the reckless disregard by the Manager of its obligations and duties under the Management Agreement.

Custody Agreement

In terms of the Custody Agreement, NewGold has appointed Rand Refinery Limited as its initial custodian of Gold Bullion. Further, in terms of the Custody Agreement, NewGold shall open –

- (a) a single Unallocated Bullion Account with the Custodian to which (subject to what is stated below) a fine weight amount of Gold Bullion, not exceeding two London Good Delivery Bars, will be credited and against which all Gold Bullion sold by the Issuer to defray its administrative and other costs will be debited; and
- (b) an Allocated Bullion Account with the Custodian to which the balance of all Gold Bullion held by NewGold from time to time will be credited.

For practical purposes the Custodian may not be in a position to allocate more than a specified amount of Gold Bullion to NewGold's Allocated Bullion Account per day. Therefore, notwithstanding (a) above, there may be certain periods when more than two London Good Delivery Bars of Gold Bullion will be credited to the Unallocated Bullion Account of NewGold.

NewGold is entitled to direct the Custodian to dispose of Gold Bullion standing to the credit of NewGold's Unallocated Bullion Account from time to time for the purpose of, inter alia, funding the operating costs and expenses of NewGold.

In terms of the Custody Agreement, in order to mitigate a co-mingling risk, all Gold Bullion held in the Allocated Bullion Account of NewGold will be segregated from and be separately identified from all other bullion and other assets of the Custodian (and its other clients) by making use of unique identifying numbers. This Gold Bullion will be marked as belonging to NewGold. The Custodian has further acknowledged that it will have no ownership of or other interests in or to any Gold Bullion reflected in the Allocated Bullion Account of NewGold or in the Unallocated Bullion Account of NewGold and that all such ownership and other rights will vest solely in NewGold.

In terms of the Custody Agreement, NewGold will only take delivery of Gold Bullion in the form of London Good Delivery Bars and, accordingly, the Custodian has been instructed to refuse to accept delivery of any bullion in any form other than London Good Delivery Bars.

In terms of the Custody Agreement, the Custodian is responsible for the secure safe holding of the Gold Bullion belonging to NewGold. NewGold is, however, entitled to inspect the security arrangements at any time to ensure that it conforms with the standards required by its insurers. With regard to insurance, the Custodian is obliged to arrange insurance cover to the reasonable satisfaction of NewGold, of such a nature that the interests of NewGold equal to the total value of NewGold's Gold Bullion holdings, is adequately insured.

In consideration for the services rendered by the Custodian to NewGold in terms of the Custody Agreement (including insurance premiums and the like), NewGold will pay to the Custodian a fee calculated on the daily balance of the Allocated Bullion Account of NewGold. Such fee will be deducted from the balance of NewGold's Unallocated Bullion Account on the first day of each calendar month.

Bridging Loan Agreement [9(a)]

In terms of the Bridging Loan Agreement, NewGold is entitled to draw down amounts made available under the Bridging Loan Agreement in order to –

- (a) maintain the corporate status of NewGold and meet its liabilities in respect of, inter alia, management and custodial fee; and
- (b) fund timing mismatches between the payment of VAT by NewGold on the purchase of Gold Bullion and the receipt by NewGold of VAT input credits from the South African Revenue Services.

The maximum amounts that NewGold will be entitled to draw down at any point in time under the Bridging Loan Agreement is capped at ZAR182 000 000.

All amounts repayable by NewGold to ABSA under the Bridging Loan Agreement will be unsecured but will be paid in priority to the amounts payable by NewGold upon the redemption of the Gold Bullion Debentures and will be paid in accordance with the Priority of Payments.

Interest on amounts drawn down by NewGold and not repaid at any point in time will accrue at a rate equal to JIBAR plus 1,5%.

The facility extended under the Bridging Loan Agreement will be reviewed by ABSA on 30 April 2005, whereafter it may be extended for further periods.

Marketing Agreement

In terms of the Marketing Agreement, Specialised Investment Solutions LLP will contribute funding for the marketing of NewGold and the ETF and will ensure that NewGold is able to use the trade marks, research and marketing material of the World Gold Council in such marketing as well as the research and marketing material produced by Specialised Investment Solutions LLP. All such funding will be made available to NewGold for it to be used solely for the marketing of NewGold and the ETF:

The funding will be made available on the basis that, if on 31 December 2005 and 31 December of each succeeding year the total assets of NewGold exceed the Rand equivalent of US\$100 000 000, Specialised Investment Solutions LLP will pay NewGold the ZAR equivalent of US\$50 000.

In terms of the Marketing Agreement, Newgold will pay Specialised Investment Solutions LLP as follows:

- (a) from the date of listing of the ETF to 30 December 2005 an amount equal to the ZAR equivalent of 0,05% per annum of the Gold Bullion held by it in excess of 430 fine troy ounces. This amount will be paid on the last Business Day of each month out of the Monthly Gold Sales Charge;
- (b) from 31 December 2005 to the date of termination of the Marketing Agreement, an amount equal to the ZAR equivalent of 0,05% per annum of the Gold Bullion held by it in excess of 430 fine troy ounces, provided that the value of the Gold Bullion so held is greater than the Rand equivalent of US\$100 000 000. This amount will be paid on the last Business Day of each month out of the Monthly Gold Sales Charge.

The Marketing Agreement commences on 30 September 2004 and endures until 31 December 2009, whereafter it may be terminated by either NewGold or Specialised Investment Solutions LLP on one month's written notice to the other of them. NewGold shall however be entitled to terminate the Marketing Agreement prior to 31 December 2009 on thirty days' written notice to Specialised Investment Solutions LLP, against payment to Specialised Investment Solutions LLP of the ZAR equivalent of 0,05% per annum of the Gold Bullion held by NewGold on the date on which such notice was given, multiplied by, pro rata, the remaining number of years up to December 2009.

Material Contracts

Save for the Transaction Documents, no material contracts have been entered into by NewGold, either verbally or in writing.

Fees and Expenses [21(b)]

The fees and expenses which NewGold may incur in conducting the ETF may include –

- (a) management fees payable by NewGold to the Manager in terms of the Management Agreement;
- (b) fees payable to the Custodian in terms of the Custody Agreement;
- (c) fees payable to Specialised Investment Solutions LLP in terms of the Marketing Agreement;
- (d) interest payable to ABSA in terms of the Bridging Loan Agreement;
- (e) costs of NewGold in publishing information and/or giving notice to the Debenture Holders;
- (f) all financial reporting and compliance costs of NewGold;
- (g) all fees payable to the JSE and other regulatory bodies; and
- (h) any promotion costs in connection with the Initial Offer and Subsequent Issues made pursuant to this Prospectus.

The following table sets out the anticipated fees and other amounts payable by NewGold on an annual basis. The figures in this table has been provided for illustration purposes only and may be subject to change –

| FEE AND/OR EXPENSE | AMOUNT |
|--------------------|---|
| Management Fees | In terms of the Management Agreement, NewGold is obliged to pay the Manager a fee equal to 100,1% of all expenses (including the compensation of all the Manager's employees, consultants and sub-contractors associated with discharging the Manager's obligations under the Management Agreement) incurred by the Manager in discharging his obligations under the Management Agreement, subject to a maximum fee in an amount equivalent to the Monthly Gold Sales Charge, after deduction of the fees and expenses set out below. In addition NewGold is obliged to reimburse the Manager with all costs and expenses reasonably and properly incurred by the Manager in rendering the services in terms of the Management Agreement. |
| Custodial Fees | In terms of the Custody Agreement, NewGold is obliged to pay the Custodian an all inclusive fee of 0,12% of the daily balance of the Allocated Bullion Account of NewGold, payable monthly in arrears. |
| Marketing Fees | In terms of the Marketing Agreement, NewGold is obliged to pay Specialised Investment Solutions LLP an all inclusive fee equal to 0,05% of NewGold's total assets as at 31 December of each year, payable monthly in arrears. |
| JSE Fees | The annual listing fees payable to the JSE will not exceed 0,01% of NewGold's total assets. |
| Interest | In terms of the Bridging Loan Agreement, NewGold is obliged to pay to ABSA (as lender under the Bridging Loan Agreement) interest on the amount outstanding under the Bridging Loan Agreement from time to time at a rate equal to JIBAR plus 1,5%. |

Dividends

NewGold may declare and pay a dividend to its shareholder, namely NewGold Owner Trust. This will be sourced from the Monthly Gold Sales Charge and the Creation and Redemption Fees after all fees and expenses have been paid.

OFFER, USE OF PROCEEDS AND REDEMPTIONS

Words used in this section shall have the same meaning as defined on pages 4 to 10 of this Prospectus, unless they are defined in this section or the use thereof is clearly inappropriate from the context.

Purpose of the Initial Offer [7]

The main purpose of the Initial Offer is for NewGold to raise debt capital in order to acquire Gold Bullion as more fully described in this Prospectus. As such it would also afford potential investors the opportunity to invest in debt instruments reflecting the gold price from time to time. There is no minimum amount which, in the opinion of the directors of NewGold must be raised by the issue of Gold Bullion Debentures, NewGold having received an undertaking from ABSA to pay all preliminary and other expenses payable by NewGold if insufficient applications are received.

Initial Offer [18(b)]

The Initial Offer comprises an offering of Gold Bullion Debentures referencing a maximum of 500 000 fine troy ounces of Gold Bullion, at the Offer Price, to institutional and retail investors in the RSA.

The publication, issue and/or distribution of this Prospectus does not constitute an offer where the Initial Offer may be illegal or may fail to conform to the laws of such jurisdiction. To the extent that this Prospectus may be sent to or distributed in any such jurisdiction, it is provided for information purposes only and no person situated in such jurisdiction may accept the Initial Offer. No such person wishing to accept the Initial Offer may use the mail of any such jurisdiction or any means, instrumentality or facility in any such jurisdiction for any purpose, directly or indirectly, relating to the Initial Offer. It shall be the responsibility of any person resident in a jurisdiction outside the RSA to inform himself about, and to observe, any applicable legal requirement in the relevant jurisdiction.

Offer Price [20(a)]

The Offer Price for each Gold Bullion Debenture will be based on the value of the Initial Quantity to which that Gold Bullion Debenture is linked as the Issue Date thereof (in the case In Specie Subscriptions), or in the case of cash subscriptions in respect of the Initial Offer, during the Ramp-up Period preceding the Issue Date. Accordingly, any increase in the price of Gold Bullion will result in an increase in the Offer Price.

The Offer Price is expected to be in the region of ZAR25 to ZAR30 per Gold Bullion Debenture. There can, however, be no guarantee that the price of Gold Bullion will not change between the date of this Prospectus and the Issue Date of the relevant Gold Bullion Debentures and the actual Offer Price as at the Issue Date will be published on SENS.

The Offer Price for each Gold Bullion Debenture will be exclusive of UST, which will be payable at a rate of 0,25% on the Offer Price in addition to the Offer Price.

The full Offer Price for each Gold Bullion Debenture, together with the UST (at a rate of 0,25% of the Offer Price) (if any) payable in respect thereof, is payable in full, in Rand, without any deduction or set-off on the Issue Date of such Gold Bullion Debenture.

Applications in respect of the Initial Offer [18(b)]

Applications for Gold Bullion Debentures must be based on either the total quantity of Gold Bullion or the total monetary amount Applicants wish to invest in Gold Bullion Debentures and not on a specific number of Gold Bullion Debentures. By completing an Application Form, an Applicant will be deemed to have offered to acquire the maximum number of Gold Bullion Debentures that may be applied for with the relevant quantity or amount specified in the Application Form. All applications for the Initial Offer will be made on the terms and conditions set out in this Prospectus and the annexures hereto. Application may only be made for Gold Bullion Debentures in Dematerialised form and Applicants may be called upon for evidence of their authority or capacity to apply for Gold Bullion Debentures.

A Controlled Client should deliver the Application Form marked "Gold Bullion Debentures – Initial Offer (cash subscriptions)" or "Gold Bullion Debentures – Initial Offer (In Specie Subscriptions)" to its broker or the Participating Broker or, at the risk of the Applicant, post the Application Form marked "Gold Bullion Debentures – Initial Offer (cash subscriptions)" or "Gold Bullion Debentures – Initial Offer (In Specie Subscriptions)" to the Participating Broker who will lodge the Application with its nominated CSDP. Any Non-Controlled Client should hand deliver its Application Form marked "Gold Bullion Debentures – Initial Offer (cash subscriptions)" to its nominated CSDP who will lodge the Application Form with NewGold's CSDP or, at the risk of the Applicant, post the Application Form marked "Gold Bullion Debentures – Initial Offer (In Specie Subscriptions)" to its CSDP. All payments in regard to cash subscription should be arranged between the Applicant and its relevant broker or CSDP (as the case may be). In relation to In Specie Subscriptions, Qualifying Applicants should deposit the relevant quantity of Gold Bullion with the Custodian.

Investors should be aware that the applicable Creation Fee will be deducted from any payment accompanying their Applications and, accordingly, only the net amount will be invested in Gold Bullion Debentures.

Applications may be accepted in whole or in part. If no part of an application is accepted, all of the Gold Bullion deposited and/or money paid on application will be returned without interest. If an application is accepted in part only, the balance of the Gold Bullion deposited and/or money paid on application will be returned either by electronic funds transfer or ordinary post without interest, and the balance of the Gold Bullion deposited will be returned through the Custodian, with the relevant Applicant bearing the risk of loss.

Any person applying for or accepting an offer of Gold Bullion Debentures on behalf of another, shall be deemed to have represented to NewGold that such person is duly authorised to do so and warrants that it and the purchaser for whom it is acting as agent is duly authorised to do so in accordance with all Applicable Laws and such person guarantees the payment of the Offer Price (together with UST thereon at a rate of 0,25% on the Offer Price, if any) and that a copy of this Prospectus was in the possession of the relevant purchaser for whom it is acting as agent.

The basis of allocation of the Gold Bullion Debentures in the Initial Offer will be determined by the Manager on an equitable basis after consultation with NewGold. Applicants may receive no Gold Bullion Debentures or fewer Gold Bullion Debentures than envisaged by the Applicant when making application. Applications may be rejected for non-compliance with the Financial Intelligence Centre Act, 38 of 2001, failure to comply with the time periods for applications stipulated in this Prospectus and in the event of over subscription. However, a successful applicant will not receive an allocation of a lesser number of Gold Bullion Debentures than any other successful applicant that applied for the same or a lesser number. If an application is rejected (whether in whole or in part) any cash received by NewGold will be refunded (together with any accrued interest thereon) and any Gold Bullion will be returned to the unsuccessful applicant in question on the Business Day immediately following the decision not to accept such subscription (in part or in full). The minimum application in the case of cash subscriptions is ZAR1 000 and in the case of In Specie Subscriptions is 4 000 fine troy ounces of Gold Bullion and there is no maximum application. All cash applications must be in multiples of ZAR1 000. [5.18]

Dematerialisation [18(b)]

The Gold Bullion Debentures will only be issued by NewGold to successful Applicants in Dematerialised form. Therefore, all Applicants must appoint a CSDP directly or through a broker to receive and hold the Gold Bullion Debentures on their behalf. Should any Debenture Holder require a physical certificate for its Gold Bullion Debentures, it will have to re-materialise same and should contact its broker or CSDP to do so. It should be noted that there are risks associated with holding Gold Bullion Debentures in certificated form, including the risk of loss or tainted scrip, which are no longer covered by the JSE Guarantee Fund. All Debenture Holders who elect to convert their Gold Bullion Debentures into Certificated Debentures should realise that they will have to dematerialise their Gold Bullion Debentures should they wish to trade them under the terms of STRATE.

Each Applicant's duly appointed CSDP or broker will receive the Gold Bullion Debentures on its behalf against receipt of the Offer Price (together with UST thereon, if any at a rate equal to 0,25% on the Offer Price) by the Applicant's CSDP or, in the case of In Specie Subscriptions receipt of confirmation.

Opening and closing of Initial Offer [19]

The Initial Offer opens at 09:00 on 27 October 2004 and closes at 12:00 on 29 October 2004.

Cash Subscriptions

Following the close of the Initial Offer, NewGold will issue Letters of Allocation to the successful Applicants in respect of the subscriptions received from such successful Applicants. The Letters of Allocation will not be listed on the JSE and will not be transferable. However, such Applicants' statements at STRATE will reflect the holding of these Letters of Allocation. Forthwith upon the issue of the Letters of Allocation there will, in relation to cash subscriptions, be a Ramp-up Period during which NewGold shall acquire the appropriate Gold Bullion. The number of Gold Bullion Debentures allotted to an Applicant pursuant to an application will be determined after the expiry of the Ramp-up Period based on the amount that that Applicant invests as a fraction of the cost to NewGold of acquiring such Gold Bullion. Two Business Days after the end of the Ramp-up Period the Manager shall announce the number of Gold Bullion Debentures allotted and issued as well as the basis on which the Gold Bullion Debentures were allocated in terms of the Initial Offer. Applicants will be informed of the number of Gold Bullion Debentures allocated to them by their CSDP or broker (as may be applicable). Gold Bullion Debentures will then be issued to holders of the Letters of Allocation in accordance with the number of Gold Bullion Debentures allocated as aforesaid. If, after the Application is accepted, there is a surplus subscription amount, which is insufficient to purchase a Gold Bullion Debenture, the balance of the money paid by the Applicant in excess of ZAR15 will be returned to the Applicant without interest. Amounts less than ZAR15 will be used to defray expenses incurred by NewGold. If, after the issue of the Gold Bullion Debentures under the Initial Offer, it transpires that an Applicant's cash subscription (net of the Creation Fee) is not an exact multiple of the Offer Price under the Initial Offer, then the Applicant shall be issued with so many Gold Bullion Debentures as may be fully paid-up out of his subscription allocation (less the Creation Fee) and the balance of the Applicant's cash will be returned to the Applicant without interest, after applying the first ZAR15 to defray expenses of NewGold.

Each Applicant must, as soon as possible after the issue of the Letters of Allocation, forward to its CSDP or broker all information required by that CSDP or broker and must instruct its CSDP or broker to pay against the issue of the Letters of Allocation the aggregate Offer Price (together with the UST thereon at a rate of 0,25% on the Offer Price, if any) to the designated account of NewGold. Such information and instructions must be confirmed to the Applicant's CSDP or brokers.

Accordingly, each Applicant must (together with its Application Form) place its funds with its CSDP or make other necessary arrangements to enable its CSDP to make payment against the issue of the Letters of Allocation in accordance with the Applicant's agreement with its CSDP.

The Applicant's CSDP must commit in STRATE to the receipt of the Gold Bullion Debentures against payment.

On the Issue Date, which is expected to be two Business Days after the expiry of the Ramp-Up Period, the Gold Bullion Debentures will be credited to the Applicant's CSDP or broker upon payment of STRATE settlement loans which occur throughout the day.

In Specie Subscriptions

Only Qualifying Applicants may subscribe for Gold Bullion Debentures in specie.

Qualifying Applicants subscribing for Gold Bullion Debentures in specie will be obliged to subscribe for Gold Bullion Debentures in one or more Blocks and will be required to deposit the relevant Gold Bullion with the Custodian together with an instruction that such Gold Bullion is to be transferred to the Allocated Bullion Account of NewGold.

Qualifying Applicants wishing to subscribe in specie should complete the Application Form attached as Annexure C2 to this Prospectus, together with both confirmation that Gold Bullion has been deposited with the Custodian and that the Qualifying Applicant is in possession of all necessary licences, consents and approvals to buy, own and be in possession of and/or otherwise deal in, Gold Bullion. Prior to the close of trading on the Trading Day preceding the Issue Date in respect of the Initial Offer, the Manager (or its duly appointed agent) will determine and specify the number of Gold Bullion Debentures to be issued for the following Trading Day.

If an application is accepted, the Qualifying Applicant will receive an acknowledgment confirming that the application has been accepted. Qualifying Applicants will be informed of the number of Gold Bullion Debentures allocated to them by their CSDP or broker (as may be applicable). If, after the application is accepted, there is a surplus subscription amount (being either in the form of Gold Bullion or cash) the balance of the Gold Bullion or Creation Fees paid by the Applicant, in excess of ZAR15, will be returned to the Qualifying Applicant, with interest. Amounts less than ZAR15 will be used to defray the expenses incurred by NewGold. If, after the issue of the Gold Bullion Debentures under the Initial Offer, it transpires that a Qualifying Applicant's subscription (net of the Creation Fee) is not an exact multiple of the Offer Price under the Initial Offer, then the Qualifying Applicant will be issued with so many Gold Bullion Debentures as may be fully paid out of the subscription allocation (less the Creation Fee) and the balance of the Qualifying Applicant's cash and/or Gold Bullion (as may be applicable) will be returned to the Applicant without interest, after applying the first ZAR15 to defray expenses of NewGold.

Each Qualifying Applicant must, as soon as possible after being informed by its CSDP or broker that its application has been successful, whether in whole or in part, forward to its CSDP or broker all information required by that CSDP or broker and must instruct the Custodian to deliver to NewGold that quantity of Gold Bullion as is necessary to set-off against the Offer Price (together with the UST thereon at a rate of 0,25% of the Offer Price, if any) to the Allocated Bullion Account of NewGold. Such information and instructions must be confirmed by the Qualifying Applicant's CSDP or broker by no later than the close of trading on the Business Day prior to the Issue Date.

Accordingly, each Qualifying Applicant must (together with its Application Form) ensure that the Custodian is in a position to inform the Qualifying Applicant's CSDP to commit in STRATE to receipt of the Gold Bullion Debentures against confirmation of the transfer of the Gold Bullion to NewGold.

On the Issue Date, the Gold Bullion Debentures will be credited to the Qualifying Applicant's CSDP or broker upon payment of STRATE settlement loans which occur throughout the day.

STRATE [18(b)]

The Gold Bullion Debentures may only be traded on the JSE in electronic or Dematerialised form and will be trading for electronic settlement in terms of STRATE immediately following the listing. STRATE is a system of "paperless" transfer of securities. If you have any doubt as to how it works please consult your broker, CSDP or other appropriate advisor and you are referred to the STRATE website at www.strate.co.za. Some of the principal features of STRATE are as follows –

- electronic records of ownership replace certificates and physical delivery of certificates;
- trades executed on the JSE must be settled within five Business Days;
- all investors owning securities or wishing to trade their securities on the JSE are required to appoint either a broker or a CSDP to act on their behalf and to handle their settlement requirements; and
- unless investors owning dematerialised securities specifically request their CSDP to register them as an "own name" holder (which entails a fee), the CSDP or broker holding securities on their behalf will be the registered holder of the relevant security and not the investor. Subject to the agreement between the investor and the CSDP or broker, generally in terms of STRATE, the investor is entitled to instruct the CSDP or broker as to how it wishes to exercise the rights attaching to the securities as regard to voting at any relevant meetings.

All costs incurred in respect of secondary market trades will be for the account of the relevant Debenture Holder.

Listing on the JSE [18(b)]

The JSE has approved the listing of the Gold Bullion Debentures in the "Traded Index Funds" sector of the JSE list under the abbreviated name "NewGold", symbol "GLD" and ISIN Code ZAE000060067. The listing of the Gold Bullion Debentures is expected to be effective from the commencement of business on 2 November 2004.

No Underwriting [18(b)]

The Initial Offer is not underwritten.

Applicable Law [18(b)]

The Initial Offer, applications and acceptances will be governed by, construed and interpreted in accordance with the laws of the RSA and each Applicant will be deemed, by applying for Gold Bullion Debentures to have consented and submitted to the jurisdiction of the Witwatersrand Local Division of the High Court of the RSA in relation to all matters arising out of or in connection with the Initial Offer.

Use of Proceeds [18(b)]

The proceeds derived by NewGold from the issue of the Gold Bullion Debentures will be used by NewGold to acquire Gold Bullion, which is to be retained and used by NewGold on the basis more fully described in this Prospectus.

Subsequent Issues

Offers to subscribe for further Gold Bullion Debentures after the Initial Offer will not be made to the public and, in addition to the foregoing, will only be made to Qualifying Applicants. Any Qualifying Applicant wishing to acquire one or more Blocks of Gold Bullion Debentures may apply to the Manager for a Subsequent Issue to be made to it on the same basis as the Initial Offer, save that –

- (a) a Qualifying Applicant may only subscribe in specie by arranging the deposit of Gold Bullion into the Allocated Gold Bullion Account of NewGold with the Custodian;
- (b) the opening and closing date of Subsequent Issues will be published on SENS; and
- (c) the minimum subscription will be a Block.

All applications made in respect of a Subsequent Issue will be made by Qualifying Applicants for subscription in specie only on the same basis as set out in this Prospectus under the heading “Applications in respect of the Initial Offer (In Specie Subscriptions)” save that the relevant Application Form to be utilised by an investor shall be the Application Form attached to this Prospectus as Annexure C3, being the Application Form marked “Gold Bullion Debentures – Subsequent Issue (In Specie Subscriptions)”.

In respect of Subsequent Issues, the minimum application is for a Block of Gold Bullion Debentures.

The Offer Price for each Gold Bullion Debenture issued pursuant to Subsequent Issues will be determined on the same basis as the Offer Price in respect of the Initial Offer.

This Prospectus does not, however, relate to any Subsequent Issue or to any application made in respect thereof.

Optional Redemption at the instance of NewGold

NewGold may redeem all, but not some only, of the Gold Bullion Debentures at their Redemption Value as at the date thereof, having given not less than thirty and not more than ninety Business Days’ written notice to Debenture Holders (given in accordance with the Debenture Conditions and which notice shall be irrevocable) if –

- (a) any of the Transaction Documents become illegal or unenforceable for any reason whatsoever and such illegality or unenforceability cannot be remedied by reasonable measures open to NewGold; or
- (b) as a result of any change in or amendment to, the application or interpretation of any existing or new Applicable Law, NewGold is or would be required to deduct or withhold from any payments on the Gold Bullion Debentures any amounts as provided or referred to in Debenture Condition 12, and such requirement cannot be avoided by NewGold taking reasonable measures available to it.

NewGold may redeem all, but not some only, of the Gold Bullion Debentures held by a specific Debenture Holder (as opposed to all of the Debenture Holders) at their Redemption Value as at the date thereof, having given not less than thirty and not more than ninety Business Days’ written notice to the relevant Debenture Holder (given in accordance with the Debenture Conditions and which notice shall be irrevocable) if NewGold is reasonably of the view that the continued holding by such Debenture Holder of Gold Bullion Debentures may result in NewGold falling foul of the provisions of the Financial Intelligence Centre Act, 38 of 2001, or any other Applicable Law.

Optional Redemption at the instance of Debenture Holder

A Debenture Holder may, provided that the Conditions to Redemption have been met, redeem all or some of the Gold Bullion Debentures held by it in full (but not in part) at their Redemption Value as at the date thereof, having given not less than three Trading Days’ (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value of less than ZAR1 000 000 000) and not less than five Trading Days’ (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value of ZAR1 000 000 000 or more) written notice to NewGold and the Manager to that effect.

Mandatory redemption following an Event of Default

Upon the occurrence of an Event of Default, NewGold will advise the Debenture Holders of the occurrence of such event and will, if requested to do so by Debenture Holders by an Extraordinary Resolution to that effect, be obliged to redeem all the Gold Bullion Debentures at their Redemption Value at the date of the occurrence of such Event of Default.

REGULATORY AND TAXATION CONSIDERATIONS

Words used in this section shall have the same meaning as defined on pages 4 to 10 of this Prospectus, unless they are defined in this section or the use thereof is clearly inappropriate from the context.

The following summary and guidelines are not a comprehensive statement of the regulatory and taxation considerations to be taken into account when investing in the Gold Bullion Debentures and not intended as advice and do not purport to describe all the considerations that may be relevant to prospective investors in the Gold Bullion Debentures.

Prospective investors in the Gold Bullion Debentures should consult their professional advisers with regard to the investment in Gold Bullion Debentures and the tax, exchange control and other regulatory implications thereof. Accordingly, neither NewGold nor any of its professional advisers makes any representation and accordingly gives no warranties or undertakings expressed or implied and accordingly accept no responsibility for the accuracy or completeness of the information contained in this section of the Prospectus.

Taxation

NewGold

NewGold will be subject to income tax, as opposed to Capital Gains Tax (“CGT”), and, in particular, the Gold Bullion it holds will be trading stock.

Its “gross income”, as defined in the Income Tax Act, 58 of 1962 (“the IT Act”), will comprise the proceeds of Gold Bullion sales to third parties and to Qualifying Debenture Holders, Creation Fees and Redemption Fees and the excess, if any, of the Offer Price over the Redemption Value of Gold Bullion Debentures.

The expenditure of NewGold will comprise the cost of acquiring Gold Bullion, from third parties and Qualifying Applicants, its operating costs and the excess, if any, of the Redemption Value over the Offer Price of Gold Bullion Debentures.

Generally, NewGold will be income tax neutral.

NewGold will register as a vendor for VAT, as Gold Bullion is treated as “goods” under the Value-Added Tax Act, 89 of 1991, and its sales of Gold Bullion for a 12-month period should exceed R300 000.

NewGold will incur VAT on its Gold Bullion purchases from registered VAT vendors and charges of service providers, such as the Manager, the Auditors and the Custodian, for which it will claim an input tax deduction or credit.

NewGold will charge VAT on its Gold Bullion sales (other than export sales and sales to local banks, which will be zero-rated), Creation Fees and Redemption Fees, and will account for this VAT, less input tax credits, to the South African Revenue Service.

NewGold will have no employees, so it will not have any payroll tax liabilities, such as for PAYE, regional services levies, skills development levies and UIF contributions. However, it will be liable for regional establishment levies of 0.1408% of its turnover – Gold Bullion sales, Creation Fees and Redemption Fees – which will be an operating cost.

NewGold will be liable for UST, at 0,25% of the Offer Price of Gold Bullion Debentures, but this will be reimbursed by the Debenture Holders.

The acquisition by, or issue of NewGold shares to the NewGold Owner Trust (and the six nominee shareholders) will result in a small liability for “creation duty” and stamp duty.

Debenture Holders

The gain made by Debenture Holders from the acquisition and disposal of Gold Bullion Debentures will, depending on the circumstances of each Debenture Holder, be subject to income tax, CGT or will not be taxable at all, for example, if the Debenture Holder is tax-exempt or, subject to certain requirements, is not a South African resident. Applicants are advised to consult with their tax advisers on this aspect.

Debenture Holders will be liable for VAT on Creation Fees, Redemption Fees and any sales of Gold Bullion to them by NewGold.

Debenture Holders will reimburse NewGold for the UST incurred by it on the issue of Gold Bullion Debentures to them. Debenture Holders will reimburse their respective CSDPs for any UST incurred on the disposal (including redemptions) by them of Gold Bullion Debentures.

NewGold Owner Trust

The NewGold Owner Trust should not incur any Taxation liabilities.

Exchange Control Considerations in relation to the Gold Bullion Debentures

For purposes of this section the “Common Monetary Area” includes the RSA, the Kingdoms of Swaziland and Lesotho and the Republic of Namibia.

Non-South African Resident Debenture Holders and Emigrants from the Common Monetary Area

Blocked Rand (being funds which may not be remitted out of the RSA or paid into a non-South African resident’s bank account) may be used for the subscription for Gold Bullion Debentures. Such subscription must, however, be made through the authorised dealer in foreign exchange controlling the Blocked Rand. Any amounts payable by NewGold in respect of the Gold Bullion Debentures subscribed for with Blocked Rand may not, in terms of the Exchange Control Regulations, be remitted out of the RSA or paid into any non-South African resident bank account and must be paid into the relevant Blocked Rand account.

The Minister of Finance stated on 26 February 2003 that emigrants’ blocked assets are to be unwound and that such emigrants will be entitled, on application to the Exchange Control Department, subject to an existing schedule and an exit charge of 10% of the amount, to exit such blocked assets from the RSA.

Emigrants from the Common Monetary Area

Any Debenture Holder holding Certificated Debentures who is an emigrant from the Common Monetary Area will have his certificates in respect of such Certificated Debentures restrictively endorsed. In the event that Dematerialised Debentures are held by an emigrant from the Common Monetary Area through the STRATE System, the securities account of such emigrant will be designated as an “emigrant account”. Such endorsed Certificated Debentures will be deposited with an authorised dealer in foreign exchange controlling the emigrant’s blocked assets.

Any payments due to an emigrant Debenture Holder will be deposited into such emigrant’s Blocked Rand account, as maintained by an authorised dealer in foreign exchange. These amounts are not freely transferable from the Common Monetary Area and may only be dealt with in terms of the Exchange Control Regulations.

Non-residents of the Common Monetary Area

A Debenture Holder who is not a resident of the Common Monetary Area holding Certificated Debentures will be required to ensure that the certificates in respect of such Certificated Debentures are endorsed “Non-Resident”. In relation to Dematerialised Debentures held by non-residents of the Common Monetary Area through the STRATE System, the securities account of such Debenture Holder will be designated as a “non-resident account”.

It will be incumbent on any such non-resident to instruct the non-resident’s nominated authorised dealer in foreign exchange as to how any funds due to such non-resident in respect of the Gold Bullion Debentures are to be dealt with. Such funds may, in terms of the Exchange Control Regulations, be remitted abroad only if the relevant Debentures were acquired with foreign currency introduced into the RSA and provided that the relevant certificates or securities account, as the case may be, is designated “Non-Resident”.

Restrictions on dealing in Gold Bullion

In terms of the Mining Rights Act, 20 of 1967, no person is permitted to buy, sell, deal in, receive or otherwise dispose of by way of barter, pledge or otherwise, either as principal or agent, any unwrought precious metal (which includes Gold Bullion), unless:

- (a) he is the holder of a Recovery Works Licence and concludes the transaction in accordance with the terms of his licence; or
- (b) he is a banker within the RSA;
- (c) such unwrought precious metal has been won by him or his servants acting on his behalf from land on which he is lawfully entitled to prospect or mine for precious metals;
- (d) he has obtained a certificate from the Mining Commissioner authorising him to be in possession or to dispose of such unwrought precious metal; or
- (e) such unwrought precious metal is required for scientific purposes in connection with any trade, industry or profession and the person in possession thereof (not being a jeweller) has purchased same under the authority of and in accordance with a permit issued by the Commissioner of the South African Police or any person designated by him.

Gerhardus Jacobus Pretorius, in his capacity as director of NewGold, has obtained a certificate of the nature envisaged in subparagraph (a) above.

Further, in terms of Exchange Control Regulations 2 and 5 –

- (a) no person other than an authorised dealer shall buy or borrow gold from, or sell or lend any gold to any person not being an authorised dealer in foreign exchange, unless done with the permission granted by the relevant exchange control authority and in accordance with such conditions as the relevant authority may impose; and
- (b) every person resident in the RSA who becomes entitled to sell or to procure the sale of any gold shall, within thirty days after becoming so entitled, offer that gold for sale to the Treasury and the Treasury may purchase that gold at such price as the Treasury may fix, being a price which, in the opinion of the Treasury is not less than the market value of the gold on the day of purchase, unless the relevant person has been exempted from Exchange Control Regulation 5 by the relevant exchange control authorities.

NewGold has also obtained the permission of the relevant exchange control authorities to buy, borrow, lend and sell gold as contemplated in Exchange Control Regulation 2 and has been exempted from Exchange Control Regulation 5 by the relevant exchange control authorities. NewGold will, accordingly, be permitted to purchase Gold Bullion with the proceeds of the Offer, to hold and retain same as envisaged in the Custody Agreement and to sell Gold Bullion to a Qualifying Debenture Holder exercising a Gold Option on the basis envisaged in Debenture Condition 8 and the relevant Gold Bullion Sale Agreement.

No Debenture Holder will be entitled to require that NewGold enters into a Gold Bullion Sale Agreement with such Debenture Holder, unless such Debenture Holder is a Qualifying Debenture Holder and warrants and undertakes to and in favour of NewGold that it is entitled to buy, sell and take delivery of Gold Bullion in accordance with the Mining Rights Act, 20 of 1967, the Exchange Control Regulations and all other Applicable Laws.

Approval of the Exchange Control Department of the South African Reserve Bank

The Exchange Control Department of the South African Reserve Bank has approved the creation and listing of the ETF on the following terms and conditions:

- (a) the limit for the market for the period ended November 2004 to November 2005 will be 500 000 ounces of Gold Bullion;
- (b) investment in the ETF by long-term insurers and retirement funds must be included in the prudential limits on investment in gold products as administered by the Financial Services Board;
- (c) NewGold is permitted to buy, sell and deal in Gold Bullion, but no investor in ETF may be permitted to exercise the Gold Option unless they have been granted approval by the Exchange Control Department of the South African Reserve Bank (this approval is not an additional approval over and above the requirement that a Qualifying Debenture Holder has the required approval under Regulations 2 and 5 of the Exchange Control Regulations);
- (d) NewGold may only hold locally produced Gold Bullion in an account with Rand Refinery Limited;
- (e) in the instance where the Gold Option is exercised by a Qualifying Debenture Holder the delivery of Gold Bullion may only be made to accounts at Rand Refinery Limited; and
- (f) the Exchange Control Department of the South African Reserve Bank must be furnished with feedback on a quarterly basis on the status of the ETF.

Financial Services Board

Institutional investors are advised to contact the Financial Services Board prior to investing for clarification on the prudential limits applicable to an investment in Gold Bullion Debentures.

RISK FACTORS

Words used in this section shall have the same meaning as defined on pages 4 to 10 of this Prospectus, unless they are defined in this section or the use thereof is clearly inappropriate from the context.

Investors' attention is drawn to the risk factors relating to an investment in Gold Bullion Debentures, some of which are set out below. This does not purport to be an exhaustive list of the risk factors relating to an investment in Gold Bullion Debentures.

General Market Risk

General movements in local and international markets and factors that affect the investment climate and investor sentiment could all affect the level of trading and therefore the market price of the Gold Bullion Debentures. These risks are generally applicable to any investment in listed securities and investors should be aware that the Gold Bullion Debentures can go down in price as well as up.

Gold Price

The value of the Gold Bullion Debentures will be affected by movements in the US dollar price of gold and the Rand/US dollar exchange rate. The gold price is affected by numerous factors, including –

- global or regional political, economic or financial events and situations;
- investors' expectations with respect to the future rates of inflation and movements in world equity, financial and property markets;
- global gold supply and demand, which is influenced by such factors as mine production and net forward selling activities by gold producers, central bank purchases and sales, jewellery demand and the supply of recycled jewellery, net investment demand and industrial demand, net of recycling;
- interest rates and currency exchange rates, particularly the strength of and confidence in the US dollar; and
- investment and trading activities of hedge funds, commodity funds and other speculators.

Secondary Market Trading Risk

At any time, the price at which the Gold Bullion Debentures trade on the JSE may not reflect accurately the price of Gold Bullion represented by such Gold Bullion Debentures. The structure and the procedures set out in this Prospectus for creations and redemptions of the Gold Bullion Debentures and, in particular, the ability of a qualifying Debenture Holder to exercise a Gold Option, will help limit this difference (or tracking error). However, this risk cannot be fully eliminated since the market price will be a function of supply and demand amongst investors wishing to buy and sell the Gold Bullion Debentures.

There can be no certainty that a liquid market in the Gold Bullion Debentures will develop on the JSE or that once the Gold Bullion Debentures are listed on a stock exchange, they will remain listed. If the Gold Bullion Debentures are to be de-listed, such de-listing will be subject to the provisions of the JSE Listings Requirements.

Custody and Insurance

All the Gold Bullion underlying the Gold Bullion Debentures will be held by the Custodian in its vaults in Germiston or in the vaults of a sub-custodian appointed by the Custodian or by a delegate of a sub-custodian. Access to such Gold Bullion could be restricted by natural events, such as an earthquake, or human actions, such as a terrorist attack.

There is a risk that the Gold Bullion belonging to NewGold could be lost, stolen or damaged. In that event, NewGold may not be able to request either the sale or delivery of Gold Bullion for itself or on behalf of any Qualifying Debenture Holder. The Custodian is obliged to insure its obligations under the Custody Agreement. If the Custodian fails to take out suitable insurance, then Debenture Holders may have to rely on NewGold having a claim against the Custodian and NewGold recovering from the Custodian pursuant to such claim.

Compulsory Redemption of Gold Bullion Debentures

NewGold's willingness to allow the Gold Bullion Debentures to remain outstanding will be dependent on the sums derived from the Monthly Gold Sales Charge being sufficient to cover management and corporate expenses.

GENERAL INFORMATION

Share capital [8(a)]

NewGold has an authorised share capital of ZAR1 000 divided into 1 000 ordinary par value shares of ZAR1 each, of which 100 ordinary par value shares of ZAR1 each have been issued at par. All of these issued shares are beneficially owned by the NewGold Owner Trust. NewGold does not have any shares of no par value, founders', management or deferred shares.

Alteration of capital

NewGold is a specially incorporated special purpose vehicle and accordingly there has been no alteration of the capital of NewGold during the three years immediately preceding the date of this Prospectus. NewGold has also not made any offers of shares or debentures to the public for subscription or sale during such three year period.

Borrowing powers exercisable by directors [2(e)]

NewGold may not, and is prohibited in terms of its memorandum and articles of association from, incurring any liability or indebtedness, save as specifically provided for in the Transaction Documents. The relevant provisions are contained in paragraph 6.2 of the memorandum of association which provides as follows –

- “6.2 Notwithstanding anything to the contrary in the articles of association of the Company, the Company shall not (and no organ, body or committee of the Company shall accordingly have the power, authority or ability to do so), without the approval of the JSE Securities Exchange of South Africa and the holders (“Debtenture Holders”) of the debentures (“Gold Bullion Debentures”) issued or to be issued by the Company from time to time, by a resolution passed at a properly constituted meeting of Debtenture Holders by a majority consisting of not less than three-quarters of the number of Gold Bullion Debentures present in person or by proxy and voting at that meeting, whether by a show of hands or on a poll (“Extraordinary Resolution”) –
- 6.2.1 conduct or engage in any business or activity other than its main business referred to in [2];
- 6.2.2 issue Gold Bullion Debentures or acquire Gold Bullion in excess of the limits imposed on the Company by the South African Reserve Bank from time to time;
- 6.2.3 incur any borrowing, liability or debt, other than –
- 6.2.3.1 liabilities or borrowings envisaged in the following agreements and/or documents entered into or to be entered into or executed by the Company –
- 6.2.3.1.1 the written management agreement (as amended, novated and/or replaced from time to time) entered into or to be entered into between the Company and NewGold Managers (Proprietary) Limited (registration number 2004/007543/07) or such other manager as may be appointed by the Company from time to time;
- 6.2.3.1.2 the written custody agreement (as amended, novated and/or replaced from time to time) entered into or to be entered into between the Company and Rand Refinery Limited (registration number 1920/006589/06) or such other custodian as may be appointed by the Company from time to time;
- 6.2.3.1.2A the written marketing agreement (as amended, novated and/or replaced from time to time) entered into or to be entered into between the Company and Specialised Investment Solutions LLP;
- 6.2.3.1.3 the written bridging loan agreement (as amended, novated and/or replaced from time to time) entered into or to be entered into between the Company and ABSA Bank Limited (registration number 1986/004794/06);
- 6.2.3.1.4 the Gold Bullion Debentures; and/or
- 6.2.3.1.5 the Prospectus;”
- “6.2.3.5 incur any liability (including a contingent liability), other than –
- 6.2.3.5.1 a liability under a Gold Bullion Debenture issued in accordance with the Debenture Conditions in respect of which the Company’s liability is fully hedged through the acquisition and holding of Gold Bullion;
- 6.2.3.5.2 a liability under a contract entered into in the ordinary and normal course of its business;
- 6.2.3.5.3 a liability to ABSA in terms of the loan agreement referred to in 6.2.2.1.3;
- 6.2.3.5.4 a liability to Specialised Investment Solutions LLP under the marketing agreement referred to in 6.2.3.1.3; and
- 6.2.3.5.5 a liability to a Debenture Holder;”

In terms of the memorandum of association of NewGold, these borrowing powers may only be varied as follows –

“the provision of this clause 6 in the memorandum of association of the Company shall only be amended or varied by a unanimous resolution of the members of the Company in general meeting and with the prior written approval of the JSE and Debenture Holders by an Extraordinary Resolution of Debenture Holders to that effect”.

Loans of NewGold [9(a)(i)]

Other than the Gold Bullion Debentures (once issued) and the Bridging Loan (once made), all of which are described in this Prospectus, there are no material loans made to or by NewGold and there is no loan capital outstanding. Neither the Gold Bullion Debentures nor the Bridging Loan are secured.

Fees and expenses [15]

The aggregate estimated amount to be incurred by NewGold in the form of preliminary and issue expenses in relation to the Gold Bullion Debentures and the Initial Offer is R950 000, made up as follows –

- (a) printing costs: R140 000 (excluding VAT);
- (b) sponsor’s fees: R70 000 (excluding VAT);
- (c) audit fees: R70 000 (excluding VAT);
- (d) attorneys fees: R600 000 (excluding VAT);
- (e) Maitland Trust fees: R20 000 (excluding VAT);
- (f) JSE Listings fees: R50 000 (excluding VAT); and
- (g) administration fees payable to ABSA Investor Services: R20 000 (excluding VAT).

Adequacy of capital [22]

The directors of NewGold are of the opinion that, after the issue of the Gold Bullion Debentures, the issued capital of NewGold together with the amount to be raised pursuant to the Initial Offer (including the amount to be raised pursuant to the Offer) would be adequate for the purposes of the business of NewGold as described in this Prospectus.

Listing on stock exchange [23]

Application has been made, under section 169 of the Companies Act, for a listing of the Gold Bullion Debentures as an Exchange Traded Fund on the JSE in the “Traded Index Funds” sector of the JSE lists and the JSE has, on 21 October 2004, granted approval for such a listing.

Market making

ABSA has been appointed by the Manager as a market maker for the ETF and will be responsible for establishing and maintaining the secondary market in the Gold Bullion Debentures.

Litigation statement

There are no legal or arbitration proceedings of which NewGold is aware (including any proceedings which are pending or threatened) which have or may have a material effect on NewGold’s financial position.

Prospectus [6(i)]

The directors of NewGold are of the opinion that the business of NewGold, conducted in accordance with the provisions conducted in the Transaction Documents, will be viable on the basis set out herein. In addition, the directors of NewGold are of the opinion that NewGold, through the appointment of the Manager has sufficient expertise to issue the Gold Bullion Debentures and to conduct the ETF on the basis set out herein.

No material change [31]

There has not been any material change in the assets or liabilities of NewGold between the last date which the annual financial statements of NewGold attached to this Prospectus as Annexure B pertain and 27 October 2004, being the date of issue of this Prospectus.

Memorandum and articles of association of NewGold

The main business of NewGold is the issue of the Gold Bullion Debentures and the acquisition of Gold Bullion in order to hedge its liability under such Gold Bullion Debentures.

The memorandum of association of NewGold –

- (a) prohibits the shareholders of NewGold (being the NewGold Owner Trust and six nominee shareholders) from selling, transferring or otherwise dealing in the shares in NewGold without the unanimous approval of the shareholders of the Manager and the JSE;
- (b) prohibits NewGold, without the unanimous approval of the Manager and the JSE from – [7A7]
 - (i) incurring any borrowing of any nature whatsoever, save as envisaged in these Transaction Documents;
 - (ii) entering into any transaction or contracts otherwise than in the ordinary, regular and normal course of its business;
 - (iii) embarking upon any business or obligations other than its main business;
 - (iv) varying its authorised or issued share capital, or any rights attaching to any of its issued shares or the creation or issue of any further shares in its share capital or the creation or issue of any debentures other than as envisaged in the Transaction Documents;
 - (v) incurring any liability (including any contingent liability), other than –
 - a liability under a Gold Bullion Debenture issued in accordance with the Debenture Conditions in respect of which NewGold’s liability is fully hedged through the acquisition of Gold Bullion;
 - a liability under a contract entered into in the ordinary regular and normal course of its business; and
 - a liability to a Debenture Holder;
 - (vi) encumbering, pledging or passing any notarial or mortgage bond over any of its assets or permitting any of the assets to become subject to any lien, hypothecate or encumbrance;
 - (vii) becoming liable, whether contingently or otherwise and whether as surety, co-principal debtor, guarantor or indemnifier, for the liabilities of any third person;
 - (viii) entering into any compromise or scheme of arrangement in terms of section 311 of the Companies Act;
 - (ix) selling, ceding, assigning, transferring, encumbering or otherwise dealing in or disposing of its interest in Gold Bullion save for in terms of a Gold Bullion Sale Agreement or as provided for in terms of the Custody Agreement;
 - (x) altering its memorandum and articles of association; or
 - (xi) proposing or passing any special resolution of its members.

Set out below are extracts from the articles of association of NewGold:

Borrowing Powers

“24.2 The directors may exercise all the powers of the company to borrow money and to issue Gold Bullion Debentures, provided that the only liabilities or indebtedness that the company may incur is that permitted by the memorandum.

24.3 For the purpose of the provisions of 24.2, the borrowing powers of the directors shall be unlimited.”

Interests of directors

“25.1 Subject to compliance with the provisions of the Act, a director shall not be liable (in the absence of any agreement to the contrary) to account to the company for any profit or other benefit arising out of any contract entered into by the company in which he is directly or indirectly interested.

25.2 A director shall, if he has, in accordance with the Act, disclosed his interest (if it is material) in the relevant contract or arrangement –

25.2.1 be counted in a quorum for the purpose of a meeting of directors at which he is present to consider any matter; and

25.2.2 be entitled to vote in regard to any matter,

relating to any existing or proposed contract or arrangement in which he is interested, other than a contract or arrangement regulating his holding of an office or place of profit under the company or a subsidiary of the company.”

The directors have no interest in any transaction effected by NewGold since its incorporation.

Going Concern

NewGold is a going concern and NewGold can in all circumstances be reasonably expected to meet all of its commitments as and when they fall due.

Consents

The financial advisors, auditors, transfer secretaries, attorneys, sponsors and commercial bankers have consented in writing to act in their capacities stated and to their names being stated in this Prospectus and none of these consents have been withdrawn prior to the registration of this Prospectus.

Registration of Prospectus

A copy of this Prospectus in the English language was registered with the Registrar of Companies at Pretoria on 26 October 2004 in terms of section 155(1) of the Companies Act, together with a copy of each of the documents available for inspection referred to below.

Documents available for inspection [16(a)]

Copies of the following documents will be made available for inspection at NewGold's registered office at 3rd Floor, Absa Towers East, 170 Main Street, Johannesburg, 2001 during normal business hours for the duration of the Offer –

- (a) the memorandum and articles of association of NewGold;
- (b) the reports of KPMG Inc dated 14 October 2004 (which are included as Annexure B to this Prospectus);
- (c) the written consents of the legal advisers, sponsor, auditor and commercial bankers named in this Prospectus to act in those capacities;
- (d) the NewGold Owner Trust Deed establishing the NewGold Owner Trust between ABSA and Maitland Trust Limited dated 7 September 2004;
- (e) the Management Agreement between ABSA and NewGold dated 15 October 2004;
- (f) the Custody Agreement between NewGold and Rand Refinery Limited dated 15 October 2004;
- (g) the Marketing Agreement between NewGold and Specialised Investment Solutions LLP dated 21 October 2004; and
- (h) the Bridging Loan Agreement between ABSA and NewGold dated 15 October 2004.

Paragraphs of Schedule 3 to the Companies Act which are not applicable

6(a)(i), 6(a)(ii), 6(a)(iii), 6(a)(iv), 6(c), 6(d), 6(e), 6(g), 6(h), 8(b), 8(c), 8(d), 9(a)(v), 9(b), 10, 11, 12, 13, 14, 16(b), 17(a), 17(b), 17(c), 18(a), 18(b)(iii), 20(b), 21(a), 24, 25(3), 26, 27 and 28.

CORPORATE DETAILS

[7B12/13]

Company [1(a)]

NewGold Issuer Limited
Registration number: 2004/014119/06
3rd Floor
Absa Towers East
170 Main Street
Johannesburg
2001
(PO Box 5438, Johannesburg, 2000)
Telephone No: (011) 350-4828
Contact person: William Somerville

Manager [2(d)]

NewGold Managers (Proprietary) Limited
Registration number: 2004/007543/07
Absa Towers North
180 Commissioner Street
Johannesburg
2001
(PO Box 5013, Johannesburg, 2000)
Telephone No: (011) 350-2676
Contact person: Mitesh Gosai

Attorneys [4]

Werksmans Inc
Registration number: 1990/007215/21
155, 5th Street
Sandton
2196
(Private Bag 10015, Sandton, 2146)
Telephone No. (011) 535-8232/(011) 535-8321
Contact person: Mr W J du Plessis/Ms A K van As

Bankers [4]

ABSA Bank Limited
Registration number: 1986/004794/06
Absa Towers North
180 Commissioner Street
Johannesburg
2001
(PO Box 5013, Johannesburg, 2000)
Telephone No: (011) 350-2676
Contact person: Mitesh Gosai

Transfer Secretaries [1(a)]

NewGold Managers (Proprietary) Limited
Registration number: 2004/007543/07
Absa Towers North
180 Commissioner Street
Johannesburg
2001
(PO Box 5013, Johannesburg, 2000)
Telephone No: (011) 350-2676
Contact person: Mitesh Gosai

NewGold Owner Trust [1(b)]

The NewGold Issuer Trust
Master's reference number: IT8350/04
1st Floor
Protea Place
Sandown
Sandton
Telephone No. (011) 884-1841
Contact person: Gert Pretorius

Secretary [5]

ABSA Secretarial Services (Proprietary) Limited
Registration number: 1973/014516/07
3rd Floor
Absa Towers East
170 Main Street
Johannesburg
2001
(PO Box 5438, Johannesburg, 2000)
Telephone No: (011) 350-4828
Contact person: William Somerville
Professional qualifications: ACIS, ACMA, Dip Corp. Law

Auditor [3]

KPMG
Registration number: 1999/021543/21
85 Empire Road
Parktown
2193
(Private Bag X9, Parkview, 2112)
Telephone No: (011) 647-7111
Contact person: Andre Scholtz

Sponsor [4]

Java Capital (Proprietary) Limited
Registration number: 2002/031862/07
2 Arnold Road
Rosebank
Johannesburg
2196
Contact person: Mr K Joselowitz/Ms M Gaylard

Participating Broker

ABSA Stockbrokers (Proprietary) Limited, a Member of
the JSE Securities Exchange South Africa
Registration number: 1973/010798/07
Parkridge Office Park
65 Empire Road
Parktown
2193
(PO Box 61320, Marshalltown, 2107)
Telephone No: (011) 647-0817

Information Agent

Absa Investment Management Services (Proprietary) Limited

Registration number: 1980/002425/07

Unit 6 Woodmead Estate

1 Woodmead Drive

Woodmead

2128

(PO Box 974, Johannesburg, 2000)

Telephone No. (011) 259-0111

Call Centre number: 0860-122122

ANNEXURE A – TERMS AND CONDITIONS OF THE GOLD BULLION DEBENTURES

The following text is the terms and conditions subject to and in accordance with which the Gold Bullion Debentures will be issued.

1. INTERPRETATION

In these terms and conditions –

- 1.1 unless the context clearly indicates a contrary intention, the following expressions shall have the following meanings –
- 1.1.1 “**ABSA**” ABSA Bank Limited (registration number 1986/004794/06), a public company duly incorporated in accordance with the laws of the RSA and registered as a bank in terms of the Banks Act, 94 of 1990;
- 1.1.2 “**Accounting Records**” the books of account and accounting systems of NewGold;
- 1.1.3 “**ACMB**” ABSA Corporate and Merchant Bank, a division of ABSA;
- 1.1.4 “**Allocated Bullion Account**” an allocated bullion account held with the Custodian to which a quantity of Gold Bullion may be credited;
- 1.1.5 “**Applicable Laws**” in relation to any entity, all and any –
- 1.1.5.1 statutes and sub-ordinate legislation;
- 1.1.5.2 regulations, ordinance and directions;
- 1.1.5.3 by-laws;
- 1.1.5.4 codes of practice, circulars, guidance notices, judgements and decisions of any competent authority; and
- 1.1.5.5 other similar provisions,
from time to time, compliance with which is mandatory for that entity;
- 1.1.6 “**Applicable Procedures**” the rules and operating procedures for the time being of the JSE, STRATE and/or the STRATE settlement agents, as the case may be;
- 1.1.7 “**Applicant**” a person or entity which makes an offer to NewGold to subscribe for Gold Bullion Debentures by completing an Application Form on the basis described in this Prospectus;
- 1.1.8 “**Application Form**” an application form in the form attached as Annexure C1, C2 or C3 to this Prospectus, as may be applicable;
- 1.1.9 “**Block**” 400 000 Gold Bullion Debentures;
- 1.1.10 “**Bridging Loan Agreement**” the written bridging loan agreement concluded between ABSA, NewGold and the Manager dated 15 October 2004, in terms of which, inter alia, ABSA undertakes to lend money to NewGold;
- 1.1.11 “**Business Day**” a day (other than a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 36 of 1994) on which commercial banks are generally open to settle payments in Rand in Johannesburg;
- 1.1.12 “**Certificated Debenture**” a Gold Bullion Debenture that has not been Dematerialised, title to which is represented by a physical document of title;
- 1.1.13 “**Companies Act**” the Companies Act, 61 of 1973;
- 1.1.14 “**Conditions to Issue**” the conditions which must be fulfilled prior to the issue of any Gold Bullion Debentures (both in respect of the Initial Offer and each Subsequent Issue), being –
- 1.1.14.1 the receipt by NewGold of a valid Application Form in respect of such Gold Bullion Debenture;
- 1.1.14.2 in the case of cash subscriptions in respect of the Initial Offer, the receipt by NewGold of the Offer Price in respect of the Gold Bullion Debentures applied for and the application by NewGold of such monies in the acquisition of Gold Bullion pursuant thereto;
- 1.1.14.3 in the case of In Specie Subscriptions, the receipt by NewGold of confirmation from the Custodian that the Initial Quantity of Gold Bullion in respect of the Gold Bullion Debentures applied for, has been deposited with the Custodian together with an instruction from the relevant Applicant to transfer such Gold Bullion the Allocated Bullion Account of NewGold; and

- 1.1.14.4 the receipt by NewGold of the Creation Fee;
- 1.1.15 “**Conditions to Redemption**” the conditions which must be fulfilled prior to a Debenture Holder being entitled to redeem a Gold Bullion Debenture in accordance with the provisions of Debenture Condition 7, being –
- 1.1.15.1 a Gold Bullion Debenture may only be redeemed together with and as part of so many other Gold Bullion Debentures as will constitute a Block, or more than one Block; and
- 1.1.15.2 a Gold Bullion Debenture may only be redeemed on a Trading Day;
- 1.1.16 “**Creation Fee**” the fee payable by an Applicant to NewGold for the issue of the Gold Bullion Debentures applied for by such Applicant, being an amount equal to 0,15% of the Offer Price (excluding VAT). The Creation Fee may, however, be waived in the discretion of NewGold;
- 1.1.17 “**CSDP**” a participant (as defined in the Custody and Administration Act) duly accepted by STRATE as a participant in terms of section 2(1A) of the Custody and Administration Act;
- 1.1.18 “**Custodian**” Rand Refinery Limited (registration number 1920/006598/06), a public company duly incorporated in accordance with the laws of the RSA, or such other custodian as may be appointed by NewGold from time to time;
- 1.1.19 “**Custody and Administration Act**” the Custody and Administration of Securities Act, 85 of 1992;
- 1.1.20 “**Custody Agreement**” the written custody agreement (as amended, novated and/or replaced from time to time) concluded between NewGold and the Custodian dated 15 October 2004, in terms of which, inter alia, the Custodian is appointed as custodian of the Gold Bullion of NewGold from time to time;
- 1.1.21 “**Debenture Conditions**” the terms and conditions of the Gold Bullion Debentures incorporated in this Prospectus as Annexure A, subject to and in accordance with which the Gold Bullion Debentures are issued;
- 1.1.22 “**Debenture Holder**” in relation to any Gold Bullion Debenture, the person or entity whose name is entered in the Register as the holder of such Gold Bullion Debenture;
- 1.1.23 “**Delivery Date**” in relation to the exercise of any Gold Option, the date which is the later of –
- 1.1.23.1 the third Trading Day after the Redemption Date of the Gold Bullion Debentures in respect of which such Gold Option has been exercised if the Gold Option has been exercised in respect of Gold Bullion Debentures having in aggregate a Redemption Value of less than ZAR1 000 000 000; or
- 1.1.23.2 the fifth Trading Day after the Redemption Date of the Gold Bullion Debentures in respect of which such Gold Option has been exercised if the Gold Option has been exercised in respect of Gold Bullion Debentures having in aggregate a Redemption Value of ZAR1 000 000 000 or more; or
- 1.1.23.3 the Delivery Date specified in the Redemption Notice pursuant to which such Gold Option is exercised;
- 1.1.24 “**Dematerialised**” the process whereby physical debenture certificates and other documents of title are replaced with electronic records evidencing ownership of Gold Bullion Debentures for the purposes of the STRATE System, as contemplated in the Custody and Administration of Securities Act;
- 1.1.25 “**Dematerialised Debenture**” a Gold Bullion Debenture that has been Dematerialised;
- 1.1.26 “**Event of Default**” the occurrence of any of the following events –
- 1.1.26.1 NewGold being wound up, liquidated and/or placed under judicial management (in any case whether provisional or final), provided that an offer of compromise in terms of section 311 of the Companies Act on terms and conditions approved by the Debenture Holders by a Extraordinary Resolution to that effect and in circumstances where NewGold is solvent shall not constitute a winding-up of NewGold for purposes of this (a); or
- 1.1.26.2 NewGold having any application or other proceedings brought against it, in terms of which NewGold is sought to be wound up or placed in liquidation or under judicial management (whether provisional or final); or
- 1.1.26.3 subject to the proviso in (a) which shall apply mutatis mutandis, NewGold committing any act which is or would, if NewGold were a natural person, be an act of insolvency as defined in the Insolvency Act, 24 of 1936;
- 1.1.26.4 subject to the proviso in (a) which shall apply mutatis mutandis, NewGold compromising or attempting to compromise with or attempting to defer payment of debt owing by it to its creditors generally;
- 1.1.26.5 subject to the proviso in (a) which shall apply mutatis mutandis, any procedural steps being taken by NewGold with a view to effecting a compromise or arrangement with its creditors generally;
- 1.1.26.6 NewGold ceasing to carry on NewGold’s Business in a normal and regular manner or materially changing the nature of NewGold’s business or, through an official act of NewGold’s Board, NewGold threatening to cease to carry on NewGold’s Business;
- 1.1.27 “**Exchange Control Regulations**” the Exchange Control Regulations, promulgated in terms of section 9 of the South African Currency and Exchanges Act, 9 of 1933;

- 1.1.28 “**Extraordinary Resolution**” a resolution passed at a properly constituted meeting of Debenture Holders by a majority consisting of not less than three-quarters of the number of Gold Bullion Debentures represented at that meeting (present in person or by Proxy and voting whether on a show of hands or on a poll);
- 1.1.29 “**Form of Proxy**” an instrument in writing signed by a Certificated Debenture or, in the case of a Debenture Holder holding a Certificated Debenture which is a company or other juristic person, signed on its behalf by a Representative of the company or juristic person appointing a Proxy;
- 1.1.30 “**GAAP**” Generally Accepted Accounting Practice consistently applied in the RSA from time to time, as amended or restated from time to time;
- 1.1.31 “**Good Delivery Standard**” the refining standard and weights set by the LBMA for gold bars as set out in “The Good Delivery Rules for Gold and Silver Bars” published by the LBMA from time to time;
- 1.1.32 “**Gold Bullion**” physical unwrought gold in the form of London Good Delivery Bars;
- 1.1.33 “**Gold Bullion Debenture**” a gold bullion debenture issued by NewGold in accordance with the Debenture Conditions;
- 1.1.34 “**Gold Bullion Sale Agreement**” the sale agreement deemed to have been concluded between NewGold and a Qualifying Debenture Holder pursuant to the exercise by such Qualifying Debenture Holder of a Gold Option, as set out in Debenture Condition 8;
- 1.1.35 “**Gold Option**” the right and option of any Qualifying Debenture Holder redeeming one or more Blocks of Gold Bullion Debentures to require NewGold, under Debenture Condition 8, to sell to such Qualifying Debenture Holder a quantity of Gold Bullion equal to the Reference Quantity of the Gold Bullion Debentures so redeemed;
- 1.1.36 “**Issue Date**” in relation to a Gold Bullion Debenture, the date of actual issue thereof;
- 1.1.37 “**Initial Offer**” the first offer to be made by NewGold to institutional and retail investors in the RSA to subscribe for Gold Bullion Debentures referencing a maximum of 500 000 fine troy ounces of Gold Bullion, as described in this Prospectus;
- 1.1.38 “**Initial Quantity**” in relation to a Gold Bullion Debenture, the quantity of Gold Bullion to which that Gold Bullion Debenture was referenced and linked on the Issue Date of that Gold Bullion Debenture which, in respect of the Gold Bullion Debentures issued pursuant to the Initial Offer shall be one-hundredth of one fine troy ounce of Gold Bullion, and in respect of each Subsequent Issue shall be the Reference Quantity of the Gold Bullion Debentures already in issue as at the Issue Date of the Gold Bullion Debentures issued under such Subsequent Issue;
- 1.1.39 “**JSE**” the JSE Securities Exchange South Africa, a voluntary association licensed to operate as a stock exchange and financial market under the Stock Exchanges Control Act, 1 of 1985, and the Financial Markets Control Act, 55 of 1989, and includes any successor exchange to the JSE;
- 1.1.40 “**LBMA**” the London Bullion Market Association;
- 1.1.41 “**London Good Delivery Bar**” the requirements with which a gold bar should conform according to the Good Delivery Standard of the LBMA, being the following –
- 1.1.41.1 in respect of weight –
- 1.1.41.1.1 the minimum gold content should be 350 fine troy ounces (approximately 10,9kg);
- 1.1.41.1.2 the maximum gold content should be 430 fine troy ounces (approximately 13,4kg); and
- 1.1.41.1.3 the gross weight of a bar should be expressed in fine troy ounces, in multiples of 0,025, rounded down to the nearest 0,025 of a troy ounce;
- 1.1.41.2 in respect of dimension –
- 1.1.41.2.1 the top surface should be 255mm x 81mm;
- 1.1.41.2.2 the bottom surface should be 236mm x 577mm; and
- 1.1.41.2.3 the thickness should be 37mm;
- 1.1.41.3 in respect of fineness, the minimum acceptable fineness is 99,5%; and
- 1.1.41.4 lastly in respect of marks, it should contain –
- 1.1.41.4.1 the serial number;
- 1.1.41.4.2 the assay stamp of the refiner;
- 1.1.41.4.3 the fineness (to four significant figures); and
- 1.1.41.4.4 the year of manufacture (expressed in four digits);
- 1.1.42 “**London PM Fix**” the afternoon session of the twice daily fix of the price of an ounce of gold which starts at 15:00 (London time) and is performed in London by the five members of the London gold fix;

- 1.1.43 “**Management Agreement**” the written management agreement (as amended, novated and/or replaced from time to time) concluded between NewGold and the Manager dated 15 October 2004, in terms of which, inter alia, the Manager is appointed by NewGold to manage and administer the affairs of NewGold and NewGold’s Business and to advise NewGold in relation to the conduct of NewGold’s Business;
- 1.1.44 “**Manager**” NewGold Managers (Proprietary) Limited (registration number 2004/007543/07), a private company duly incorporated in accordance with the laws of the RSA, or such other manager of NewGold as may be appointed by NewGold in terms of the Management Agreement;
- 1.1.45 “**Marketing Agreement**” the written Marketing Agreement (as amended, novated and/or replaced from time to time) concluded between NewGold and Specialised Investment Solutions LLP dated 21 October 2004, in terms of which, inter alia, Specialised Investment Solutions LLP undertakes to provide NewGold with certain marketing assistance from time to time;
- 1.1.46 “**Monthly Gold Sales Charge**” an amount sufficient to, inter alia, meet the monthly fees and expenses of NewGold from time to time, which fees and expenses are funded through the sale of Gold Bullion. The amount currently thought to be sufficient to meet such fees and expenses and to pay a dividend to the NewGold Owner Trust is 0,40% per annum of the Gold Bullion held by NewGold from time to time in excess of 430 fine troy ounces;
- 1.1.47 “**NewGold**” NewGold Issuer Limited (registration number 2004/014119/06), a public company duly incorporated in accordance with the laws of the RSA;
- 1.1.48 “**NewGold’s Board**” the board of directors of NewGold from time to time;
- 1.1.49 “**NewGold’s Business**” the business conducted by NewGold from time to time, being, inter alia, the issue of Gold Bullion Debentures, the acquisition and holding of Gold Bullion and the sale of Gold Bullion as described or envisaged in this Prospectus and the Transaction Documents;
- 1.1.50 “**NewGold Owner Trust**” the NewGold Owner Trust, a trust inter vivos duly established in terms of the NewGold Owner Trust Deed and registered with the Master of the High Court of South Africa (Transvaal Provincial Division) under reference number IT8350/04, which NewGold Owner Trust has been established with the sole purpose of beneficially holding all of the shares in the issued share capital of NewGold;
- 1.1.51 “**NewGold Owner Trust Deed**” the written trust deed (as amended, novated and/or replaced from time to time) concluded by ABSA (in its capacity as donor) and Maitland Trust Limited (in its capacity as trustee) on 7 September 2004, in terms of which the NewGold Owner Trust is established;
- 1.1.52 “**Nominated Bullion Account**” the relevant Allocated Bullion Account or Unallocated Bullion Account of a Qualifying Debenture Holder into which the Sale Bullion to be delivered to such Qualifying Debenture Holder pursuant to the exercise of a Gold Option shall be credited;
- 1.1.53 “**Offer Price**” in relation to each Gold Bullion Debenture, the price (expressed in Rand) at which such Gold Bullion Debenture is issued on the Issue Date thereof, being an amount calculated with reference to the value of the Initial Quantity of Gold Bullion linked to that Gold Bullion Debenture as at the Issue Date thereof and published on SENS;
- 1.1.54 “**Priority of Payments**” the priority in which creditors of NewGold are to be repaid, as set out in Debenture Condition 9;
- 1.1.55 “**Prospectus**” this prospectus, together with the annexures and Application Forms attached hereto;
- 1.1.56 “**Proxy**” a person duly appointed under a Form of Proxy to act for and on behalf of a Debenture Holder holding a Certificated Debenture in connection with any meeting or proposed meeting of Debenture Holders;
- 1.1.57 “**Qualifying Debenture Holder**” a Debenture Holder holding one or more Blocks of Gold Bullion Debentures and who satisfies the Manager that he is in possession of all necessary licences, consents and approvals (including, without limitation, the required approvals in terms of the Mining Rights Act, 20 of 1967, and under Regulations 2 and 5 of the Exchange Control Regulations) to buy, own, be in possession of and/or otherwise deal in Gold Bullion;
- 1.1.58 “**Rand**” or “**ZAR**” Rand, the legal currency of the RSA;
- 1.1.59 “**Redemption Date**” in relation to a Gold Bullion Debenture, the date on which such Gold Bullion Debenture is actually redeemed in accordance with the Debenture Conditions;
- 1.1.60 “**Redemption Fee**” the fee payable by a Debenture Holder on the redemption of a Gold Bullion Debenture held by it, being an amount equivalent to 0,15% of the Redemption Value (excluding VAT) of such Gold Bullion Debenture;
- 1.1.61 “**Redemption Notice**” a notice delivered by or on behalf of a Debenture Holder exercising its right to require the redemption of all or some of the Gold Bullion Debentures held by it, which redemption notice shall comply with all relevant requirements of the Debenture Conditions and shall be in the form of Annexure D to this Prospectus;

1.1.62 “**Redemption Value**” in relation to a Gold Bullion Debenture and as at the Redemption Date thereof, an amount equal to the Sale Proceeds realised or that would have been realised by NewGold pursuant to a sale of NewGold of the Reference Quantity of Gold Bullion to which such Gold Bullion Debenture is linked;

1.1.63 “**Reference Quantity**” in relation to a Gold Bullion Debenture, the specific quantity of Gold Bullion to which that Gold Bullion Debenture is referenced and linked as at any given point in time, being a quantity calculated in accordance with the following formula –

$$RQ = \frac{IQ}{\left(1 + \frac{R}{365}\right)^D}$$

where –

1.1.63.1 RQ = the Reference Quantity to be determined, expressed in fine troy ounces;

1.1.63.2 IQ = the Initial Quantity of that Gold Bullion Debenture, expressed in fine troy ounces;

1.1.63.3 D = the number of days between the Issue Date of the first Gold Bullion Debenture to be issued and the Redemption Date of the Gold Bullion Debenture in respect of which the Reference Quantity is to be determined; and

$$R = \left(\left(\frac{1}{1-L} \right)^{1/365} - 1 \right) \times 365$$

where for purposes of determining R –

1.1.63.4 L = the Monthly Gold Sales Charge, which Monthly Gold Sales Charge accrues daily and will be deducted monthly in arrears;

1.1.64 “**Register**” the register of Gold Bullion Debentures, which register shall, in the case of Dematerialised Debentures, be kept by STRATE and, in the case of Certificated Debentures, be kept by the Transfer Secretaries;

1.1.65 “**Representative**” a person authorised by a resolution of a corporate Debenture Holder’s directors or other governing body to act as its representative in connection with any meeting or proposed meeting of Debenture Holders;

1.1.66 “**RSA**” the Republic of South Africa;

1.1.67 “**Sale Bullion**” the Gold Bullion to be sold by NewGold to a Qualifying Debenture Holder exercising a Gold Option in terms of a Gold Bullion Sale Agreement;

1.1.68 “**Sale Proceeds**” the proceeds realised by NewGold from the sale of Gold Bullion in the spot market in the London PM Fix on redemption of all or any of the Gold Bullion Debentures issued by it, less the costs of arranging and completing such sale, storage costs, insurance costs and all applicable Taxation payable in connection with such sale;

1.1.69 “**SENS**” the Securities Exchange News Service, an office of the JSE;

1.1.70 “**Settlement Agent**” a CSDP approved in terms of the Applicable Procedures to perform electronic net settlements of both funds and scrip on behalf of market participants;

1.1.71 “**Specialised Investment Solutions LLP**” Specialised Investment Solutions LLP, a limited liability partnership duly registered and incorporated in accordance with the laws of the United Kingdom;

1.1.72 “**STRATE**” STRATE Limited (registration number 1998/022242/06), a public company duly incorporated in accordance with laws of the RSA;

1.1.73 “**STRATE System**” the electronic settlement system utilised by the JSE and administered by the central depository STRATE, which facilitates the electronic clearing and settlement for all transactions concluded on the JSE;

1.1.74 “**Subsequent Issue**” an issue of further Gold Bullion Debentures by NewGold to one or more specifically named subscribers therefor made subsequent to the date of the Initial Offer, as described in this Prospectus;

1.1.75 “**Taxation**” all taxes, duties, assessments, levies and/or governmental charges (including any penalty in respect thereof and interest thereon) payable to any governmental authority or any political sub-division thereof or any authority or agency therein or thereof having the power to tax, including income tax, value-added tax and regional services levies;

1.1.76 “**Trading Day**” a day on which trading takes place on the JSE;

1.1.77 “**Transfer Form**” the written form for transfer of any Gold Bullion Debenture evidenced by a certificate in a form approved by the Transfer Secretaries and signed by the transferor and the transferee;

1.1.78 “**Transaction Documents**” collectively –

1.1.78.1 the Debenture Conditions;

1.1.78.2 the Management Agreement;

1.1.78.3 the Custody Agreement;

- 1.1.78.4 the Marketing Agreement;
- 1.1.78.5 the NewGold Owner Trust Deed;
- 1.1.78.6 the memorandum and articles of association of NewGold; and
- 1.1.78.7 the Bridging Loan Agreement,
all as amended, novated and/or replaced from time to time;
- 1.1.79 “**Transfer Secretaries**” ACMB, in its capacity as such, whose registered address is at ABSA Towers North, 180 Commissioner Street, Johannesburg, 2001 (PO Box 5013, Johannesburg, 2000);
- 1.1.80 “**Unallocated Bullion Account**” an unallocated bullion account held with the Custodian to which a quantity of Gold Bullion may be credited;
- 1.1.81 “**World Gold Council**” a Swiss-based not for profit organisation formed and funded by the world’s leading gold mining companies with the aim of stimulating and maximising the demand for, and holding of gold by consumers, investors, industry and the official sector;
- 1.2 a word or expression which denotes –
 - 1.2.1 any gender shall include the other genders;
 - 1.2.2 a natural person shall include an artificial or juristic person and vice versa;
 - 1.2.3 the singular shall include the plural and *vice versa*;
- 1.3 any reference to a statute, regulation or other legislation shall be to that statute, regulation or other legislation as at the date of the Prospectus and as amended or substituted from time to time;
- 1.4 any word or expression defined in the Companies Act 61 of 1973 shall bear the same meaning as ascribed to it under such statute;
- 1.5 any provision in a definition which is a substantive provision conferring a right or imposing an obligation on any party shall, notwithstanding that it is only a definition, be given effect to as if it were a substantive provision of these terms and conditions;
- 1.6 where any number of days is prescribed or must be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day;
- 1.7 references to days (other than references to Business Days), months and/or years shall be construed as references to calendar days, months and/or years;
- 1.8 the use of the word “including” followed by specific examples shall not be construed as limiting the meaning of the general word preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific examples;
- 1.9 any word or expression defined within a particular paragraph of these conditions other than this 1, shall bear the meaning ascribed to it in that paragraph wherever it is used in these terms and conditions.

2. FORM AND DENOMINATION

- 2.1 The Gold Bullion Debentures are unsecured debentures which shall be issued by NewGold from time to time in initial denominations linked to the value of an Initial Quantity each. The value of each Gold Bullion Debenture will be linked to the Reference Quantity of Gold Bullion from time to time. The Debenture Holder will, however, have no ownership right or beneficial interest in and to any Gold Bullion held by NewGold from time to time.
- 2.2 The Gold Bullion Debentures will initially be issued as Dematerialised Debentures, however, the holder of a Dematerialised Debenture will be entitled, in accordance with Debenture Condition 11 to exchange such Dematerialised Debenture for a Certificated Debenture.

3. TITLE

- 3.1 Title to the Gold Bullion Debentures will pass upon registration of transfer in accordance with Debenture Condition 15. NewGold and the Transfer Secretaries shall recognise a Debenture Holder as the sole and absolute owner of the Gold Bullion Debenture registered in that Debenture Holder’s name in the Register (notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) and shall not be bound to enter any trust in the Register or to take notice of or to accede to the execution of any trust (express, implied or constructive) to which any Gold Bullion Debenture may be subject.

- 3.2 In terms of existing law and practice, title to Dematerialised Debentures will be transferred through the STRATE System by way of book entries into the securities accounts of the relevant CSDP. Such transfers will not be recorded in the Register and the relevant CSDP (or its relevant nominee) will continue to be reflected in the Register as the Debenture Holder in respect of such Dematerialised Debentures, notwithstanding such transfers.

4. STATUS

The Gold Bullion Debentures constitute unsecured senior obligations of NewGold. The claims of each Debenture Holder under the Gold Bullion Debentures shall rank pari passu with the claims of all other Debenture Holders under the Gold Bullion Debentures.

5. ISSUE

- 5.1 NewGold shall, pursuant to the Initial Offer, issue Gold Bullion Debentures referencing a maximum of 500 000 fine troy ounces of Gold Bullion.
- 5.2 NewGold is entitled to issue further Gold Bullion Debentures at any time, provided that the Conditions to Issue have, as at the date thereof, been fulfilled.

6. NEWGOLD'S UNDERTAKINGS

- 6.1 NewGold undertakes in favour of the Debenture Holders that, for so long as there are any Gold Bullion Debentures in issue, it shall –

6.1.1 Corporate Status

- 6.1.1.1 do all such things as are necessary to maintain its corporate existence and to always hold itself out as an entity which is legally separate and independent from any other entity or group of entities and to correct any misunderstanding known to NewGold regarding its separate identity; and
- 6.1.1.2 obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents required by all Applicable Laws to enable NewGold to lawfully enter into and perform its obligations under each of the Debenture Conditions and the Transaction Documents to which it is a party and to conduct NewGold's Business;

6.1.2 Maintain Accounting Records

prepare and keep proper and adequate Accounting Records in accordance with GAAP, the Companies Act and the JSE Listings Requirements and to lodge timely returns thereof as required under all Applicable Laws;

6.1.3 Taxation

at all times maintain its tax residence in the RSA and to timeously pay all Taxation (other than Taxation disputed by NewGold in good faith) as and when due;

6.1.4 Listing

use all reasonable efforts to obtain and maintain a listing of the Gold Bullion Debentures on the JSE. If, however, it is unable to do so (having used such reasonable endeavours) or if the maintenance of such listing is found to be unduly onerous to NewGold, and NewGold is satisfied that the interests of Debenture Holders would not thereby be materially prejudiced, NewGold shall instead use all reasonable endeavours to promptly obtain and thereafter maintain a listing of the Gold Bullion Debentures on such other stock exchange/s as it may reasonably determine. Any de-listing of the Gold Bullion Debentures from the JSE will be subject to the provisions of the JSE Listings Requirements;

6.1.5 Comply with Obligations

- 6.1.5.1 take such steps as are reasonable to enforce its rights under the Gold Bullion Debentures and all other agreements (including the Transaction Documents) to which it is a party; and
- 6.1.5.2 comply with, perform and observe all of its obligations under the Gold Bullion Debentures and all other agreements (including the Transaction Documents) to which it is a party;

6.1.6 Other Information

supply such information as NewGold is required by Applicable Laws (including the JSE Listing Requirements) and distribute same to its members and the Debenture Holders from time to time;

- 6.1.7 Gold Bullion**
- 6.1.7.1 ensure that only Gold Bullion in the form of London Good Delivery Bars is acquired by NewGold;
- 6.1.7.2 subject to Debenture Condition 6.1.7.3, ensure that all Gold Bullion of NewGold is held in a segregated Allocated Bullion Account of NewGold with the Custodian;
- 6.1.7.3 save as described in the Prospectus, ensure that no more than two London Good Delivery Bars are at any time deposited in the Unallocated Bullion Account of NewGold with the Custodian; and
- 6.1.7.4 NewGold only disposes of Gold Bullion standing to the credit of its Unallocated Bullion Account for the purpose of meeting its statutory costs and operating fees and expenses;
- 6.1.8 Events of Default**
- promptly inform the Debenture Holders in accordance with the provisions of Debenture Condition 7.3 of the occurrence of an Event of Default; and
- 6.1.9 Independent Directors**
- ensure that at least two directors of NewGold are independent directors nominated by the NewGold Owner Trust and shall not recognise a quorum at any meeting of NewGold's Board unless such independent directors are present at that meeting.
- 6.2 NewGold undertakes in favour of the Debenture Holders that, for so long as there are any Gold Bullion Debentures in issue, it shall not –
- 6.2.1 Use of Proceeds**
- utilise the proceeds derived from the issue of the Gold Bullion Debentures for any purpose other than that set out in the section of the Prospectus entitled "Offer, Use of Proceeds and Redemptions";
- 6.2.2 Further Issues**
- issue any further Gold Bullion Debentures unless, as at the date thereof, the Conditions to Issue have been fulfilled;
- 6.2.3 Restrictions on Activities**
- engage in any activity which is outside the scope of its memorandum and articles of association or which is not in terms of or directly related to any of the activities which the Transaction Documents provide for or envisage that NewGold will engage in;
- 6.2.4 Negative Pledge**
- dispose of, create or permit to subsist any encumbrance (unless arising by the operation of law) upon the whole or any part of NewGold's assets or its revenues, present or future, or NewGold's Business, save for any such encumbrance subsisting under or in connection with any Transaction Document and/or the Debenture Conditions;
- 6.2.5 Indebtedness**
- incur any indebtedness save as contemplated in the Prospectus and/or the Transaction Documents;
- 6.2.6 Other**
- save to the extent contemplated in the Transaction Documents –
- 6.2.6.1 have any subsidiaries, employees or premises;
- 6.2.6.2 consolidate or merge with any other person or entity or convey or transfer its properties or assets substantially as an entirety to any other person or entity;
- 6.2.6.3 alienate, dispose of, encumber, deal with or grant any options or present or future rights to acquire any of its assets or undertakings or any right, title or interest in and to such assets or undertakings and any interests, estate, right, title or benefit therein;
- 6.2.6.4 consent to any variation or waiver of the terms of any of the Debenture Conditions and/or Transaction Documents other than in accordance with the Debenture Conditions, or permit any party to the Debenture Conditions and/or any of the Transaction Documents or any other person whose obligations form part of the security created by the Debenture Conditions and/or the Transaction Documents to be released from such obligations, other than in accordance with the Debenture Conditions and/or the Transaction Documents; or
- 6.2.6.5 consolidate or merge with any other person or entity.

7. REDEMPTION

7.1 Optional Redemption at the instance of NewGold

- 7.1.1 NewGold may redeem all, but not some only, of the Gold Bullion Debentures in full (but not in part) at their Redemption Value as at the date thereof, having given not less than thirty and not more than ninety Business Days' written notice to the Debenture Holders (which notice shall be irrevocable) if –
- 7.1.1.1 any of the Transaction Documents become illegal or unenforceable for any reason whatsoever and such illegality or unenforceability cannot be remedied by reasonable measures open to NewGold; or
 - 7.1.1.2 as a result of any change in or amendment to, the application or interpretation of any existing or new Applicable Law NewGold is or would be required to deduct or withhold from any payments on the Gold Bullion Debentures any amounts as provided or referred to in Debenture Condition 12, and such requirement cannot be avoided by NewGold taking reasonable measures available to it.
- 7.1.2 NewGold may redeem all, but not some only, of the Gold Bullion Debentures in full (but not in part) held by a specific Debenture Holder (as opposed to all of the Debenture Holders) at their Redemption Value as at the date thereof, having given not less than thirty and not more than ninety Business Days' written notice to the relevant Debenture Holder (which notice shall be irrevocable) if NewGold is reasonably of the view that the continued holding by such Debenture Holder of Gold Bullion Debentures may result in NewGold falling foul of the provisions of the Financial Intelligence Centre Act, 38 of 2001, or any other Applicable Law.

7.2 Optional Redemption at the instance of Debenture Holder

A Debenture Holder may redeem all or some of the Gold Bullion Debentures held by him in full (but not in part) at their Redemption Value as at the date thereof, having given not less than three Trading Days' (in respect of the redemption of Gold Bullion Debentures having an aggregate Redemption Value of less than ZAR1 000 000 000) and not less than five Trading Days (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value greater than or equal to ZAR1 000 000 000) written notice to NewGold (which notice shall be irrevocable) if, as at the date thereof, the Conditions to Redemption have been met.

7.3 Mandatory redemption following an Event of Default

Upon the occurrence of an Event of Default, NewGold shall forthwith advise the Debenture Holders of the occurrence of such event and shall, if requested to do so by Debenture Holders by a Extraordinary Resolution to that effect, be obliged to redeem all the Gold Bullion Debentures at their Redemption Value at the date of the occurrence of such event of default.

7.4 Procedures for redemption

- 7.4.1 A Debenture Holder may, provided the Debenture Conditions to Redemption are met, redeem a Block of Debentures at any time in accordance with Debenture Condition 7.2 by delivering to its CSDP or broker a Redemption Notice indicating the number of Blocks of Gold Bullion Debentures that are to be redeemed and the date on which such redemption is to take place (which shall be a date not less than three Trading Days (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value of less than ZAR1 000 000 000)) and not less than five Trading Days (in respect of redemptions of Gold Bullion Debentures having an aggregate Redemption Value greater than or equal to ZAR1 000 000 000) (succeeding the date of delivery of the Redemption Notice). A message will then be forwarded from the Debenture Holder's CSDP to the Manager and NewGold's CSDP. Delivery messages received by NewGold's CSDP prior to 09:00 RSA time on any Trading Day will, if accepted, be deemed to have been received and dealt with on that Trading Day. If the delivery message is received by NewGold's CSDP after the 09:00 RSA time deadline for the relevant Trading Day, the delivery message will automatically be dealt with and be deemed to have been received on the next Trading Day.
- 7.4.2 All Gold Bullion Debentures will be redeemed at their Redemption Value. The Redemption Value will be calculated having regard to the Sale Proceeds realised or that would have been realised from the sale of the Reference Quantity of Gold Bullion on the Redemption Date of such Gold Bullion Debentures. Any discount or premium realised or incurred by NewGold to the London PM Fixing Price will be passed on to the relevant Debenture Holder. All Sale Proceeds will be converted into and paid in Rand at the Rand/Dollar exchange rate quoted by ACMB at 16:00 on the relevant Redemption Date.
- 7.4.3 If a delivery message is accepted, the relevant Debenture Holder will receive confirmation of such acceptance from its broker or CSDP before close of business on the Trading Day on which NewGold's CSDP received the delivery notice. In addition, the Debenture Holder shall receive confirmation of the London PM Fix used in calculating the Redemption Value, the actual Redemption Value to be paid and the Redemption Fee and costs, (all of which shall be for the account of the Debenture Holder), together with details of the bank account into which such payment shall be made.
- 7.4.4 Payments in respect of the redemption of Debentures shall be made in accordance with Debenture Condition 11 and the Applicable Procedures relating to the redemption of debt securities.

7.4.5 Should any Gold Bullion Debenture be a Certificated Debenture, the relevant Debenture Holder shall, prior to the redemption of such Gold Bullion Debenture, surrender the certificate in respect of such Certificated Debenture so held by him to the Transfer Secretaries at least five Business Days prior to the Redemption Date in respect thereof to allow for such Certificated Debenture to be Dematerialised prior to redemption.

7.5 Cancellation

All Gold Bullion Debentures which are redeemed by NewGold and submitted for cancellation shall forthwith be cancelled. All Gold Bullion Debentures so cancelled shall be held by the Transfer Secretaries and cannot be re-issued or resold.

8 GOLD OPTION

8.1 Any Debenture Holder who is a Qualifying Debenture Holder shall have the right and option, exercisable contemporaneously with the delivery to the relevant Qualifying Debenture Holder's broker or CSDP of a notification that such Qualifying Debenture Holder wishes to redeem one or more Blocks of Gold Bullion Debentures held by him, to deliver a written notification ("**Option Notice**") to the Manager stating that the relevant Qualifying Debenture Holder requires NewGold to sell to the relevant Qualifying Debenture Holder a quantity of Gold Bullion equal to the Reference Quantity of Gold Bullion of the Gold Bullion Debentures so to be redeemed.

8.2 The Option Notice shall include:

- 8.2.1 a description of the Gold Bullion Debentures which are to be redeemed by the relevant Qualifying Debenture Holder;
- 8.2.2 the details of the Nominated Bullion Account of the relevant Qualifying Debenture Holder into which the Sale Bullion is to be delivered; and
- 8.2.3 confirmation of the fact that the relevant Qualifying Debenture Holder is in fact a Qualifying Debenture Holder, accompanied by certified true copies of all relevant licences, consents, exemptions and the like.

8.3 Should a Qualified Debenture Holder exercise the Gold Option and deliver an Option Notice to the Manager in accordance with Debenture Condition 6.2, the relevant Qualifying Debenture Holder and NewGold shall be deemed to have entered into a sale agreement, being a Gold Bullion Sale Agreement, on the following terms and conditions:

- 8.3.1 NewGold shall sell the Sale Bullion to the relevant Qualifying Debenture Holder ("**Purchaser**") and the Purchaser shall purchase the Sale Bullion from NewGold on and with effect from the Redemption Date of the relevant Gold Bullion Debentures redeemed by the Purchaser ("**Sale Date**") as a single indivisible transaction;
- 8.3.2 the purchase price of the Sale Bullion ("**Purchase Price**") payable by the Purchaser to NewGold shall be an amount equal to the Redemption Value of the relevant Gold Bullion Debentures redeemed by the Purchaser ("**Relevant Debentures**"), plus any VAT payable on the sale and purchase of the Sale Bullion, net of the Redemption Fee payable by the Purchaser in respect of the Relevant Debentures;
- 8.3.3 the Purchase Price shall be payable on the Sale Date by off-setting the obligation of the Purchaser to pay the Purchase Price and the Redemption Fee to NewGold against the obligation of NewGold to pay the Redemption Value of the Relevant Debentures to the Purchaser;
- 8.3.4 the Purchaser shall, prior to the Sale Date, deliver to its broker or CSDP an irrevocable instruction in terms of which the Purchaser instructs the CSDP to redeem the Relevant Debentures upon acknowledgement by NewGold of set-off of the Redemption Value of such Relevant Debentures against the Purchase Price for the Sale Bullion. To the extent that the Purchaser fails to deliver such notice to its CSDP prior to the Sale Date, the Purchaser hereby irrevocably and unconditionally authorises NewGold to deliver such notice on the Purchaser's behalf;
- 8.3.5 to the extent any of the Relevant Debentures are Certificated Debentures, no notice of the nature referred to in 8.3.4 in respect of that Certificated Debenture shall be given, but instead the Purchaser shall, and hereby does, instruct NewGold to apply the Redemption Value of the Relevant Debentures that are Certificated Debentures that would be payable by NewGold to the Purchaser against the obligations of the Purchaser to pay the Purchase Price to NewGold;
- 8.3.6 each of the Purchaser and NewGold acknowledges that discharge of the Purchase Price in accordance with the above provisions shall constitute full and final discharge by –
 - 8.3.6.1 NewGold of its obligation to pay to the Purchaser the Redemption Value in respect of the Relevant Debentures; and
 - 8.3.6.2 the Purchaser of its obligation to pay the Purchase Price to NewGold;

- 8.3.7 NewGold shall on the Delivery Date and against payment of the Purchase Price by the Purchaser in terms of the above provisions, instruct the Custodian to debit the Sale Bullion against the Allocated Bullion Account of NewGold and to credit the Nominated Bullion Account with the Sale Bullion. The Purchaser shall be responsible for all costs, charges and expenses (including costs, charges and expenses in respect of insurance) incurred pursuant to the delivery of the Sale Bullion in accordance with the provisions of this Debenture Condition 8.3.7;
- 8.3.8 all risk and benefit in and to the Sale Bullion shall pass to the Purchaser on the Sale Date;
- 8.3.9 the Purchaser gives NewGold the warranties (“warranties”) in Debenture Condition 8.3.10 on the basis that –
- 8.3.9.1 notwithstanding that NewGold is or should be aware that any warranty is or may be incorrect, the Gold Bullion Sale Agreement is entered into by NewGold relying on the warranties, each of which is deemed to be both a material representation inducing NewGold to enter into the Gold Bullion Sale Agreement and an essential contractual undertaking by the Purchaser to ensure that the warranty is true and correct;
- 8.3.9.2 each such warranty shall conclusively be deemed to be material;
- 8.3.9.3 insofar as any warranty is promissory or relates to a future event, such warranty shall conclusively be deemed to have been given as at the date for fulfilment of the promise or for the happening of the event, as the case may be; and
- 8.3.9.4 each such warranty shall be a separate and independent warranty and shall not be limited by any reference to, or inference from, the terms of any other warranty or by any other provision in the Gold Bullion Sale Agreement;
- 8.3.10 the Purchaser warrants, represents and undertakes in favour of NewGold that, as at the Sale Date, –
- 8.3.10.1 it is a company duly incorporated and validly existing under and in accordance with the laws of the RSA;
- 8.3.10.2 it has the legal capacity and the power to own its assets and to carry on its business as it is presently being conducted;
- 8.3.10.3 it has –
- 8.3.10.3.1 the legal capacity and the power to enter into and perform under; and
- 8.3.10.3.2 taken all necessary actions (whether corporate, internal or otherwise) to authorise its entry into and performance under,
- the Gold Bullion Sale Agreement;
- 8.3.10.4 the obligations expressed to be assumed by it under the Gold Bullion Sale Agreement are legal and valid and are binding on, and enforceable against it;
- 8.3.10.5 the entry into the Gold Bullion Sale Agreement and/or the performance of its obligations under the Gold Bullion Sale Agreement does not and will not –
- 8.3.10.5.1 contravene any Applicable Laws; and/or
- 8.3.10.5.2 contravene any provision of its constitutive documents; and/or
- 8.3.10.5.3 contravene, violate, cause a default and/or breach of the terms of, and/or otherwise conflict with any contract, agreement, indenture, mortgage or other instrument of any kind to which it is a party or by which it may be bound or which is binding upon its assets;
- 8.3.10.6 all authorisations, consents, approvals, resolutions, licences, exemptions, filings and registrations which are required, necessary or desirable under all Applicable Laws –
- 8.3.10.6.1 to enable it to lawfully enter into, exercise its rights and comply with its obligations under the Gold Bullion Sale Agreement; and
- 8.3.10.6.2 to make the Gold Bullion Sale Agreement admissible in evidence in the RSA,
- have been obtained or effected and are, and will for the duration of this agreement remain, in full force and effect;
- 8.3.11 NewGold gives no warranties in relation to the Sale Bullion and such sale is accordingly done voetstoots, without any additional warranties express or implied, all of which are hereby expressly excluded;
- 8.3.12 should either NewGold or the Purchaser breach any provision of the Gold Bullion Sale Agreement and fail to remedy such breach within fourteen Business Days after receiving written notice from the aggrieved party to do so, then the aggrieved party shall be entitled, without prejudice to its other rights in law, to cancel the Gold Bullion Sale Agreement or to claim specific performance of all of the defaulting party’s obligations in terms of the Gold Bullion Sale Agreement, whether such obligations are otherwise due for performance;
- 8.3.13 the Purchaser shall not be entitled to cede, assign, delegate or otherwise transfer any of his rights or obligations under the Gold Bullion Sale Agreement to any third party;
- 8.3.14 the Gold Bullion Sale Agreement shall in all respects (including its existence, validity, interpretation, implementation, termination and enforcement) be governed by the laws of the RSA;

- 8.3.15 the Purchaser consents and submits to the non-exclusive jurisdiction of the Witwatersrand Local Division of the High Court of the RSA in respect of any dispute or claim arising out of or in connection with the Gold Bullion Sale Agreement;
- 8.3.16 all provisions of the Gold Bullion Sale Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of the Gold Bullion Sale Agreement which is or becomes unenforceable, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, only to the extent that it is so unenforceable, be treated as pro non scripto and the remaining provisions of the Gold Bullion Sale Agreement shall remain of full force and effect. The Purchaser and NewGold declare that it is their intention that the Gold Bullion Sale Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof;
- 8.3.17 the Gold Bullion Sale Agreement constitutes the sole record of the agreement between the Purchaser and NewGold in relation to the subject matter hereof. Neither of them shall be bound by any express, tacit or implied term, representation, warranty, promise or the like not recorded herein. The Gold Bullion Sale Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written, between the parties in respect of the subject matter hereof;
- 8.3.18 no addition to, variation, novation or agreed cancellation of any provision of the Gold Bullion Sale Agreement shall be binding upon the either NewGold or the Purchaser unless reduced to writing and signed by or on behalf of each of them; and
- 8.3.19 no indulgence or extension of time which either may grant to the other shall constitute a waiver of or, whether by estoppel or otherwise, limit any of the existing or future rights of the grantor in terms hereof, save in the event and to the extent that the grantor has signed a written document expressly waiving or limiting such right.

9. PRIORITY OF PAYMENTS

All monies of NewGold will be applied in the following order of priority and in each case if and only to the extent that payments of a higher priority have been made in full –

- 9.1 first, in meeting the Taxation liability of NewGold from time to time;
- 9.2 second, *pari passu* and *pro rata* –
- 9.2.1 in repayment of all amounts owing by NewGold (whether capital, interest or otherwise) to ABSA in terms of the Bridging Loan Agreement; and
- 9.2.2 in payment of all fees and expenses payable by NewGold, to the extent not already paid pursuant to a draw down under the Bridging Loan Agreement;
- 9.3 third, *pari passu* and *pro rata* in payment of the Redemption Value payable in terms of any of the Gold Bullion Debentures to be redeemed as at any point in time.

10. LIABILITY FOR CALCULATIONS

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purpose of these Debenture Conditions, whether by the Manager or otherwise, shall (in the absence of wilful default, negligence, bad faith or manifest error) be binding on NewGold and the Debenture Holders and (in such absence as aforesaid) no liability to the Debenture Holders shall attach to NewGold or the Manager in connection with the exercise or non-exercise by them of their powers, duties and discretions hereunder.

11. PAYMENT

- 11.1 The Redemption Value in relation to each Gold Bullion Debenture shall, in all instances where a Gold Option has not been exercised, be paid by NewGold in Rand in accordance with this Debenture Condition 11. Where a Qualifying Debenture Holder exercises a Gold Option payment of the Redemption Value shall be set-off against the Purchase Price of the Sale Bullion in accordance with Debenture Condition 8.
- 11.2 All monies payable on or in respect of each Gold Bullion Debenture shall be paid by electronic funds transfer to the account of the relevant Debenture Holder as set forth in the Register at 17h00 Johannesburg time on the Business Day preceding the relevant Redemption Date or, in the case of joint Debenture Holders, the account of that one of them who is first named in the Register in respect of that Gold Bullion Debenture, provided that no payment in respect of the redemption of such Gold Bullion Debenture shall, in the case of Certificated Debenture, be made by NewGold until three Business Days after the date on which the Debenture Certificates in respect of such Certificated Debenture to be redeemed has been surrendered to the Transfer Secretaries.

- 11.3 If NewGold is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with Debenture Condition 11.2 (whether by reason of strike, lockout, fire, explosion, floods, riot, war, accident, force majeure, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or disturbances, cessation of labour, government interference or control or any other cause or contingency beyond the control of NewGold), NewGold shall give notice to the Debenture Holders within three Business Days of such inability arising. Upon receipt of such notice, any Debenture Holder may request NewGold to make payment of any such amounts by way of cheque and, if the Debenture Holder so requests, to make such cheque available for collection during business hours by a Debenture Holder or its Representative at the office of the Transfer Secretaries. All monies so payable by cheque shall, unless the Debenture Holder requests that the cheque be made available for collection as set out above, be sent by post within two Business Days of the receipt by NewGold of such request to –
- 11.3.1 the address of that Debenture Holder as set forth in the Register at 17h00 Johannesburg time on the Business Day preceding the Redemption Date; or
- 11.3.2 in the case of joint Debenture Holders, the address set forth in the Register of that one of them who is first named in the Register in respect of that Debenture on the Business Day preceding the Redemption Date; or
- 11.3.3 such other address as may be designated to the Transfer Secretaries in writing by that Debenture Holder; or
- 11.3.4 if the amount in question is legally payable to anyone else, the address designated by that person for that purpose.
- 11.4 Each such cheque shall be made payable to the relevant Debenture Holder or, in the case of joint Debenture Holders, the first one of them named in the Register and each such cheque shall be dated as at the relevant Redemption Date.
- 11.5 Payment of a cheque sent in terms of Debenture Condition 11.3 or 11.4 shall be a complete discharge by NewGold of the amount of the cheque.
- 11.6 If several persons are entered into the Register as joint Debenture Holders then, payment to any one of them of any monies payable on or in respect of the Gold Bullion Debentures shall be an effective and complete discharge by NewGold of the amount so paid, notwithstanding any notice (express or otherwise) which NewGold may have of the right, title, interest or claim of any other person to or in any Gold Bullion Debenture or interest therein.
- 11.7 Subject to these Debenture Conditions, cheques may be posted by ordinary post, provided that neither NewGold nor its agent shall be responsible for any loss in transmission and the postal authorities shall be deemed to be the agent of the Debenture Holders for the purpose of all cheques posted in terms of this Debenture Condition 11.
- 11.8 Payments in respect of Dematerialised Debentures will be made in accordance with the Applicable Procedures and will be made to STRATE (or its nominee) as the registered holder of the relevant Gold Bullion Debentures, which shall in turn transfer the funds via the relevant settlement agent to the Debenture Holders. Each of the persons reflected in the records of STRATE or the relevant settlement agent (as the case may be) as a Debenture Holder shall look solely to STRATE or the relevant settlement agent (as the case may be) for payment of the Redemption Value made by NewGold to, or for the order of, the registered holder of the Gold Bullion Debenture. NewGold shall have no responsibility and shall not incur any liability in any respect for the records relating to, or payments made on account of Dematerialised Debentures, or for the maintaining, supervising or reviewing any records relating to such Dematerialised Debentures.
- 11.9 Any monies payable by NewGold in respect of a Gold Bullion Debenture which are unclaimed by the relevant Debenture Holder for any reason whatsoever, including, without limiting the generality of the foregoing, by reason of a failure on the part of the relevant Debenture Holder to submit its bank account details to the Transfer Secretaries or a failure to submit the correct bank account details to the Transfer Secretaries for entry into the Register, for a period of three years after the relevant Payment Date of the monies in question shall –
- 11.9.1 be paid over to the Guardian's Fund for and on behalf of the relevant Debenture Holder; and
- 11.9.2 shall not bear interest,
- and such payment by NewGold to the Guardian's Fund shall be a complete discharge by NewGold of its relevant payment obligations under the Gold Bullion Debenture in question.

12. TAXATION

As at the date of issue of this Prospectus, all payments in respect of the Gold Bullion Debentures will be made without withholding or deduction for or on account of any present or future Taxation imposed or levied by or on behalf of the RSA or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by Applicable Law. In that event, NewGold shall make such payments after such withholding or deduction has been made (where applicable) and shall account to the relevant authorities for the amount so required to be withheld or deducted. NewGold shall not be obliged to make any additional payments to Debenture Holders in respect of such withholding or deduction.

13. PRESCRIPTION

The Gold Bullion Debentures will become void unless presented for payment within a period of three years after the Redemption Date therefor.

14. DELIVERY, DEMATERIALISATION, EXCHANGE AND REPLACEMENT OF CERTIFICATES

- 14.1 The Gold Bullion Debentures will initially be issued in the form of the Dematerialised Debentures in the STRATE System.
- 14.2 The Debenture Holder of Dematerialised Debentures may, in terms of the Applicable Procedures and through its nominated CSDP, direct a written request to the Transfer Secretaries for a certificate representing the number of Gold Bullion Debentures to be delivered by the Transfer Secretaries in exchange for such Dematerialised Debentures. The Transfer Secretaries shall deliver such certificate upon such written request no later than fourteen days after receiving the written request of such Debenture Holder in accordance with the Applicable Procedures, provided that joint holders of Dematerialised Debentures shall be entitled to receive only one certificate in respect of that joint holding and delivery to one of those joint holders shall be delivery to all of them.
- 14.3 The holder of Dematerialised Debentures shall be obliged, if requested upon written notice of not less than five Business Days by NewGold to do so, to exchange such Dematerialised Debentures for Certificated Debentures (or such number of Certificated Debentures as such Debenture Holder may request in writing), in accordance with the Applicable Procedures if –
- 14.3.1 STRATE notifies NewGold that it is unwilling or unable to continue as depository for the Dematerialised Debentures and a successor central securities depository satisfactory to NewGold and the JSE is not available;
- 14.3.2 STRATE is closed for business for a continuous period of fourteen days (other than by reason of holiday, statutory or otherwise) or announces its intention permanently to cease business and a successor depository satisfactory and clearing system to NewGold and the JSE is not available;
- 14.3.3 STRATE notifies NewGold that it is unwilling or unable to continue as clearing system for the Dematerialised Debentures and a successor clearing system satisfactory to NewGold and the JSE is not available; or
- 14.3.4 NewGold has become or will become subject to adverse tax consequences, which would not be suffered were such Dematerialised Debentures to be exchanged for Certificated Debentures.
- 14.4 A person holding a Dematerialised Debenture may, in terms of the Applicable Procedures and through its nominated CSDP, direct a written request to the Transfer Secretaries for a certificate representing the number of Certificated Debentures to be delivered by the Transfer Secretaries in exchange for such Dematerialised Debentures. The Transfer Secretaries shall deliver such certificates upon such written request no later than fourteen days after receiving the written request of the holder of such Dematerialised Debentures in accordance with the Applicable Procedures, provided that, joint holders of Dematerialised Debentures shall be entitled to receive only one certificate in respect of that joint holding and delivery to one of those joint holders shall be delivery to all of them.
- 14.5 Certificates shall be provided (whether by way of issue, delivery or exchange) by NewGold without charge, save as otherwise provided in these Debenture Conditions. Separate costs and expenses relating to the provision of certificates and/or the transfer of Gold Bullion Debentures may be levied by other persons, such as a settlement agent, under the Applicable Procedures and such costs and expenses shall not be borne by NewGold. The costs and expenses of delivery of certificates by other than ordinary post (if any) and, if NewGold shall so require, taxes or governmental charges or insurance charges that may be imposed in relation to such mode of delivery shall be borne by the Debenture Holder.
- 14.6 If any certificate is mutilated, defaced, stolen, destroyed or lost it may be replaced at the office of the Transfer Secretaries on payment by the claimant of such costs and expenses as may be incurred in connection therewith and against the furnishing of such indemnity as the Transfer Secretaries may reasonably require. Mutilated or defaced certificates must be surrendered before replacements will be issued.
- 14.7 Any person becoming entitled to Certificated Debentures in consequence of the death or insolvency of the relevant Debenture Holder may, upon producing evidence to the satisfaction of NewGold that he holds the position in respect of which he proposes to act under this paragraph or of his title, require NewGold and the Transfer Secretaries to register such person as the holder of such Debentures or, subject to the requirements of this Debenture Condition 14, to transfer such Gold Bullion Debentures to such person.

15. TRANSFER OF DEBENTURES

- 15.1 Dematerialised Debentures may be transferred in terms of the Applicable Procedures in the STRATE System. In order for any transfer of Debentures evidenced by a certificate to be effected through the Register and for the transfer to be recognised by NewGold, each transfer of a Gold Bullion Debenture –
- 15.1.1 must be embodied in the usual Transfer Form;
- 15.1.2 must be signed by the relevant Debenture Holder and the transferee, or any authorised representatives of that registered Debenture Holder and/or transferee; and
- 15.1.3 must be made by way of the delivery of the Transfer Form to the Transfer Secretaries together with the certificate in question for cancellation or, if only part of the Gold Bullion Debentures represented by a certificate is transferred, a new certificate for the balance will be delivered to the original Debenture Holder and the cancelled certificate will be retained by the Transfer Secretaries.

- 15.2 The transferor of any Gold Bullion Debentures represented by a certificate shall be deemed to remain the owner thereof until the transferee is registered in the Register as the holder thereof.
- 15.3 All authorities to sign transfer deeds granted by Debenture Holders for purposes of transferring Gold Bullion Debentures which may be lodged, produced or exhibited with or to NewGold at any time at its registered office shall, as between NewGold and the grantor of such authority be taken and be deemed to continue to remain in full force and effect, and NewGold may allow same to be acted upon until such time as express notice in writing of the revocation of same shall have been given and lodged at the registered office of NewGold at which the original authority was lodged, produced or exhibited (as the case may be).
- 15.4 Even after the giving and lodging of such notice, NewGold shall be entitled to give effect to any instrument signed under the authority to sign and certified by any officer of NewGold as being an order before the giving and lodging of such notice.
- 15.5 Before any transfer is registered all relevant transfer taxes (if any) must have been paid and evidence of such payment must be furnished as the Transfer Secretaries reasonably require as to the identity and title of the transferor and the transferee.
- 15.6 No transfer will be registered while the Register is closed.
- 15.7 If a transfer is registered then the Transfer Form (if any) and cancelled certificate (if any) will be retained by the Transfer Secretaries.

16. REGISTER

- 16.1 The Register shall be kept at the offices of the Transfer Secretaries. The Register shall contain the name, address and bank account details of the registered Debenture Holders. The Register shall show the date of such issue and the date upon which the Debenture Holder became registered as such. The Register shall show the serial numbers of certificates issued. The Register shall be open for inspection during the normal business hours of the Transfer Secretaries to any Debenture Holder or any person authorised in writing by any Debenture Holder. The Transfer Secretaries shall not record any transfer other than on Business Days, nor while the Register is closed.
- 16.2 The Transfer Secretaries shall alter the Register in respect of any change of name, address or bank account number of any of the Debenture Holders of which it is notified in accordance with these Debenture Conditions.

17. LISTING AND TRADING

- 17.1 The JSE has granted a listing of the Gold Bullion Debentures on the "Traded Index Funds" sector of the JSE lists with effect from 2 November 2004.
- 17.2 The JSE's approval of the listing is not to be taken in any way as an indication of the merits of NewGold or the Exchange Traded Funds conducted by it. The JSE has not verified the accuracy and truth of the contents of the Transaction Documents and to the extent permitted by law, the JSE will not be liable for any claim of whatever kind.

18. NOTICES

- 18.1 For so long as the Gold Bullion Debentures are held in their entirety by STRATE, there may be substituted for publication as contemplated in Debenture Condition 18.2 the delivery of the relevant notice to STRATE, the settlement agents and the JSE for communication by them to the holders of Dematerialised Debentures.
- 18.2 Should the Gold Bullion Debentures cease to be held in their entirety by STRATE as envisaged in 18.1, all notices (including all demands or requests under these Debenture Conditions) to the Debenture Holders will be valid if –
 - 18.2.1 mailed by registered post or hand delivered to their addresses appearing in the Register or published in a leading English language daily newspaper of general circulation in the RSA; and
 - 18.2.2 for so long as any of the Gold Bullion Debentures are listed on the JSE, published in a daily newspaper of general circulation in Johannesburg, which newspapers are, respectively, expected to be The Business Day and The Star (or their respective successors).

Any such notice shall be deemed to have been given on the day of first publication or hand delivery or on the seventh day after the day on which it is mailed (as the case may be).

- 18.3 Notices (including all demands or requests under these Debenture Conditions) to be given by any Debenture Holder shall be in writing and given by delivering the notice, together with a certified copy of the relevant certificate, to NewGold at its registered office. For so long as all of the Gold Bullion Debentures are dematerialised, notice may be given by any holder of a Dematerialised Debenture to NewGold through the Debenture Holder's relevant settlement agent in accordance with the Applicable Procedures and in such manner as NewGold and the relevant settlement agent may approve for this purpose.

18.4 Any notice to NewGold shall be deemed to have been received by NewGold, on the second Business Day after being hand delivered to the registered office of NewGold or on the seventh day after the day on which it is mailed by registered post to the registered office of NewGold (as the case may be).

19. AMENDMENT OF CONDITIONS

No amendment to these Debenture Conditions shall be made unless –

19.1 the Debenture Holders have consented to such amendment by a Extraordinary Resolution to that effect; and

19.2 the JSE has consented thereto.

20. MEETINGS OF DEBENTURE HOLDERS

20.1 Convening of meetings

20.1.1 NewGold may at any time convene a meeting of Debenture Holders (a “meeting” or the “meeting”).

20.1.2 NewGold shall convene a meeting upon the requisition in writing of Debenture Holders holding Gold Bullion Debentures referencing at least one-tenth of the aggregate quantity of the Gold Bullion held by NewGold as at such point in time, upon and being given notice of the nature of the business for which the meeting is to be held.

20.1.3 All notices of meetings shall include details of the place, day and hour of the meeting and of the nature of the business to be transacted at the meeting.

20.1.4 All meetings of Debenture Holders shall be held in Johannesburg.

20.2 Requisition

20.2.1 A requisition notice referred to in Debenture Condition 20.1 shall state the nature of the business for which the meeting is to be held and shall be deposited at the office of the Manager.

20.2.2 The Manager shall notify NewGold of the deposit of a requisition notice forthwith.

20.2.3 A requisition notice may consist of several documents in like form, each signed by one or more requisitionists.

20.3 Convening of meetings by requisitionists

If NewGold does not proceed to cause a meeting to be held within thirty Business Days of the deposit of a requisition notice, requisitionists who together hold Gold Bullion Debentures referencing not less than 10% of the aggregate quantity of Gold Bullion held by NewGold as at such point in time, may themselves convene the meeting, but the meeting so convened shall be held within ninety Business Days from the date of such deposit and shall be convened as nearly as possible in the same manner as that in which meetings may be convened by NewGold. Notice of the meeting shall be required to be given to NewGold.

20.4 Notice of meeting

20.4.1 Unless Debenture Holders holding Gold Bullion Debentures referencing at least 90% of the aggregate quantity of Gold Bullion held by NewGold as at such point in time agree in writing to a shorter period, at least twenty-one days' written notice specifying the place, day and time of the meeting and the nature of the business for which the meeting is to be held shall be given by NewGold, to each Debenture Holder.

20.4.2 The accidental omission to give such notice to any Debenture Holder or the non-receipt of any such notice, shall not invalidate the proceedings at a meeting.

20.5 Quorum

20.5.1 A quorum at a meeting shall –

20.5.1.1 for the purposes of considering a resolution other than one requiring an Extraordinary Resolution, consist of Debenture Holders present in person or by Proxy and holding Gold Bullion Debentures referencing in aggregate not less than one-third of the aggregate quantity of Gold Bullion held by NewGold as at such point in time;

20.5.1.2 for the purposes of considering an Extraordinary Resolution, consist of Debenture Holders present in person or by Proxy and holding Gold Bullion Debentures referencing in aggregate not less than a clear majority of the aggregate quantity of Gold Bullion held by NewGold as at such point in time.

20.5.2 No business shall be transacted at a meeting of the Debenture Holders unless a quorum is present at the time when the meeting proceeds to business.

20.5.3 If, within fifteen minutes from the time appointed for the meeting, a quorum is not present, the meeting shall, if it was convened on the requisition of Debenture Holders, be dissolved. In every other case the meeting shall stand adjourned to the same day in the third week thereafter, at the same time and place, or if that day is not a Business Day, the next succeeding Business Day, in which event, notice of the adjourned meeting shall be sent to every Debenture Holder and shall state that, if a quorum (as referred to in Debenture Condition 20.5.1 is not present at the adjourned meeting, the Debenture Holders then present will form a quorum.

20.6 Chairperson

Any director of NewGold or his duly authorised representative shall preside as chairperson at a meeting. If no director of NewGold or his duly authorised representative is present within ten minutes of the time appointed for the holding of the meeting, the Debenture Holders then present shall choose one of their own number to preside as chairperson.

20.7 Adjournment

20.7.1 Subject to the provision of this Debenture Condition 20, the chairperson may, with the consent of, and shall on the direction of, the meeting, adjourn the meeting from time to time and from place to place.

20.7.2 No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

20.7.3 At least fourteen days' written notice of the place, day and time of an adjourned meeting shall be given by NewGold to each Debenture Holder and NewGold. In the case of a meeting adjourned in terms of Debenture Condition 20.5.3, the notice shall state that the Debenture Holders present in person or by Proxy at the adjourned meeting will constitute a quorum.

20.8 How questions are decided

20.8.1 At a meeting, a resolution put to the vote shall be decided on a show of hands unless, before or on the declaration of the result of the show of hands, a poll is demanded by the chairperson or by any one of the Debenture Holders present in person or by Proxy.

20.8.2 Unless a poll is demanded, a declaration by the chairperson that on a show of hands a resolution has been carried, or carried by a particular majority, or lost, shall be conclusive evidence of that fact, without proof of the number or proportion of the votes cast in favour of or against such resolution.

20.8.3 A poll demanded on the election of a chairperson or on the question of the adjournment of a meeting shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs and the result of such poll shall be deemed to be the resolution of the meeting.

20.8.4 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson shall not be entitled to a casting vote in addition to the vote, if any, to which he is entitled.

20.9 Votes

On a show of hands every Debenture Holder present in person shall have one vote. On a poll every Debenture Holder, present in person or by Proxy, shall have one vote for each Gold Bullion Debenture held by it. The joint holders of Gold Bullion Debentures shall have only one vote on a show of hands and only one vote in respect of the Gold Bullion Debentures of which they are the registered holder and the vote may be exercised only by the holder whose name appears first in the Register in the event that more than one of such joint holders is present at the meeting in person or by Proxy. The Debenture Holder in respect of Dematerialised Debentures shall vote at any such meeting on behalf of the holders of such Dematerialised Debentures in accordance with the instructions to STRATE (or its nominee) from the holders of Dematerialised Debentures conveyed through the settlement agents in accordance with the Applicable Procedures.

20.10 Proxies and Representatives

20.10.1 On a poll votes may be given either in person or by Proxy. A Proxy shall be authorised in writing under a Form of Proxy.

20.10.2 A person appointed to act as Proxy need not be a Debenture Holder.

20.10.3 The Proxy form shall be deposited at the registered office of NewGold or at the office where the Register is kept not less than twenty-four hours before the time appointed for holding the meeting or adjourned meeting at which the person named in such Proxy proposes to vote, failing which, the Proxy shall be invalid.

20.10.4 No Form of Proxy shall be valid after the expiration of six months from the date named in it as the date of its execution. A Form of Proxy shall be valid for any adjourned meeting, unless the contrary is stated thereon.

20.10.5 A Proxy shall have the right to demand or join in demanding a poll.

20.10.6 A vote given in accordance with the terms of a Proxy shall be valid, notwithstanding the previous death or incapacity of the principal or revocation of the Proxy or of the authority under which the Proxy was executed or the transfer of Gold Bullion Debentures in respect of which the Proxy was given, provided that no intimation in writing of such death, incapacity or revocation shall have been received by NewGold at the office of the Transfer Secretaries more than, and that the transfer has been given effect to less than, twelve hours before the commencement of the meeting or adjourned meeting at which the Proxy is to be used.

20.10.7 Any reference in these Debenture Conditions to a Debenture Holder present in person includes such a duly authorised Representative of a Debenture Holder.

20.11 Records

20.11.1 NewGold shall cause minutes of all resolutions and proceedings of meetings to be duly entered in books of NewGold.

20.11.2 Any such minutes as aforesaid, if purporting to be signed by the chairperson of the meeting at which such resolutions were passed or proceedings held or by the chairperson of the next succeeding meeting, shall be admissible in evidence without any further proof, and until the contrary is proved, a meeting of Debenture Holders in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened and all resolutions passed thereat, or proceedings held, to have been duly passed and held.

21. **GOVERNING LAW**

The Gold Bullion Debentures and all rights and obligations relating to the Gold Bullion Debentures are governed by, and shall be construed in accordance with, the laws of the RSA.

ANNEXURE B – FINANCIAL INFORMATION

REPORT OF THE INDEPENDENT AUDITORS

On the historical financial information regarding NewGold Issuer Limited

We have audited the historical financial information of NewGold Issuer Limited relating to the period ended 31 August 2004 set out in the report of historical financial information included in this circular.

Scope of the audit

We conducted our audit in accordance with the Statements of South African Auditing Standards. These statements require that we plan and perform the audit to obtain reasonable assurance that the historical financial information relating to the period ended 31 August 2004 is free from material misstatement.

Our audit included the following:

- examining, on a test basis, evidence supporting the amounts and disclosures of the abovementioned historical financial information. The evidence included that previously obtained by us relating to the audit of the financial statements underlying the historical financial information;
- assessing the accounting principles used and significant estimates made by management; and
- evaluating the overall historical financial information presentation.

We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion, the historical financial information of NewGold Issuer Limited relating to the period ended 31 August 2004, for the purposes of this, fairly presents, in all material respects, the financial position of the company as at 31 August 2004 and the operating income before taxation for the period then ended in accordance with South African Statements of Generally Accepted Accounting Practice and in the manner required by the Companies Act in South Africa and the JSE Securities Exchange South Africa Listings Requirements.

Yours faithfully

KPMG Inc.

Per J E O'Neill

Director

14 October 2004

HISTORICAL FINANCIAL INFORMATION OF NEWGOLD ISSUER LIMITED [25, 26, 29 and 30]

1. Introduction

The definitions and interpretations commencing on page 4 have been used in this report.

The historical financial information of NewGold Issuer Limited set out in this annexure presents the financial period ended 31 August 2004.

This report is the responsibility of the directors of NewGold Issuer Limited.

2. History and background to NewGold Issuer Limited [6(a) and 6(b)]

The company was incorporated on the 27 May 2004 for the sole purpose of issuing gold bullion debentures. The company does not have any subsidiaries.

3. Basis of preparation [25(2)]

The financial information of NewGold Issuer Limited presented herein has been extracted and compiled from the share register and bank account of NewGold Issuer Limited for the period ended 31 August 2004.

No comparative figures, neither a profit history has been provided due to the incorporation of the company only being on 27 May 2004.

KPMG Inc. acted as auditors for NewGold Issuer Limited for the period ended 31 August 2004 and reported without qualification on the financial information.

4. Paragraphs of Schedule 3 to the Act which are not applicable [50]

The following paragraphs of Schedule 3 to the Act are not applicable: 25(3), 26 and 27.

5. Financial information [6(e)]

5.1 Operating income statements [6(f), 25(1), 25(2) and 29]

The company has earned no income prior to the date of issue of this prospectus and is expected to earn no income prior to the date on which the Gold Bullion Debentures are listed on the JSE. No dividends have been declared or paid during the period.

5.2 Statement of assets [25(2)(b)]

The statements of assets of NewGold Issuer Limited at 31 August 2004 are set out below:

| | Note | As at 31 August 2004 Rand |
|---------------|------|---------------------------------|
| ASSETS | | |
| Cash | 5.4 | 100 |

5.3 Accounting policies

The statement of assets has been prepared on the historical cost basis, in accordance with South African Statements of Generally Accepted Accounting Practice.

5.4 Share capital [8(a)]

NewGold Issuer Limited has authorised share capital of R1 000 divided into 1 000 ordinary par value shares of R1,00 each, of which 100 ordinary par value shares of R1,00 each have been issued at par. All of the issued shares are beneficially owned by the NewGold Owner Trust. NewGold Issuer Limited does not have any shares of no par value, founder's, management or deferred shares.

5.5 Post-balance sheet events [31]

The directors of the NewGold Issuer Limited are not aware of any material changes having taken place in the financial position between 31 August 2004 and the date of this report.

5.6 Capital commitments and contingent liabilities

There are no capital commitments or contingent liabilities other than discussed in this report.

Registrar of Banks
South African Reserve Bank
PO Box 8432
Pretoria
0001

Report of the independent auditors of NewGold Issuer Limited to the Registrar of Banks on compliance of the proposed issue by Newgold Issuer Limited of commercial paper with the relevant provisions of the Commercial Paper Regulations (Government Notice 2172, Government Gazette 16167 of 14 December 1994) issued by the Registrar of Banks, as required by paragraph 5 (j) of the said notice

1. Introduction

As required by paragraph 5(j) of the Commercial Paper Regulations (Government Notice 2172, Government Gazette 16167 of 14 December 1994) issued by the Registrar of Banks (the “**Commercial Paper Regulations**”), we have reviewed whether or not the issue of commercial paper by Newgold Issuer Limited as documented in the placing document/prospectus dated {insert date}, will be compliant with the relevant provisions of the Commercial Paper Regulations.

Compliance with the relevant provisions of the Commercial Paper Regulations is the responsibility of the Issuer, Newgold Issuer Limited. We report on such compliance.

2. Scope

Our review was generally limited to an examination of the Prospectus dated 27 October 2004 in regard to compliance with the provisions of the Commercial Paper Regulations.

It should be recognised that our review did not constitute an audit and may not necessarily have revealed all material facts.

3. Review opinion

Our review revealed nothing which caused us to believe that NewGold Issuer Limited will not be in compliance with the relevant provisions of the Commercial Paper Regulations with regard to the proposed issue of commercial paper as disclosed in the placing document/prospectus.

Our report is presented solely for the purposes set forth in the first paragraph of this report and for the information of the Registrar, and is not to be used for any other purposes or to be distributed to any other parties.

KPMG Inc
Private Bag 9
Parkview
2122

14 October 2004

FINANCIAL INFORMATION
for the period ended 31 August 2004

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Directors' approval of the financial information

The financial information for the period ended 31 August 2004 set out on page 63 was approved by the board of directors on 14 October 2004 and is signed on its behalf by:

Director

REPORT OF THE INDEPENDENT AUDITORS

To the member of NewGold Issuer Limited

We have audited the financial information of NewGold Issuer Limited set out on page 63 for the period ended 31 August 2004. This financial information is the responsibility of the company's directors. Our responsibility is to express an opinion on this financial information based on our audit.

Scope

We conducted our audit in accordance with Statements of South African Auditing Standards. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial information is free of material misstatement. An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures;
- assessing the accounting principles used and significant estimates made by management; and
- evaluating the overall financial information presentation.

We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion, the financial information fairly presents, in all material respects, the financial position of the company at 31 August 2004 for the period then ended in accordance with South African Statements of Generally Accepted Accounting Practice, and in the manner required by the Companies Act in South Africa.

KPMG Inc.

*Registered Accountants and Auditors
Chartered Accountants (SA)*

Per J E O'Neill

Director

14 October 2004

Balance sheet
at 31 August 2004

| | Note | 2004 R |
|-------------------------------------|------|------------|
| Assets | | |
| Current assets | | |
| Cash and short-term funds | | 100 |
| Total assets | | 100 |
| Equity and liabilities | | |
| Share capital and reserves | | |
| Ordinary share capital | 2 | 100 |
| Total equity and liabilities | | 100 |

Statement of changes in equity
for the period ended 31 August 2004

| | Share capital R | Retained income R | Total R |
|---|-----------------------|-------------------------|------------|
| Shares issued during the period – 27 May 2004 | 100 | – | 100 |
| Net income for period | – | – | – |
| Balance at 31 August 2004 | 100 | – | 100 |

Notes to the financial information
for the period ended 31 August 2004

1. ACCOUNTING POLICIES

The financial information incorporate the principle accounting policies set out below:

1.1 Basis of preparation

The financial information is prepared on a historic cost basis.

1.2 Statement of compliance

The financial information is prepared in accordance with South African Statements of Generally Accepted Accounting Practice, and in the manner required by the South African Companies Act.

**2004
R**

2. SHARE CAPITAL

Authorised

| | |
|-------------------------------------|-------|
| 1 000 ordinary shares of R1,00 each | 1 000 |
|-------------------------------------|-------|

Issued

| | |
|-----------------------------------|-----|
| 100 ordinary shares of R1,00 each | 100 |
|-----------------------------------|-----|

On 27 May 2004 100 ordinary shares were issued at a value of R1,00 each.

3. INCOME STATEMENT

No income statement is presented as the company did not incur any expenses or received income for the period under review.

ANNEXURE C1 – APPLICATION FORM: GOLD BULLION DEBENTURES – INITIAL OFFER (CASH SUBSCRIPTION)

- Application for Gold Bullion Debentures under the Initial Offer.
- **Please read the Prospectus.**
- Terms not defined in this Application Form shall have the same meanings attributed to them in the Prospectus.
- Investors wishing to subscribe for Gold Bullion Debentures in specie should complete the Application Form headed “Application Form: Gold Bullion Debentures – Initial Offer (*In specie* subscription)”.
- Investors wishing to subscribe for Gold Bullion Debentures after 29 October 2004 should complete the Application Form headed “Application Form: Gold Bullion Debentures – Subsequent Issue (*In specie* subscription)”.
- If you have not appointed a broker or CSDP, then your application will not be valid. If you wish to appoint the Participating Broker then kindly contact the Participating Broker on (011) 647-0817.
- Applications may be rejected for non-compliance with the Financial Intelligence Centre Act, 38 of 2001, non-compliance with the time periods stipulated in the Prospectus or in the event of over subscription.

1. **This Application Form, when completed, must be delivered to one of the parties mentioned below, marked “Gold Bullion Debentures – Initial Offer (cash subscription)”. If investors are in any doubt as to which procedure to follow, they must contact the Information Agent at Unit 6 Woodmead Estate, 1 Woodmead Drive, Woodmead (Tel: 0860-122-122).**
 - 1.1 A Controlled Client should hand deliver this Application Form to his/her broker or, at the risk of the Controlled Client, post the Application Form to the broker, who will lodge the application with its nominated CSDP.
 - 1.2 A Non-controlled Client should hand deliver this Application Form to his/her nominated CSDP, who will lodge the application with the Issuer’s CSDP, or, at the risk of the Controlled Client, post the Application Form to his/her CSDP.
 - 1.3 Where the Applicant does not have a nominated CSDP, it may hand deliver its application to the Participating Broker (Park Ridge Office Park, 65 Empire Road, Parktown) or post it, at the risk of the Applicant, to the Participating Broker (PO Box 61320, Marshalltown 2107). **Additional to the subscription application, the Applicant must complete the form headed “Safe Custody Agreement” which is available from the Participating Broker on request. The Applicant will then be treated as a Controlled Client at the Participating Broker and a CSDP will be nominated by the Participating Broker.**
2. Your subscription must be for an amount equal to or exceeding **ZAR1 000**.
3. Investors must make arrangements for the payment of the subscription amount with their brokers, CSDP’s or the Participating Broker (as the case may be).
4. Please note that the Creation Fee and costs will be deducted from the subscription amount paid by you (as contemplated in the Prospectus) and, accordingly, only the net amount will be invested in Gold Bullion Debentures.
5. This Application Form must be received by the person referred to in paragraph 1 by no later than **12:00 on 29 October 2004**. **Late applications will not be accepted.**
6. Each application must be in one name only and show only one address.

To the Directors

I/We, the undersigned hereby:

- warrant that I/we have full legal capacity to contract;
- apply for Gold Bullion Debentures under the Initial Offer;
- acknowledge that the Creation Fee and other costs will be deducted from the subscription amount paid by me, and accordingly, only the net amount will be invested in Gold Bullion Debentures.

I/We hereby give _____ (Name of CSDP or broker) permission to debit my account, as per the details below for the amount due in terms of this application.

Date 2004 Telephone number () _____

Signature (state if company) _____

Assisted by (where applicable) _____

| | |
|---|----------------------------------|
| Surname of individual or Name of corporate body | Mr Mrs Miss Other title |
| First names in full (if an individual) | |
| I.D. number (if a natural person) or company registration number | |
| Postal address (preferably PO Box address) Gold Bullion Debentures statements will be sent to this address. Contrary instructions will not be accepted | |
| Banking details | |
| Bank | |
| Branch | |
| Branch code | |
| Account number | |
| Type of account (current/savings) | |
| Total amount to cover investments in Gold Bullion Debentures, Creation Fee and costs | R |

1. Applicants should consult their stockbrokers, bankers or financial or other advisers if in doubt as to the correct completion of this Application Form. Alternatively Applicants can contact the Participating Broker directly at Parkridge Office Park, 65 Empire Road, Parktown (Tel: (011) 647-0817) or the **Information Agent at Unit 6, Woodmead Estate, 1 Woodmead Drive, Woodmead (Tel: 0860-122-122)**.
2. Applications are irrevocable and may not be withdrawn.
3. The following summary is intended as a guide and is therefore not comprehensive. If you are in any doubt in regard hereto, please consult your professional advisers.
 - 3.1 Blocked Rand may be used by former residents and non-residents of the Common Monetary Area for payment in terms of this offer and reference should be made to the relevant portion of the Prospectus dealing with South African Exchange Control Regulations.
 - 3.2 All payments in respect of subscription for Gold Bullion Debentures by non-residents using Blocked Rand must be made through a South African authorised dealer in foreign exchange.
 - 3.3 Gold Bullion Debentures purchased with Blocked Rand will be recorded as being held by a “non-resident” in accordance with South African Exchange Control Regulations.
 - 3.4 If applicable, money which is refundable in respect of unsuccessful applications or partly successful applications, as the case may be, for Gold Bullion Debentures in terms of this application, emanating from blocked accounts, will be returned, in terms of the applicable Exchange Control Regulations, to the authorised dealer administering such blocked accounts for the credit of such applicant’s blocked account.
4. **All alterations on this Application Form (other than the deletion of alternatives) must be authenticated by a full signature.**
5. The allotment and issue of Gold Bullion Debentures is conditional upon a listing of the Gold Bullion Debentures on the JSE.
6. All money received for Gold Bullion Debentures from applicants will be held by a CSDP pending the issue of the Letters of Allocation and the fulfilment of the condition set out in paragraph 5 above. If this condition is not fulfilled, the money will be refunded by cheque or electronic funds transfer within 7 days of the non-fulfilment of the condition set out in paragraph 5 and, if made by cheque, will be posted by ordinary mail, at the risk of the relevant applicant, without payment of interest.
7. Applications in the name of an unassisted minor, a deceased estate, a partnership, a trust or any person who requires legal assistance in entering into contracts will not be accepted.
8. No documentary evidence of capacity need accompany this application, but NewGold reserves the right to call upon any Applicant to submit such evidence for noting and to return the evidence at the Applicant’s risk.

ANNEXURE C2 – APPLICATION FORM: GOLD BULLION DEBENTURES – INITIAL OFFER (IN SPECIE SUBSCRIPTION)

- Application for Gold Bullion Debentures under the Initial Offer.
- **Please read the Prospectus.**
- Terms not defined in this Application Form shall have the same meanings attributed to them in the Prospectus.
- Investors wishing to subscribe for Gold Bullion Debentures in cash should complete the Application Form headed “Application Form: Gold Bullion Debentures – Initial Offer (Cash Subscription)”
- Investors wishing to subscribe for Gold Bullion Debentures after 29 October 2004 should complete the Application Form headed “Application Form: Gold Bullion Debentures – Subsequent Issue (*In specie* subscription)”.
- Only Qualifying Applicants should complete this Application Form and subscribe *in specie*.
- Evidence that an Applicant holds all necessary licences, consents and approvals to be a Qualifying Applicant will be required to accompany this Application Form.
- If you have not appointed a broker or CSDP, then your application will not be valid. If you wish to appoint the Participating Broker then kindly contact the Participating Broker on (011) 647-0817.
- Applications may be rejected for non-compliance with the Financial Intelligence Centre Act, 38 of 2001, non-compliance with the time periods stipulated in the Prospectus or in the event of over subscription.

1. **This Application Form, when completed, must be delivered to one of the parties mentioned below, marked “Gold Bullion Debentures – Initial Offer (In Specie Subscriptions)”. If investors are in any doubt as to which procedure to follow, they must contact the Information Agent at Unit 6 Woodmead Estate, 1 Woodmead Drive, Woodmead (Tel: 0860-122-122).**
 - 1.1 A Controlled Client should hand deliver this Application Form to his/her broker or, at the risk of the Controlled Client, post the Application Form to the broker, who will lodge the application with its nominated CSDP.
 - 1.2 A Non-controlled Client should hand deliver this Application Form to his/her nominated CSDP, who will lodge the application with NewGold’s CSDP, or, at the risk of the Controlled Client, post the Application Form to his/her CSDP.
 - 1.3 Where the Applicant does not have a nominated CSDP, it should hand deliver its application to the Participating Broker (Park Ridge Office Park, 65 Empire Road, Parktown) or post it, at the risk of the Applicant, to the Participating Broker, (PO Box 61320, Marshalltown 2107). **Additional to the subscription application, the Applicant must complete the form headed “Safe Custody Agreement” which is available from the Participating Broker on request. The Applicant will then be treated as a Controlled Client at the Participating Broker and a CSDP will be nominated by the Participating Broker.**
2. Your subscription must be for at least a Block of Gold Bullion Debentures.
3. Investors must deposit with the Custodian a sufficient quantity of Gold Bullion in order to subscribe for a Block of Gold Bullion Debentures and arrange with the Custodian to confirm to NewGold and for NewGold to confirm to the Applicant’s brokers, CSDP or the Participating Broker (as the case may be) that such Gold Bullion has been deposited together with irrevocable instructions for same to be transferred to the Allocated Bullion Account of NewGold.
4. Please note that the Creation Fee and costs must be paid in cash to your broker, CSDP or Participating Broker (as the case may be) and accordingly, only the net amount or value will be invested in Gold Bullion Debentures.
5. Certified copies of all licences, consents and approvals evidencing the fact that the Applicant is a Qualifying Applicant must accompany this Application Form.
6. This Application Form must be received by the person referred to in paragraph 1 by no later than **12:00 on 29 October 2004. Late applications will not be accepted.**
7. Each application must be in one name only and show only one address.

To the Directors

I/We, the undersigned hereby:

- warrant that I/we have full legal capacity to contract;
- apply for Gold Bullion Debentures under the Initial Offer;
- acknowledge that the Creation Fee and other costs must be paid by me, and accordingly, only the net amount or value will be invested in Gold Bullion Debentures.

I/We hereby give _____(Name of CSDP or broker) permission to debit my account, as per the details below for the amount due in terms of this application.

Date

2004

Telephone number ()

Signature (state if company)

Assisted by (where applicable)

| | |
|---|----------------------------------|
| Surname of individual or Name of corporate body | Mr Mrs Miss Other title |
| First names in full (if an individual) | |
| I.D. number (if a natural person) or company registration number | |
| Postal address (preferably PO Box address) Gold Bullion Debentures statements will be sent to this address. Contrary instructions will not be accepted | |
| Banking details | |
| Bank | |
| Branch | |
| Branch code | |
| Account number | |
| Type of account (current/savings) | |
| Total amount to cover investments in Gold Bullion Debentures, Creation Fee and costs | R |

1. **Applicants should consult their stockbrokers, bankers or financial or other advisers if in doubt as to the correct completion of this Application Form. Alternatively Applicants can contact the Participating Broker directly at Parkridge Office Park, 65 Empire Road, Parktown (Tel: (011) 647-0817) or the Information Agent, at Unit 6 Woodmead Estate, 1 Woodmead Drive, Woodmead (Tel: 0860-122-122).**
2. Applications are irrevocable and may not be withdrawn.
3. The following summary is intended as a guide and is therefore not comprehensive. If you are in any doubt in regard hereto, please consult your professional advisers.
 - 3.1 Blocked Assets may be used by former residents and non-residents of the Common Monetary Area for payment in terms of this offer and reference should be made to the relevant portion of the Prospectus dealing with South African Exchange Control Regulations.
 - 3.2 All payments in respect of subscription for Gold Bullion Debentures by non-residents using Blocked Assets must be made through a South African authorised dealer in foreign exchange.
 - 3.3 Gold Bullion Debentures purchased with Blocked Rand will be recorded as being held by a “non-resident” in accordance with South African Exchange Control Regulations.
 - 3.4 If applicable, money which is refundable in respect of unsuccessful applications or partly successful applications, as the case may be, for Gold Bullion Debentures in terms of this application, emanating from blocked accounts, will be returned, in terms of the applicable Exchange Control Regulations, to the authorised dealer administering such blocked accounts for the credit of such applicant’s blocked account.
4. **All alterations on this Application Form (other than the deletion of alternatives) must be authenticated by a full signature.**
5. The allotment and issue of Gold Bullion Debentures is conditional upon a listing of the Gold Bullion Debentures on the JSE.
6. All money and/or Gold Bullion received for Gold Bullion Debentures from Applicants will be held by the Custodian or CSDP (as applicable) pending the issue of the Gold Bullion Debentures and the fulfilment of the condition set out in paragraph 5 above. If this condition is not fulfilled, the money and/or Gold Bullion will be refunded by cheque or electronic funds transfer (in the case of money) or an instruction to the Custodian to transfer the Gold Bullion back to the Applicant within seven days of the non-fulfilment of the condition set out in paragraph 5 and, in the case of money payment made by cheque, will be posted by ordinary mail, at the risk of the relevant applicant, without payment of interest.
7. Applications in the name of an unassisted minor, a deceased estate, a partnership, a trust or any person who requires legal assistance in entering into contracts will not be accepted.
8. Save in respect of certified copies of licences, consents and approvals evidencing the fact that the Applicant is a Qualifying Applicant, no documentary evidence of capacity need accompany this application, but NewGold reserves the right to call upon any Applicant to submit such evidence for noting and to return the evidence at the Applicant’s risk.

ANNEXURE C3 – APPLICATION FORM: GOLD BULLION DEBENTURES – SUBSEQUENT ISSUE (IN SPECIE SUBSCRIPTION)

- Application for Gold Bullion Debentures under a Subsequent Issue.
- **Please read the Prospectus.**
- Terms not defined in this Application Form shall have the same meanings attributed to them in the Prospectus.
- Investors wishing to subscribe for Gold Bullion Debentures in cash as part of the Initial Offer should complete an Application Form headed “Application Form: Gold Bullion Debentures – Initial Offer (cash subscription)” or “Application Form: Gold Bullion Debentures – Initial Offer (In Specie Subscription)”.
- Only Qualifying Applicants should complete this Application Form and subscribe in specie.
- Evidence that an Applicant holds all necessary licences, consents and approvals to be a Qualifying Applicant will be required to accompany this Application Form.
- If you have not appointed a broker or CSDP, then your application will not be valid. If you wish to appoint the Participating Broker then kindly contact the Participating Broker on (011) 647-0817.
- Applications may be rejected for non-compliance with the Financial Intelligence Centre Act, 38 of 2001, non-compliance with the time periods stipulated in the Prospectus or in the event of over subscription.

1. **This form, when completed, must be delivered to one of the parties mentioned below, marked “Gold Bullion Debentures Subsequent Issue”. If investors are in any doubt as to which procedure to follow, they must contact the Information Agent at Unit 6 Woodmead Estate, 1 Woodmead Drive, Woodmead (Tel: 0860-122-122).**
 - 1.1 A Controlled Client should hand deliver this Application Form to his/her broker, who will lodge the application with its nominated CSDP.
 - 1.2 A Non-controlled Client should hand deliver this Application Form to his/her nominated CSDP, who will lodge the application with the Issuer’s CSDP.
 - 1.3 Where the applicant does not have a nominated CSDP, it should hand deliver its application to the Participating Broker (Park Ridge Office Park, 65 Empire Road, Parktown) or post it, at the risk of the Applicant, to the Participating Broker, (PO Box 61320, Marshalltown 2107). **Additional to the subscription application, the applicant must complete the form headed “Safe Custody Agreement” which is available from the Participating Broker on request. The Applicant will then be treated as a Controlled Client at the Participating Broker and the CSDP will be nominated by the Participating Broker.**
2. Your subscription must be for at least a Block of Gold Bullion Debentures.
3. Investors must deposit with the Custodian a sufficient quantity of Gold Bullion in order to subscribe for a Block of Gold Bullion Debentures and arrange with the Custodian to confirm to NewGold and for NewGold to confirm to the Applicant’s brokers, CSDP or the Participating Broker (as the case may be) that such Gold Bullion has been deposited together with irrevocable instructions for same to be transferred to the Allocated Bullion Account of NewGold.
4. Please note that the Creation Fee and costs must be paid in cash to your broker, CSDP or participating broker (as the case may be) and, accordingly, only the net amount or value will be invested in Gold Bullion Debentures.
5. Certified copies of all licences, consents and approvals evidencing the fact that the Applicant is a Qualifying Applicant must accompany this Application Form.
6. Each application must be in one name only and show only one address.

To the Directors

I/We, the undersigned hereby:

- warrant that I/we have full legal capacity to contract;
- apply for Gold Bullion Debentures;
- acknowledge that the Creation Fee and costs must be paid by me, and accordingly, only the net amount or value will be invested in Gold Bullion Debentures.

I/We hereby give _____ (Name of CSDP or Broker) permission to debit my account, as per the details below for the amount due in terms of this application.

Date

2004

Telephone number ()

Signature (state if company)

Assisted by (where applicable)

| | |
|---|----------------------------------|
| Surname of individual or Name of corporate body | Mr Mrs Miss Other title |
| First names in full (if an individual) | |
| I.D. number (if a natural person) or company registration number | |
| Postal address (preferably PO Box address) Gold Bullion Debentures statements will be sent to this address. Contrary instructions will not be accepted | |
| Banking details | |
| Bank | |
| Branch | |
| Branch code | |
| Account number | |
| Type of account (current/savings) | |
| Total amount to cover investments in Gold Bullion Debentures, Creation Fee and costs | R |

1. Applicants should consult their stockbrokers, bankers or financial or other advisers if in doubt as to the correct completion of this Application Form. Alternatively Applicants can contact the Participating Broker directly at Parkridge Office Park, 65 Empire Road (Tel: (011) 647-0817) or the **Information Agent, Unit 6 Woodmead Estate, 1 Woodmead Drive, Woodmead (Tel: 0860-122-122)**.
2. Applications are irrevocable and may not be withdrawn.
3. The following summary is intended as a guide and is therefore not comprehensive. If you are in any doubt in regard hereto, please consult your professional advisers.
 - 3.1 Blocked Assets may be used by former residents and non-residents of the Common Monetary Area for payment in terms of this offer and reference should be made to the relevant portion of the Prospectus dealing with South African Exchange Control Regulations.
 - 3.2 All payments in respect of subscription for Gold Bullion Debentures by non-residents using Blocked Assets must be made through a South African authorised dealer in foreign exchange.
 - 3.3 If applicable, money which is refundable in respect of unsuccessful applications or partly successful applications, as the case may be, for Gold Bullion Debentures in terms of this application, emanating from blocked accounts, will be returned, in terms of the applicable Exchange Control Regulations, to the authorised dealer administering such blocked accounts for the credit of such applicant's blocked account.
4. **All alterations on this Application Form (other than the deletion of alternatives) must be authenticated by a full signature.**
5. The allotment and issue of Gold Bullion Debentures is conditional upon a listing of the Gold Bullion Debentures on the JSE.
6. All money and/or Gold Bullion received for Gold Bullion Debentures from Applicants will be held by the Custodian or CSDP (as applicable) pending the issue of the Gold Bullion Debentures and the fulfilment of the condition set out in paragraph 5 above. If this condition is not fulfilled, the money and/or Gold Bullion will be returned by cheque or electronic funds transfer (in the case of money) or an instruction to the Custodian to transfer the Gold Bullion back to the Applicant, within seven days of the non-fulfilment of the condition set out in paragraph 5 and, in the case of money payment made by cheque, will be posted by ordinary mail, at the risk of the relevant applicant, without payment of interest.
7. Applications in the name of an unassisted minor, a deceased estate, a partnership, a trust or any person who requires legal assistance in entering into contracts will not be accepted.
8. Save in respect of certified copies of licences, consents and approvals evidencing the fact that the Applicant is a Qualifying Applicant, no documentary evidence of capacity need accompany this application, but NewGold reserves the right to call upon any Applicant to submit such evidence for noting and to return the evidence at the Applicant's risk.



NewGold

NEWGOLD ISSUER LIMITED

(Registration number 2004/014119/06)

("NewGold")

ANNEXURE D – GOLD BULLION DEBENTURES – REDEMPTION NOTICE

Please read the Prospectus.

Terms not defined in this Redemption Notice shall have the same meanings attributed to them in the Prospectus.

Please refer to the instructions below before completing this Redemption Notice.

1. **This form should be properly completed and returned, marked “Gold Bullion Debentures – Redemption Notice”, to one of the parties mentioned below –**
 - 1.1 a Controlled Client should hand deliver this Redemption Notice to his/her broker or, at the risk of the Controlled Client, post it to the broker, who will lodge the application with its nominated CSDP;
 - 1.2 a Non-controlled Client should hand deliver his/her Redemption Notice to his/her nominated CSDP or, at the risk of the Non-controlled Client, post the application form to his/her CSDP.
2. Part B must be completed by emigrants from the Republic of South Africa.
3. A separate form is required for each Debenture Holder.
4. If this Redemption Notice is signed on behalf of a company, pension or provident fund, it must be accompanied by a certified copy of the resolution authorising the signatories.
5. A minor must be assisted by his/her parent or guardian unless the relevant documents establishing his/her legal capacity are produced or have been registered by the Debenture Holder’s CSDP.
6. If a Debenture Holder has been widowed or divorced subsequent to acquiring the shares, documentary evidence of such status must be produced unless such evidence has already been registered by the Debenture Holder’s CSDP.
7. Where the Gold Bullion Debentures are held jointly, this Redemption Notice must be signed by all joint Debenture Holders.
8. If this Redemption Notice is signed under a power of attorney, such power must be produced unless it has already been registered by the Debenture Holder’s CSDP or the documents bear the stamp of a broker.
9. If the Debenture Holder is a deceased estate, this Redemption Notice must be accompanied by the letters of executorship, unless such document has already been lodged with the Debenture Holder’s CSDP or the document lodged bears the stamp of a broker.
10. Persons who are emigrants from the Common Monetary Area should nominate the authorised dealer in foreign exchange in the Republic of South Africa which has control of their blocked assets in Part B of this form. Failing such nomination, the proceeds due to such Debenture Holder in accordance with the provisions of the Prospectus will be held by the Debenture Holder’s CSDP, pending instructions from the Debenture Holder concerned.

To:

CSDP/Broker details

Part A – To be completed by all Debenture Holders wishing to redeem Gold Bullion Debentures.

I/We, the undersigned, hereby instruct you to redeem of the Gold Bullion Debentures comprising Blocks held by me/us with effect from (“Delivery Date”).

I do/do not wish, simultaneously with the redemption of the Gold Bullion Debentures held by me referred to above, wish to exercise the Gold Option.* In respect of the Gold Option to be exercised by me/us we refer you to the Option Notice attached to this Redemption Notice as Schedule 1.**

Yours faithfully

Signature of Debenture Holder

Assisted by me (if applicable)

Date

Surname

First names (in full)

Title (Mr, Mrs, Miss, Ms, etc.)

Postal address (preferably PO Box address) to which certificate should be sent, if other than registered address

Postal code

Telephone number ()

Bank

Branch

Account No.

Branch code

Type of account (current/savings)

* **Delete as applicable.**

** **The Option Notice is only to be completed in the event of an exercise of the Gold Option.**

Section B – To be completed by all emigrants.

I/We surrender and enclose the undermentioned documents of title:

| |
|-----------------------------|
| Surname |
| First names (in full) |
| Title (Mr, Mrs, Miss, etc.) |

Documents of title

| Statement number | Number of shares covered by each certificate statement |
|------------------|--|
| | |
| | |
| Total | |

| | |
|--|---|
| Nominated authorised dealer in the case of a holder who is an emigrant from the Common Monetary Area | |
| Name of dealer | Account number |
| Address | |
| Signature | Stamp and address of agent lodging this form (if any) |
| Date | |
| Assisted by me (if applicable) (State full name and capacity) | |

SCHEDULE 1 – OPTION NOTICE*

***This Option Notice is only to be completed in the event of the exercise of a Gold Option.**

I/We the undersigned, hereby exercise a Gold Option in respect of Gold Bullion Debentures held by me in accordance with the provisions of condition 8 of the Debenture Conditions.

Please credit my Nominated Bullion Account (as described below) with the Sale Bullion to be delivered to me pursuant to the exercise of this Gold Option as aforesaid.

I/We by my/our signature/s hereto warrant, undertake and agree that:

- (a) upon the exercise by me/us of this Gold Option, a Gold Bullion Sale Agreement shall be deemed to have been entered into between myself/ourselves and NewGold on the terms and conditions set out in the Debenture Conditions;
- (b) I/We are Qualifying Debenture Holders and accordingly enclose herewith certified true copies of all relevant licences, consents, exemptions and the like evidencing my status as a Qualifying Debenture Holder as aforesaid.

Yours faithfully

Signature of Debenture Holder/s

Assisted by me (if applicable)

Date

Surname

First names (in full)

Title (Mr, Mrs, Miss, Ms, etc.)

Postal address (preferably PO Box address) to which certificate should be sent, if other than registered address

Postal code

Telephone number ()

Bank

Branch

Account No.

Branch code

Type of account (current/savings)
