

# ANNEXURE A1

## THIS CIRCULAR IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION

The Definitions and Interpretations commencing on page 232 of this Circular apply throughout including, where required, on this cover page.

### Action required

1. This entire Circular is important and should be read with particular attention to the section entitled "Action required by Shareholders" commencing on page 230.
2. If you are in any doubt as to what action to take as regards this Circular, please consult your Broker, CSDP, banker, accountant, or other financial advisor as soon as possible.
3. If you have disposed of all of your Shares, please forward this Circular to the purchaser of such Shares or to the Broker, CSDP, banker or other agent through whom the disposal was effected.
4. Shareholders who have already Dematerialised their Shares other than with Own Name Registration and who wish to attend and/or be represented at the Annual General Meeting, must timeously request their CSDP or Broker to provide them with the necessary letter of representation to enable them to attend and/or be represented at the Annual General Meeting or must instruct their CSDP or Broker to vote on their behalf in terms of their respective Custody Agreements.

Alviva does not accept responsibility, and will not be held liable, for any action of, or omission by, any CSDP or Broker including, without limitation, any failure on the part of the CSDP or Broker of any Shareholder to notify such Shareholder of the Annual General Meeting, notice of which Annual General Meeting is contained in and forms part of this Circular.



### Alviva Holdings Limited

(Incorporated in the Republic of South Africa)

Registration number 1986/000334/06

Share Code: AVV • ISIN: ZAE000227484

("Alviva" or "the Company")

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## CIRCULAR TO SHAREHOLDERS

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### Regarding:

Specific repurchase of treasury shares, referred to as Tranche 2 Shares, by Alviva from Alviva Treasury Services, to be implemented in terms of the Listings Requirements and section 48 (8) (b), 114 and 115 of the Companies Act; and subsequent delisting of the Tranche 2 Shares from the JSE and cancellation thereof,

### and incorporating

- ▶ a report prepared by the Independent Expert in terms of section 114(3) of the Companies Act;
- ▶ a copy of sections 115 and 164 of the Companies Act;
- ▶ a notice convening the Annual General Meeting; and
- ▶ a form of proxy for use by Certificated Shareholders and "own-name" Dematerialised Shareholders only.

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### Sponsor

The logo for Deloitte, consisting of the word "Deloitte" in a bold, sans-serif font with a green dot above the letter 'e'.

### Legal Advisor

The logo for Tugendhaft Wapnick Banchetti and Partners, featuring the stylized letters "TWB" above the full name "TUGENDHAFT WAPNICK BANCHETTI AND PARTNERS" in a smaller font.

### Independent Expert

The logo for St John Capital, featuring a circular emblem with a cross and the text "ST JOHN CAPITAL" to its right.

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Date of issue: Friday, 28 September 2018

This Circular is only available in English. Copies may be obtained from the registered offices of Alviva whose addresses are set out in the "Corporate Information and Advisors" section of this Circular, during normal business hours from Friday, 28 September 2018 up to and including Wednesday, 21 November 2018. This Circular will also be available on the Alviva website <https://alvivaholdings.com>.

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## CORPORATE INFORMATION AND ADVISORS

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### ALVIVA HOLDINGS LIMITED

Date of incorporation: 31 January 1986

Place of incorporation: South Africa

#### **Company Secretary and Registered Offices of Alviva Holdings Limited**

Registration number 1986/000334/06)

Ms SL Grobler  
The Summit,  
269 16th Road, Randjespark,  
Midrand, Gauteng, 1685  
(PO Box 483, Halfway House, 1685)

#### **Transfer Secretaries**

Computershare Investor Services Proprietary Limited  
(Registration number 2004/003647/07)

Rosebank Towers,  
15 Biermann Avenue,  
Rosebank  
2196  
(PO Box 61051, Marshalltown, 2107)

#### **Sponsor to Alviva**

Deloitte & Touche Sponsor Services Proprietary Limited  
(Registration number 1996/000034/07)

Deloitte Place  
The Woodlands  
20 Woodlands Drive  
Woodmead, 2196  
(Private Bag X6, Gallo Manor, 2052)

#### **Independent Expert**

St John Capital Proprietary Limited  
(Registration number 2013/099150/07)

Fullard-Mayer-Morrison Office Park  
4 Morris Street West  
Rivonia, Sandton, 2196  
(PO Box 784638, Sandton, 2146)

#### **Legal Advisor to Alviva**

Tugendhaft Wapnick Banchetti and Partners  
(Firm number 8704)

20th Floor, Sandton City Office Tower  
5th Street  
Sandown, 2196  
(PO Box 786728, Sandton, 2146)

## TABLE OF CONTENTS

	Page
Corporate information	228
Action required by Alviva Shareholders	230
Important dates and times	231
Definitions and interpretations	232
<b>Circular to Alviva Shareholders</b>	<b>235</b>
1. Introduction	235
2. Salient details of the Specific Repurchase Tranche 2	235
3. Rationale for the Specific Repurchase	236
4. Shareholder Approval	236
5. Conditions precedent	237
6. The Company's authorised and issued share capital	237
7. Supplementary information relating to the Company	238
8. Material changes	238
9. Directors' responsibility statement	238
10. Annual General Meeting	238
11. Experts' Consents	239
12. Expenses	240
13. Arrangements in relation to the Specific Repurchase Tranche 2	240
14. Opinions and recommendations	240
15. Solvency and liquidity test	240
16. TRP dispensation	241
17. Documents available for inspection	241
18. Incorporation by reference	241
Annexure 1 – Opinion of the Independent Expert	242
Annexure 2 – Section 115: Required approval for transactions contemplated in Chapter 5 of the Companies Act	246
Annexure 3 – Section 164: Dissenting Shareholders' Appraisal Rights	248
<b>Notice convening the Annual General Meeting</b>	<b>212</b>
<b>Form of proxy</b>	<i>Attached</i>

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## ACTION REQUIRED BY SHAREHOLDERS

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The definitions and interpretations commencing on page 232 of this Circular apply to this section.

**Shareholders must please take careful note of the following provisions regarding actions to be taken:**

The Annual General Meeting will be held at the Company's registered office, The Summit, 269 Sixteenth Road, Randjespark, Midrand at 14:00, on Wednesday, 21 November 2018 to consider and, if deemed fit, to pass the special resolution and associated ordinary resolutions to enable Alviva to proceed with the Specific Repurchase Tranche 2.

### DEMATERIALIZED SHAREHOLDERS

#### **1. OWN NAME DEMATERIALIZED SHAREHOLDER**

- 1.1 You are entitled to attend in person, or be represented by proxy, at the Annual General Meeting.
- 1.2 If you are unable to attend the Annual General Meeting but wish to be represented thereat, you must complete and return the attached Form of Proxy in accordance with the instructions contained therein, to be received by the Transfer Secretaries, Computershare Investor Services Proprietary Limited, Rosebank Towers, 15 Biermann Avenue, Rosebank 2196 (PO Box 61051, Marshalltown, 2107) (proxy@computershare.co.za), by no later than 14:00 on Wednesday, 21 November 2018. Forms of proxy may also be handed to the Chairperson of the Annual General meeting before the commencement of the meeting. **However, to facilitate administration, it would be appreciated if proxies can be received by the Transfer Secretaries by Monday, 19 November 2018.**

#### **2. DEMATERIALIZED SHAREHOLDERS NOT WITH OWN NAME REGISTRATION**

- 2.1 If you wish to attend or be represented at the Annual General Meeting, you must advise your CSDP or Broker timeously that you wish to attend or be represented at the Annual General Meeting, in the manner stipulated in the Custody Agreement governing the relationship between you and your CSDP or Broker. These instructions must be provided to your CSDP or Broker by the cut-off date and time advised by your CSDP or Broker for instructions of this nature. Your CSDP or Broker will be required to issue the necessary letter of representation to you to enable you to attend or to be represented at the Annual General Meeting.
- 2.2 If you do not wish to attend or be represented at the Annual General Meeting but nevertheless wish to vote on the resolutions to be considered at the Annual General Meeting, and your CSDP or Broker has not contacted you within reasonable time, you are advised to contact your CSDP or Broker and provide them with your voting instructions, in the manner stipulated in the Custody Agreement governing the relationship between you and your CSDP or Broker. These instructions must be provided to your CSDP or Broker by the cut-off date and time advised by your CSDP or Broker for instructions of this nature. If your CSDP or Broker does not obtain instructions from you, they will be obliged to act in terms of your mandate furnished to them.
- 2.3 You must not complete the attached Form of Proxy.

#### **3. CERTIFICATED SHAREHOLDERS**

**If you hold Certificated Shares:**

- 3.1 You are entitled to attend in person, or be represented by proxy, at the Annual General Meeting.
- 3.2 If you are unable to attend the Annual General Meeting but wish to be represented thereat, you must complete and return the attached Form of Proxy in accordance with the instructions contained therein, to be received by the Transfer Secretaries, Computershare Investor Services Proprietary Limited, Rosebank Towers, 15 Biermann Avenue, Rosebank 2196 (PO Box 61051, Marshalltown, 2107) (proxy@computershare.co.za), by no later than 14:00 on Wednesday, 21 November 2018. Forms of proxy may also be handed to the Chairperson of the Annual General meeting before the commencement of the meeting. **However, to facilitate administration, it would be appreciated if proxies can be received by the Transfer Secretaries by 14:00 on Monday, 19 November 2018.**

## SALIENT DATES AND TIMES RELATING TO THE SPECIFIC REPURCHASE TRANCHE 2

The definitions and interpretations set out in page 232 below apply mutatis mutandis to this salient dates and times section of the Document:

ACTION/EVENT	2018
Specific Repurchase Tranche 2 announcement published on SENS on	Wednesday, 29 August
Specific Repurchase Tranche 2 announcement published in the South African press on	Thursday, 30 August
Record date to determine which Shareholders are entitled to receive the 2018 Integrated Annual Report (incorporating the Notice of 2018 Annual General Meeting and this Circular) on	Friday, 21 September
2018 Integrated Annual Report (incorporating the Notice of 2018 AGM and this Circular) distributed to Shareholders on	Friday, 28 September
Last day to trade for Shareholders to be recorded in the Register on the record date	Tuesday, 13 November
Record date to determine which Shareholders are entitled to participate in and vote at the 2018 AGM on	Friday, 16 November
Last date and time (14:00) by when forms of proxy must be submitted to the Transfer Secretaries (note 2)	Monday, 19 November
Last date and time for Shareholders to give notice to Alviva in terms of section 164 of the Companies Act objecting to the special resolution necessary to authorise the Specific Repurchase Tranche 2 to be considered at the Annual General Meeting (see note 5 below) by 14:00 on	Wednesday, 21 November
<b>2018 Annual General Meeting held at 14:00 on</b>	Wednesday, 21 November
Results of the 2018 Annual General Meeting published on SENS on	Wednesday, 21 November
Results of the 2018 Annual General Meeting published in the South African press on	Thursday, 22 November
<i>If the Scheme is approved by Alviva Shareholders at the Annual General Meeting with sufficient voting rights such that no Shareholder may require the Company to obtain Court approval for the Scheme as contemplated in section 115(3)(a) of the Companies Act:</i>	
Last day for shareholders who voted against the Scheme to require Alviva to seek Court approval in terms of section 115(3) (a) of the Companies Act, if at least 15% of the total votes of Shareholders at the meeting were exercised against the Scheme – Meeting + 5 business days	Thursday, 29 November
Last day for Alviva to send notice of adoption of Special Resolution to Dissenting Shareholders, in accordance with Section 164(4) of the Companies Act – Meeting + 10 business days	Thursday, 6 December
Last date on which Shareholders can make application to the Court in terms of section 115(3)(b) of the Companies Act on (10 business days after the AGM)	Thursday, 6 December
<i>If no Shareholders exercise their rights in terms of section 115(3)(b) of the Companies Act, then the following are the anticipated relevant dates and times:</i>	
Date on which the conditions are expected to have been fulfilled or waived as the case may be, being the final date on which Finalisation Date announcement expected to be released on SENS on	Friday, 7 December
Finalisation Date announcement expected to be published in the press on	Monday, 10 December
Specific Repurchase Tranche 2 implemented on	Monday, 10 December
Expected date for the delisting from the JSE of the shares repurchased in terms of the Specific Repurchase Tranche 2 from the commencement of trading on the JSE on or about	Tuesday, 11 December

Notes:

- All dates and times set out above are subject to change and/or may be subject to certain regulatory approvals being granted. Any change to the aforementioned dates and times will be published on SENS and in the South African press.
- A form of proxy may also be handed to the Chairperson of the Annual General Meeting before the commencement of the meeting. **However, to facilitate administration, it would be appreciated if proxies can be received by the Transfer Secretaries by 14:00 on Monday, 19 November 2018.**
- If the Annual General Meeting is adjourned or postponed to a later time and/or date, the above dates and times will change, but the applicable form of proxy submitted for the relevant Annual General Meeting will remain valid in respect of any postponement prior to convening, adjournment or postponement of that Annual General Meeting.
- All times given in this Circular are local times in South Africa.
- Shareholders are referred to Annexure 3 (which contains a summary of Dissenting Shareholders' Appraisal Rights regarding rights afforded to Shareholders, the exercise of which may affect the above indicated important dates and times.

# ANNEXURE A1 CONTINUED

## DEFINITIONS AND INTERPRETATIONS

Throughout this Circular unless otherwise stated, the words in the first column shall have the meanings assigned to them in the second column, words denoting one gender shall include the other, expressions denoting natural persons shall include juristic persons and associations of persons and words in the singular shall include the plural and *vice versa*:

<b>"2018 Integrated Annual Report"</b>	means the integrated annual report of Alviva for the financial year ended 30 June 2018, incorporating, <i>inter alia</i> , the Notice of Annual General Meeting and this Circular;
<b>"Act" or "Companies Act"</b>	means the Companies Act, No 71 of 2008, as amended from time to time;
<b>"Alviva" or "Company"</b>	Alviva Holdings Limited (Registration number 1986/000334/06), a public company duly incorporated with limited liability and registered in accordance with the Companies Act, the entire issued Shares of which is listed on the main board of the JSE;
<b>"Alviva Treasury Services" or "ATS"</b>	Alviva Treasury Services Proprietary Limited (Registration number 1994/010809/07), a wholly-owned subsidiary of Alviva;
<b>"Annual General Meeting"</b>	means the annual general meeting of Alviva Shareholders to be held on Wednesday, 21 November 2018, at The Summit, 269 Sixteenth Road, Randjespark, Midrand, at 14h00, at which meeting the Specific Repurchase Tranche 2 will be tabled for consideration and approval by Shareholders;
<b>"Appraisal Rights"</b>	in terms of section 164 of the Companies Act, the dissenting shareholder appraisal rights afforded Shareholders as a consequence of the Company contemplating the Specific Repurchase Tranche 2, such rights being fully set out in Annexure 3;
<b>"Authorised Share Capital"</b>	means the authorised Ordinary Share capital of Alviva, details of which have been included in paragraph 6 below;
<b>"Board" or "Board of Directors"</b>	means the board of directors of Alviva as constituted from time to time;
<b>"Broker"</b>	means a "stockbroker" as contemplated in terms of the Financial Markets Act;
<b>"Business Day"</b>	means any day other than a Saturday, Sunday or official public holiday in South Africa;
<b>"Certificated Shareholders"</b>	means Shareholders who hold Certificated Shares;
<b>"Certificated Shares"</b>	means Shareholders represented by Share certificates or other physical Documents of Title, which have not been surrendered for dematerialisation in terms of the requirements of Strate;
<b>"this Circular"</b>	means this bound document prepared in accordance with the JSE Listings Requirements and the Company's Act dated Friday, 28 September 2018, setting out the details of the Specific Repurchase Tranche 2, which document is annexed to the Notice of Annual General Meeting forming part of the 2018 Integrated Annual Report;
<b>"Companies Act"</b>	the South African Companies Act, 2008 (Act No. 71 of 2008), as amended;
<b>"Companies Act Regulations"</b>	the South African Companies Act Regulations, 2011, as amended, promulgated under the Companies Act;

# ANNEXURE A1 CONTINUED

<b>“Court”</b>	any South African court with competent jurisdiction to approve the implementation of the Special Resolution pursuant to section 115 of the Companies Act and/or to determine the fair value of Alviva Shares and make an order pursuant to section 164(14) of the Companies Act;
<b>“CSDP”</b>	means a Central Securities Depository Participant registered in terms of the Financial Markets Act and appointed by individual Shareholders for the purpose of and in regard to dematerialisation of their Shares;
<b>“Custody Agreement”</b>	the custody mandate agreement between a Dematerialised Shareholder and a CSDP or Broker governing their relationship in respect of Dematerialised Shares held by the CSDP or Broker;
<b>“Dematerialised Shareholders”</b>	means Shareholders that have dematerialised their Shares through a CSDP and have instructed such CSDP to hold their Shares on the sub-register maintained by the CSDP and forming part of the Share Register
<b>“Dematerialised Shares”</b>	means Shares that have been dematerialised through a CSDP or Broker and are held on the sub-register of Shareholders administered by CSDPs in electronic form;
<b>“Dissenting Shareholders”</b>	all or any Shareholders validly exercising Appraisal Rights in the manner set out in accordance with sections 164(5) and 164(8) of the Companies Act;
<b>“Documents of Title”</b>	means Share certificates, transfer deeds or forms, balance receipts or any other documents of title acceptable to Alviva in respect of Certificated Shareholders;
<b>“Financial Markets Act”</b>	means the Financial Markets Act, No 19 of 2012, as amended from time to time;
<b>“the Group”</b>	means Alviva and its Subsidiaries;
<b>“Independent expert” or “St John Capital”</b>	St John Capital Proprietary Limited (Registration number 2013/099150/07), a private company duly incorporated in accordance with the laws of South Africa, the details of which are set out in the “Corporate Information” section, and appointed to provide external advice to the Board in relation to the Specific Repurchase Tranche 2 in terms of section 114 of the Companies Act and to the Board in terms of Regulation 110(1);
<b>“Issued Share Capital”</b>	means the issued Ordinary Share capital of Alviva, details of which have been included in paragraph 6 below;
<b>“JSE”</b>	means JSE Limited (Registration number 2005/022939/06), a public company registered and incorporated in South Africa and licensed under the Financial Markets Act to operate as an exchange;
<b>“JSE Listings Requirements”</b>	means the Listings Requirements of the JSE, as amended from time to time;
<b>“Last Practicable Date”</b>	means Friday, 14 September 2018, being the last day prior to the finalisation of this Circular;
<b>“MOI”</b>	means the Memorandum of Incorporation of Alviva, as amended from time to time;
<b>“Notice of Annual General Meeting”</b>	means the notice convening the Annual General Meeting, which notice forms part of the 2018 Integrated Annual Report;



# ANNEXURE A1 CONTINUED

<b>“Ordinary Shares” or “Shares” or “Alviva Shares”</b>	means ordinary shares with a par value of 1 (one) cent each in the Authorised Share Capital of the Company;
<b>“Rand” or “R”</b>	South African Rand, the official currency of South Africa;
<b>“SENS”</b>	means the Stock Exchange News Service of the JSE;
<b>“Shareholders” or “Alviva Shareholders”</b>	means beneficial holders of Alviva Shares;
<b>“South Africa”</b>	means the Republic of South Africa;
<b>“Specific Repurchase”</b>	means the proposed specific repurchase by Alviva of the Specific Repurchase Shares held by Alviva Treasury Services, with Specific Repurchase Tranche 1 implemented in 2016 and the Specific Repurchase Tranche 2 to be implemented in terms of this Circular;
<b>“Specific Repurchase Shares”</b>	means an aggregate of 12 069 974 (twelve million sixty- nine thousand nine hundred and seventy-four) Shares, held as treasury shares by Alviva Treasury Services, comprising the Tranche 1 Shares and Tranche 2 Shares;
<b>“Specific Repurchase Tranche 1”</b>	means the Specific Repurchase of the Tranche 1 Shares, implemented in terms of special resolution pursuant to the 2016 Integrated Annual Report;
<b>“Specific Repurchase Tranche 2”</b>	means the Specific Repurchase of the Tranche 2 Shares, the subject of this Circular;
<b>“Specific Repurchase Tranche 2 Consideration”</b>	the total of R119 340 000 payable by Alviva for the Tranche 2 Shares, being R18,36 per share;
<b>“Strate”</b>	means Strate Proprietary Limited (Registration number 1998/022242/07), a private company registered and incorporated in South Africa, and the electronic settlement system for transactions that take place on the JSE and off-market transactions;
<b>“Subsidiary”</b>	means a subsidiary as contemplated in terms of the Companies Act;
<b>“Tranche 1 Shares”</b>	means 5 569 974 (five million five hundred and sixty-nine thousand nine hundred and seventy-four) Shares of the Specific Repurchase Shares repurchased in terms of the Specific Repurchase Tranche 1;
<b>“Tranche 2 Shares”</b>	means the balance of the Specific Repurchase Shares to be repurchased in terms of the Specific Repurchase Tranche 2, being 6 500 000 (six million five hundred thousand) Shares;
<b>“Tranche 2 Agreement”</b>	means the repurchase agreement dated 28 August 2018, entered into by Alviva and Alviva Treasury Services regarding the Specific Repurchase Tranche 2;
<b>“Tranche 2 Repurchase Price”</b>	R18,36, the VWAP of Alviva Ordinary Share traded on the JSE over the 30 (thirty) trading days immediately prior to the date of signature of the Tranche 2 Agreement;
<b>“TRP”</b>	the Takeover Regulation Panel established in terms of section 196 of the Companies Act;
<b>“VAT”</b>	means value-added tax; and
<b>“VWAP”</b>	means volume weighted average traded price.





**Alviva Holdings Limited**

(Incorporated in the Republic of South Africa)

Registration number 1986/000334/06

Share Code: AVV • ISIN: ZAE000227484

("Alviva" or "the Company")

## 1. INTRODUCTION

Shareholders are referred to the SENS announcement dated 30 September 2016 where they were advised that the Board of Directors of the Company resolved, subject to Shareholder approval being obtained, to repurchase the Specific Repurchase Shares in two separate divisible tranches, with:

- ▶ the Specific Repurchase Tranche 1, which was implemented pursuant to the 2016 Annual General Meeting; and
- ▶ the balance of the Specific Repurchase Shares, being the Tranche 2 Shares, being implemented pursuant to the 2018 Annual General Meeting.

As announced on Wednesday, 29 August 2018, Shareholders were advised that Alviva concluded a Tranche 2 Agreement with Alviva Treasury Services for the repurchase of Tranche 2 Shares held by Alviva Treasury Services as treasury shares, forming part of the Specific Repurchase. The Board of Directors of the Company resolved, subject to Shareholder approval being obtained at the 2018 Annual General Meeting, to repurchase the balance of the Specific Repurchase Shares.

As at Tuesday, 28 August 2018, Alviva Treasury Services held a total of 6 500 000 Alviva Ordinary Shares as treasury shares, constituting 4,13% of the Company's Issued Share Capital, being the Tranche 2 Shares, the balance which remained after the implementation of Specific Repurchase Tranche 1. The number of treasury shares repurchased in 2016 in terms of Specific Repurchase Tranche 1 was 5 569 974 shares. The Tranche 1 Shares and Tranche 2 Shares, collectively, amount to 12 069 974 Alviva ordinary shares held as treasury shares, constituting 6,58% of the Company's issued share capital, being the Specific Repurchase Shares.

As this is more than 5% of the Company's issued share capital, the Specific Repurchase Tranche 2 is subject to the requirements of sections 48(8)(b), 114 and 115 of the Companies Act and paragraph 5.69 JSE Listings Requirements. In accordance with sections 114(e), the Specific Repurchase Tranche 2 will be implemented by way of a scheme of arrangement. In terms of section 115 (2)(a) of the Companies Act, Specific Repurchase Tranche 2 requires the prior approval of Shareholders in general meeting by means of a special resolution.

The notice of Annual General Meeting, forming part of the 2018 Integrated Annual Report, includes a special resolution relating to the Specific Repurchase Tranche 2.

The purpose of this Circular is to provide Shareholders with the relevant information relating to the Specific Repurchase Tranche 2, the implications thereof and to enable Shareholders to make an informed decision as to whether or not they should vote in favour of the requisite resolutions necessary to give effect to Specific Repurchase Tranche 2.

## 2. SALIENT DETAILS OF SPECIFIC REPURCHASE TRANCHE 2

- 2.1. Specific Repurchase Tranche 2 will be implemented at the VWAP of an Alviva Ordinary Share traded on the JSE over the 30 (thirty) trading days immediately prior to the date of the conclusion of the Tranche 2 Agreement, being the Tranche 2 Repurchase Price. As at 28 August 2018, being the date on which the Tranche 2 Agreement was signed by Alviva and Alviva Treasury Services, the Tranche 2 Repurchase Price amounted to R18,36 per Ordinary Share. Accordingly, the total consideration payable by Alviva to Alviva Treasury Services in respect of Specific Repurchase Tranche 2 amounts to R119 340 000.

# ANNEXURE A1 CONTINUED

- 2.2. As Specific Repurchase Tranche 2 is intra-Group, no change in the Group's financial cash resources will transpire as a result of the implementation of same and the financial effects of Specific Repurchase Tranche 2 are minimal. Distributable reserves will be used to settle the Specific Repurchase Tranche 2 Consideration.
- 2.3. Following the Specific Repurchase Tranche 2 being implemented, the Tranche 2 Shares so repurchased will be de-listed from the JSE by the Company and then cancelled.
- 2.4. **Financial impact of Specific Repurchase Tranche 2:**
  - ▶ The impact of the Specific Repurchase Tranche 2 on the Issued Share Capital of the Company is that the Ordinary Shares in issue will be reduced by 6 500 000 to 150 717 917.
  - ▶ The Company's Share capital account will be reduced by R65 000 (being the 6 500 000 Ordinary Shares with a par value of 1 (one) cent per Ordinary Share).
  - ▶ The Company's reserves will be reduced by the difference between the purchase price and the par value of the Ordinary Shares, being 1 (one) cent per Ordinary Share as the Company will elect to make payment of the Specific Repurchase Tranche 2 Consideration out of distributable reserves which will constitute a "dividend" as per the Income Tax Act No. 58 of 1962.
- 2.5. The Specific Repurchase Tranche 2 Consideration will be paid, in full, in accordance with the terms of the Specific Repurchase Tranche 2 without regard to any lien, right of set-off, counterclaim or other analogous right to which Alviva may otherwise be, or claim to be, entitled against any Alviva Treasury Services.

## **3. RATIONALE FOR THE SPECIFIC REPURCHASE**

The Board resolved to repurchase, de-list and cancel the Specific Repurchase Shares in order to:

- ▶ simplify the Group structure;
- ▶ eliminate accounting and regulatory complexities arising from treasury shares in general; and
- ▶ save additional costs of administration.

## **4. SHAREHOLDER APPROVAL**

4.1. The repurchase of Specific Repurchase Tranche 2 by the Company:

- 4.1.1. for purposes of JSE Listings Requirements, constitutes a specific repurchase of shares as contemplated in terms of paragraph 5.69 of the JSE Listings Requirements, requiring Shareholder approval by way of a specific authority;
- 4.1.2. for purposes of the Companies Act, specifically section 48(8)(b) of the Companies Act, requires approval by Shareholders by way of a special resolution since the Specific Repurchase Tranche 1 and Specific Repurchase Tranche 2 together will result in Alviva acquiring more than 5% of Alviva's issued share capital as contemplated in section 48(8)(b) of the Companies Act. The repurchase therefore is subject to the requirements of sections 114 and 115 of the Companies Act; and
- 4.1.3. for purposes of clause 16 of the MOI of the Company, requires approval by Shareholders by way of a Special Resolution.

A copy of section 115 of the Companies Act is attached as Annexure 2 to this circular. A copy of section 164 of appraisal rights for dissenting shareholders is contained in Annexure 3.

# ANNEXURE A1 CONTINUED

## 5. CONDITIONS PRECEDENT

Implementation of Specific Repurchase Tranche 2 is subject to the fulfilment of the following conditions precedent:

- ▶ the approval by Shareholders at the Annual General Meeting by way of the special resolution, as required by paragraph 5.69(b) of the JSE Listings Requirements and section 48(8)(b) of the Companies Act, adopted in accordance with the requirements of sections 114 and 115 of the Companies Act;
- ▶ to the extent and if required, the approval of the implementation of the special resolution by the Court in terms of section 115 of the Companies Act;
- ▶ if applicable, Alviva not treating the special resolution as a nullity, as contemplated in terms of section 115(5)(b) of the Companies Act; and
- ▶ the receipt of unconditional approvals, consents or waivers from all regulatory bodies.

Should all of the conditions precedent referred to above not have been fulfilled or waived (if possible), as the case may be, following the conclusion of the Annual General Meeting on 21 November 2018, or any adjournment thereof, or by such other later date as may be determined by Alviva, Specific Repurchase Tranche 2 will not become operative and shall be of no force or effect. An announcement will be published on SENS and in the South African press as soon as practicably possible advising on the fulfilment or otherwise of the above conditions precedent and the ramifications and effects thereof.

## 6. THE COMPANY'S AUTHORISED AND ISSUED SHARE CAPITAL

Set out in the table below is the Authorised and Issued Share Capital of the Company before and after the implementation of the Specific Repurchase Tranche 2:

### BEFORE THE SPECIFIC REPURCHASE TRANCHE 2:

	R
<b>AUTHORISED SHARE CAPITAL</b>	
300 000 000 Ordinary Shares of 1 cent each	3 000 000
<b>ISSUED SHARE CAPITAL</b>	
157 217 917 Ordinary Shares of 1 cent each	1 572 179

Prior to the implementation of the Specific Repurchase Tranche 2, ATS holds 6 500 000 Alviva Ordinary Shares as treasury Shares, being the Tranche 2 Shares. Alviva Shared Management Services Proprietary Limited holds 4 785 000 as treasury shares, constituting 3,04% of the issued share capital.

### AFTER THE SPECIFIC REPURCHASE TRANCHE 2:

	R
<b>AUTHORISED SHARE CAPITAL</b>	
300 000 000 Ordinary Shares of 1 cent each	3 000 000
<b>ISSUED SHARE CAPITAL</b>	
150 717 917 Ordinary Shares of 1 cent each	1 507 179

Following the implementation of Specific Repurchase Tranche 2, no treasury shares will be held by ATS. Alviva Shared Management Services Proprietary Limited will continue to hold 4 785 000 as treasury shares, constituting 3,17% of the issued share capital.

# ANNEXURE A1 CONTINUED

## 7. SUPPLEMENTARY INFORMATION RELATING TO THE GROUP

- 7.1. The following information is incorporated by reference into, and forms part of, this Circular.
- 7.2. This information is available for inspection at no charge, during business hours, at the registered office of the Company, which address is set out in the "Corporate Information" section of this Circular, as well as on the Company's website: [www.alviva Holdings.com](http://www.alviva Holdings.com), from Friday, 28 September 2018, up to and including 21 November 2018, being the Annual General Meeting date.

INFORMATION INCORPORATED BY REFERENCE	REFERENCE DOCUMENT	PARAGRAPH REFERENCE/PAGE NUMBER IN REFERENCE DOCUMENT	PAGE NUMBER IN REFERENCE DOCUMENT
Major Shareholders	2018 Integrated Annual Report	In the Directors' Report	118
Directors	2018 Integrated Annual Report	In the Board of Directors	24 and 25
Directors' interest in securities	2018 Integrated Annual Report	In the Directors' Report	117 and 118

### 7.3 **Directors' remuneration**

The Directors' remuneration will not be affected as a consequence of the implementation of the proposed Specific Repurchase Tranche 2. There are no service contracts between Alviva and the non-executive directors. The employment contracts with the executive directors contain normal terms and conditions of employment.

## 8. MATERIAL CHANGES

There have been no material changes in the affairs or financial or trading position of the Company and the Group since the date of the financial year end, being 30 June 2018 and the Last Practicable Date.

## 9. DIRECTORS' RESPONSIBILITY STATEMENT

The Directors of Alviva, whose details appear on pages 24 and 25 of the 2018 Integrated Annual Report:

- 9.1. have considered all statements of fact and opinion in this Circular;
- 9.2. collectively and individually, accept full responsibility for the accuracy of the information given;
- 9.3. certify that, to the best of their knowledge and belief, there are no other facts the omission of which would make any statement false or misleading;
- 9.4. have made all reasonable enquiries in this regard; and
- 9.5. certify that, to the best of their knowledge and belief, that this Circular contains all information required by law and the JSE Listings Requirements.

## 10. ANNUAL GENERAL MEETING

### 10.1. **Notice of Annual General Meeting**

The Notice of Annual General Meeting (at which meeting Specific Repurchase Tranche 2 will be considered) forms part of this Circular. The Annual General Meeting will be held at The Summit, 269 Sixteenth Road, Randjespark, Midrand on Wednesday, 21 November 2018, at 14:00.

# ANNEXURE A1 CONTINUED

## 10.2. If you hold Dematerialised Shares

### 10.2.1. Own-name Registration

You are entitled to attend in person, or be represented by proxy, at the Annual General Meeting. If you are unable to attend the Annual General Meeting but wish to be represented thereat, you must complete and return the attached form of proxy, in accordance with the instructions contained therein, to be received by the Transfer Secretaries by no later than 14:00 on Wednesday, 21 November 2018 at the address below. Forms of proxy may also be handed to the Chairperson of the Annual General meeting before the commencement of the meeting. **However, to facilitate administration, it would be appreciated if proxies can be received by the Transfer Secretaries by 14:00 on Monday, 19 November 2018.**

DELIVERY BY HAND	POSTAL DELIVERIES
<b>Computershare Investor Services Proprietary Limited</b> Rosebank Towers, 15 Biermann Avenue, Rosebank 2196	<b>Computershare Investor Services Proprietary Limited</b> PO Box 61051, Marshalltown 2107
<b>BY E-MAIL</b>	
proxy@computershare.co.za	

### 10.2.2. Other than Own-name Registration

You are entitled to attend, or be represented by proxy, at the Annual General Meeting. You must advise your CSDP or Broker timeously if you wish to attend, or be represented at the Annual General Meeting. If you do wish to attend or be represented at the Annual General Meeting, your CSDP or broker will be required to issue the necessary letter of representation to you to enable you to attend or to be represented at the Annual General Meeting.

You must not complete the attached form of proxy. If your CSDP or Broker does not contact you, you are advised to contact your CSDP or Broker and provide them with your voting instruction. If your CSDP or Broker does not obtain any instruction from you, they will be obliged to act in terms of your mandate furnished to them.

## 10.3. If you hold Certificated Shares

You are entitled to attend, or be represented by proxy, at the Annual General Meeting. If you are unable to attend the Annual General Meeting, but wish to be represented thereat, you must complete and return the attached form of proxy, in accordance with the instructions contained therein, to be received by the Transfer Secretaries, by no later than 14:00 on Wednesday, 21 November 2018 at the address provided in paragraph 10.2 above. Forms of proxy may also be handed to the Chairperson of the Annual General meeting before the commencement of the meeting. **However, to facilitate administration, it would be appreciated if proxies can be received by the Transfer Secretaries by 14:00 on Monday, 19 November 2018.**

## 11. EXPERTS' CONSENTS

The Attorneys, Sponsor, Independent Expert and Transfer Secretaries have provided their written consents to act in the capacity stated and to their names being used in this Circular and have not withdrawn their consent prior to the publication of this Circular.

# ANNEXURE A1 CONTINUED

## 12. EXPENSES

The expenses relating to the Specific Repurchase Tranche 2 are estimated at approximately R375 600 (excluding VAT) and comprise the following:

EXPENSE DESCRIPTION	R
Tugendhaft Wapnick Banchetti and Partners – Legal Fees	105 000
Deloitte – Sponsor	120 000
St John Capital – Independent Expert	70 000
Computershare – Transfer Secretaries	20 000
JSE Documentation fees	20 600
Printing and publication costs	40 000
<b>TOTAL</b>	<b>375 600</b>

## 13. ARRANGEMENTS IN RELATION TO THE SPECIFIC REPURCHASE TRANCHE 2

Other than the Tranche 2 Agreement, there are no other agreements or arrangements in relation to the Specific Repurchase Tranche 2. No special arrangements or dealings have been entered into with any party.

## 14. OPINIONS AND RECOMMENDATIONS

The Board has appointed the Independent Expert, to provide an independent professional expert's opinion regarding the Specific Repurchase Tranche 2, and to make appropriate recommendations to the Board in the form of a report contemplated in section 114(3) of the Companies Act and as contemplated in Regulation 87(5) of the Regulations. The Independent Expert is of the opinion that such terms and conditions are fair and reasonable to Shareholders. Shareholders are referred to Annexure 1 of this Circular.

Shareholders should take note that the Alviva Board taking into account the report of the Independent Expert regarding the Specific Repurchase Tranche 2, has considered the terms and conditions thereof, and the directors of the Alviva Board are of the opinion that the terms and conditions of the Specific Repurchase Tranche 2 are fair and reasonable to Alviva Shareholders and, recommends that Shareholders vote in favour of the resolutions at the Annual General Meeting.

All of the Directors having material direct or indirect beneficial holdings in shares, intend to vote in favour of the resolutions to be considered at the 2018 Annual General Meeting to implement the Specific Repurchase Tranche 2.

## 15. SOLVENCY AND LIQUIDITY TEST

In proposing the Specific Repurchase Tranche 2, the Directors have taken cognisance of their duties and responsibilities in terms of section 5.69(c) of the Listings Requirements and section 46 read with section 4 of the Companies Act pertaining to the solvency and liquidity of Alviva. In this regard, the Directors reasonably confirm that, following solvency and liquidity tests on Alviva, Alviva will satisfy the solvency and liquidity test immediately post payment of the Specific Repurchase Tranche 2 Consideration in that:

- ▶ the assets of Alviva, as fairly valued, will exceed its liabilities, as fairly valued for a period of 12 months after implementation of the Specific Repurchase Tranche 2 and it will be able to pay its debts as they become due in the ordinary course of business for a period of 12 months following payment of the Specific Repurchase Tranche 2 Consideration. For this purpose, the financial information considered by Alviva has been based on the accounting policies used in the most recent audited consolidated financial statements of the Company and that satisfy the requirements of section 28 of the Companies Act and financial statements that satisfy the requirements of section 29 of the Companies Act;

# ANNEXURE A1 CONTINUED

- ▶ the share capital and reserves and the working capital of the Company and the Group will be adequate for ordinary business purposes for a period of 12 months after the issue date of this Circular;
- ▶ as regards the working capital of the Company and of the Group, the Directors are of the opinion that the working capital available to the Company and the Group is sufficient for Alviva Group's present requirements, that is, for at least the next 12 months from the issue date of this Circular; and
- ▶ the Company and the Group will be able in the ordinary course of business to pay any debts arising for a period of twelve months after the issue date of this Circular.

## **16. TRP EXEMPTION**

In terms of section 119(6)(c) of the Companies Act, the TRP has unconditionally exempted all parties from compliance with the provisions of Part B and C of the Companies Act, and the Takeover Regulations in respect of the Specific Repurchase Tranche 2 which is the subject of this Circular. A copy of the letter from the TRP granting the exemption is made available for inspection in terms of paragraph 17.5.

## **17. DOCUMENTS AVAILABLE FOR INSPECTION**

Copies of the following documents will be available for inspection by Alviva Shareholders at the registered office of Alviva from Friday, 28 September 2018 up to and including the date of the Annual General Meeting, during normal business hours:

- 17.1. a signed copy of this Circular;
- 17.2. a signed copy of the Tranche 2 Agreement;
- 17.3. the MOI of Alviva and the memoranda of incorporation of major Alviva Subsidiaries;
- 17.4. the written consents of experts mentioned in paragraph 11 above; and
- 17.5. the exemption letter from the TRP, referred to in paragraph 16 above.

## **18. INCORPORATION BY REFERENCE**

In terms of section 11.61 of the Listings Requirements the following information is accessed on Alviva website:

- ▶ Annual financial statements of Alviva for the 3 financial years ended 30 June 2018, 2017 and 2016.

Signed on behalf of Board of the Directors of the Company by powers of attorney.

**Pierre Spies**

*Chief Executive Officer*

Midrand

28 September 2018



# ANNEXURE 1

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## OPINION OF THE INDEPENDENT EXPERT

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14 September 2018

The Directors  
Alviva Holdings Limited  
The Summit,  
269 16th Road  
Randjespark  
Midrand  
1685

Dear Sirs

### **INDEPENDENT EXPERT'S REPORT ON THE PROPOSED SPECIFIC REPURCHASE OF SHARES FROM A WHOLLY OWNED SUBSIDIARY**

#### **Introduction**

Alviva Treasury Services Proprietary Limited ("ATS"), a wholly owned subsidiary of Alviva Holdings Limited ("Alviva"), currently holds 6 500 000 ordinary shares of Alviva as treasury shares. Previously, ATS held a further 5 569 974 ordinary shares of Alviva, which were repurchased by Alviva from ATS and cancelled pursuant to the Alviva 2016 Annual General Meeting. These previously held ordinary shares are referred to as the "Tranche 1 Shares" and the acquisition of these in 2016 by Alviva is referred to as the "Specific Repurchase Tranche 1". The remaining 6 500 000 ordinary shares currently held are referred to as the "Tranche 2 Shares".

It was announced on SENS on 30 September 2016 that the Board of Directors of Alviva had resolved, subject to shareholder approval being obtained, to repurchase all the treasury shares held by ATS "the Specific Repurchase shares" in two separate divisible tranches, being the Specific Repurchase Tranche 1, implemented pursuant to the 2016 Annual General Meeting, and the balance of the Specific Repurchase Shares, being the Tranche 2 Shares, being implemented pursuant to the Alviva 2018 Annual General Meeting ("the Specific Repurchase Tranche 2").

Alviva has concluded an agreement with ATS for the repurchase by Alviva of the Tranche 2 Shares held by ATS. The Board of Directors of Alviva has resolved, subject to shareholder approval being obtained, to repurchase the Tranche 2 Shares, pursuant to the Alviva 2018 Annual General Meeting, subject to the required approval being obtained at that meeting. Following the Specific Repurchase Tranche 2 being implemented, the Tranche 2 Shares so repurchased will be de-listed from the JSE and cancelled.

Specific Repurchase Tranche 2 will be implemented at the volume weighted average price ("VWAP") of an Alviva ordinary share traded on the JSE over the 30 trading days immediately prior to 28 August 2018, the date on which the agreement with ATS was signed. The VWAP amounted to R18.36 per ordinary share. Accordingly, the total consideration payable by Alviva to ATS in respect of Specific Repurchase Tranche 2 amounts to R119 340 000.

The Specific Repurchase shares, comprising Tranche 1 Shares and Tranche 2 Shares, collectively amounted to 12 069 974 Alviva ordinary shares held as treasury shares by ATS and constituted 6.58% of the issued share capital of Alviva. As this is more than 5% of the issued share capital of Alviva, the Specific Repurchase Tranche 2 is now subject to the requirements of sections 48(8)(b), 114 and 115 of the Companies Act, 2008 (Act 71 of 2008), as amended ("the Companies Act"). In accordance with section 114(e), the Specific Repurchase Tranche 2 will therefore be implemented by way of a scheme of arrangement. In terms of section 115 (2)(a) of the Companies Act, Specific Repurchase Tranche 2 requires the prior approval of shareholders in general meeting by means of a special resolution.

A scheme of arrangement constitutes an affected transaction as defined in section 117(c) of the Companies Act, regulated by the Companies Act, the Companies Regulations, 2011 ("the Companies Regulations") and, ordinarily, by the Takeover Regulation Panel ("TRP"). However, as the Specific Repurchase Tranche 2 will be undertaken between Alviva and ATS, a wholly owned subsidiary of Alviva, it was considered that no change in the Alviva group's financial cash resources (other than transaction costs and taxes) would occur as a result of the implementation of Specific Repurchase Tranche 2 and that the financial effects would be minimal. For this reason, dispensation was sought and obtained from the TRP from compliance with the Takeover Provisions in accordance with section 119(6)(c) of the Companies Act. In terms of section 114(2) of the Companies Act, however, Alviva is still required to retain an independent expert to compile a report on the Specific Repurchase Tranche 2 in compliance with section 114(3) of the Companies Act. It is required that the independent expert's report be addressed to the Board and distributed to all holders of the Alviva's securities.

Accordingly, we have been appointed by the Board of Directors of Alviva (the "Board") to act as the independent expert, reporting in terms of section 114 (2) and (3) of the Companies Act and Regulation 90 of the Companies Regulations.

### **Qualification and independence**

For purposes of our appointment as the independent expert, we confirm that we meet the competence, experience, and impartiality requirements of Section 114(2) (a) and we confirm that we meet the independence requirements set out in Section 114(2)(b) and Regulation 90(3)(a).

Our fee payable for this engagement amounts to R70 000 and is not contingent upon or related to the outcome of the proposed specific repurchase of shares.

### **Scope of our work and report**

Our report is provided to the Board for the sole purpose of assisting the Board in forming and expressing an opinion on the terms and conditions of proposed Scheme ("Scheme").

Our work and the contents of our independent expert report are regulated by Section 114(3) of the Act and Regulation 90 of the Companies Regulations. In short, we are required to consider the material effects that the proposed Scheme will have on the rights and interests of shareholders of Alviva, the compensation that Alviva shareholders will receive under the proposed Scheme, and any reasonably probable beneficial and significant effect of the proposed Scheme on the business and prospects of Alviva. We are also required to state any material interests of any director of Alviva and state the effect of the proposed Scheme on those interests and persons.

We are required to express an opinion on the fairness and reasonableness of the proposed specific repurchase of shares to Alviva shareholders. Our assessment of fairness is primarily based on quantitative issues, whereas reasonableness includes a consideration of qualitative aspects.

The terms and conditions of the proposed Scheme would be considered fair to Alviva shareholders if the measurable financial benefits of the proposed specific repurchase of shares equal or exceed the cost thereof. Thus our assessment would be considered fair if the financial effects of the proposed Scheme are either neutral or positive for the shareholders of Alviva.

Those factors which are difficult to quantify, or are unquantifiable but nonetheless may affect a shareholder's assessment of the proposed specific share repurchase, are also taken into account in forming an opinion on the reasonableness thereof.

### **Sources of information considered**

In arriving at our opinion we have considered information, inter alia, from the following sources:

- ▶ Alviva's history, nature of business, products or services, key customers and an overview of competitor activity. This information was acquired from public sources and from management;
- ▶ audited annual financial statements of Alviva for the financial year ended 30 June 2017;
- ▶ unaudited interim financial statements of Alviva for the 6 month period ended 31 December 2017;
- ▶ a regulatory and tax opinion from Tugendhaft Wapnick Banchetti and Partners dated 21 August 2018 together with a confirmation letter from SizweNtsalubaGobodo Grant Thornton Incorporated dated 23 August 2018 confirming the tax treatment of the Specific Repurchase;

# ANNEXURE 1 CONTINUED

- ▶ recent analyst reports on Alviva and the industry;
- ▶ the announcements published on SENS on 30 September 2016;
- ▶ the circular to shareholders of Alviva, of which this report forms part ("the Circular"); and
- ▶ discussions and correspondence with senior management of Alviva,

Where practical, we have corroborated the reasonability of the information provided to us for the purpose of our opinion, including publicly available information, whether in writing or obtained in discussions with management of Alviva.

## **Procedures performed in arriving at our opinion**

In order to assess the fairness and reasonableness of the terms and conditions of the proposed Scheme, we have performed, amongst other, the following procedures:

- ▶ considered the financial and other information described above;
- ▶ considered the rationale for the proposed Scheme, as set out in the Circular; and
- ▶ assessed the quantitative and qualitative aspects of the proposed Scheme.

We did not consider it necessary to perform our own indicative valuation of the ordinary shares of Alviva because ATS is a wholly owned subsidiary of Alviva and, accordingly, the Tranche 2 Shares are already indirectly wholly owned by Alviva prior to the Specific Repurchase Tranche 2. The fundamental value of Alviva shares does not affect the fair and reasonableness of the Specific Repurchase Tranche 2, on the basis that ATS is a wholly owned subsidiary of Alviva.

## **Assessment of quantitative and qualitative factors**

We note the following quantitative and qualitative factors for Alviva shareholders, if the proposed Scheme of arrangement is implemented:

- ▶ It is intended that distributable reserves will be used to settle the consideration for the Specific Repurchase Tranche 2;
- ▶ The impact of the Specific Repurchase Tranche 2 on the issued share capital of Alviva is that the ordinary shares in issue will be reduced by 6 500 000 to 150 717 917;
- ▶ Alviva's share capital account will be reduced by R65 000 (being the 6 500 000 ordinary shares with a par value of 1 (one) cent per ordinary share);
- ▶ Alviva's reserves will be reduced by the difference between the purchase price and the par value of the ordinary shares, being 1 (one) cent per ordinary share as Alviva will elect to make payment of the Specific Repurchase Tranche 2 Consideration out of distributable reserves which will constitute a dividend as per the Income Tax Act No.58 of 1962;
- ▶ The Board resolved to repurchase, de-list and cancel the Specific Repurchase Shares in order to simplify the group structure;
- ▶ The costs incurred to implement the Specific Repurchase Tranche 2 as set out in the Circular are not material in relation to the nature and size of the transaction and in relation to the benefit of simplifying the Alviva group structure, eliminate accounting and regulatory complexities arising from treasury shares, and saving additional costs of administration which cannot be quantified.

## **Opinion and limiting conditions**

Based upon and subject to the foregoing, we are of the opinion that the terms and conditions of the proposed Scheme are fair and are reasonable to the shareholders of Alviva.

Our opinion is addressed to the general body of Alviva shareholders. Because each shareholder's decision may be influenced by their particular circumstances, we recommend that a shareholder should consult an independent advisor if they are in any doubt as to the merits of the proposed Scheme considering their personal circumstances.

Our opinion is based upon the market, regulatory and trading conditions as they currently exist and can only be evaluated as at the date of this letter. It should be understood that subsequent developments may affect our opinion, which we are under no obligation to update, revise or re-affirm.

# ANNEXURE 1 CONTINUED

Our procedures and inquiries did not constitute an audit in terms of International Standards on Auditing. Accordingly, we do not express an audit opinion on the financial data or other information used in arriving at our opinion.

## **Other matters**

In accordance with Sections 114(3)(e) and (f) of the Companies Act, we confirm that the interests of the directors of Alviva in the shares of Alviva are disclosed in the Circular to Alviva shareholders, of which this report forms part and, from our enquiries, we understand that the proposed specific repurchase of shares has the same effect on such directors that it has on other shareholders of Alviva.

## **Disclosure of statutory provisions for approval and relief**

In accordance with the requirement of Section 114(3) (g) of the Act, we confirm that Sections 115 and 164 of the Act are included as Annexures 2 and 3 to the Circular to Alviva shareholders.

## **Consent**

We hereby consent to the inclusion of this report and references thereto, in the form and context in which they appear, in the Circular to Alviva shareholders.

Yours faithfully

## **Michael Dale**

*Director*

St John Capital Proprietary Limited  
Corporate Finance  
Fullard-Mayer-Morrison Office Park  
4 Morris Street West  
Rivonia, Sandton, 2196

# ANNEXURE 2

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## SECTION 115: REQUIRED APPROVAL FOR TRANSACTIONS CONTEMPLATED IN CHAPTER 5 OF THE COMPANIES ACT

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- (1) Despite section 65, and any provision of a company's Memorandum of Incorporation, or any resolution adopted by its board or holders of its securities, to the contrary, a company may not dispose of, or give effect to an agreement or series of agreements to dispose of, all or the greater part of its assets or undertaking, implement an amalgamation or a merger, or implement a scheme of arrangement, unless:
  - (a) the disposal, amalgamation or merger, or scheme of arrangement –
    - (i) as been approved in terms of this section; or
    - (ii) is pursuant to or contemplated in an approved business rescue plan for that company, in terms of Chapter 6; and
  - (b) to the extent that Parts B and C of this Chapter and the Takeover Regulations apply to a company that proposes to—
    - (i) dispose of all or the greater part of its assets or undertaking;
    - (ii) amalgamate or merge with another company; or
    - (iii) implement a scheme of arrangement, the Panel has issued a compliance certificate in respect of the transaction, in terms of section 119(4)(b), or exempted the transaction in terms of section 119(6).
- (2) A proposed transaction contemplated in subsection (1) must be approved –
  - (a) by a special resolution adopted by persons entitled to exercise voting rights on such a matter, at a meeting called for that purpose and at which sufficient persons are present to exercise, in aggregate, at least 25% of all of the voting rights that are entitled to be exercised on that matter, or any higher percentage as may be required by the company's Memorandum of Incorporation, as contemplated in section 64(2); and
  - (b) by a special resolution, also adopted in the manner required by paragraph (a), by the shareholders of the company's holding company if any, if –
    - (i) the holding company is a company or an external company;
    - (ii) the proposed transaction concerns a disposal of all or the greater part of the assets or undertaking of the subsidiary; and
    - (iii) having regard to the consolidated financial statements of the holding company, the disposal by the subsidiary constitutes a disposal of all or the greater part of the assets or undertaking of the holding company; and
  - (c) by the court, to the extent required in the circumstances and manner contemplated in subsections (3) to (6).
- (3) Despite a resolution having been adopted as contemplated in subsections (2)(a) and (b), a company may not proceed to implement that resolution without the approval of a court if –
  - (a) the resolution was opposed by at least 15% of the voting rights that were exercised on that resolution and, within five business days after the vote, any person who voted against the resolution requires the company to seek court approval; or
  - (b) the court, on an application within 10 business days after the vote by any person who voted against the resolution, grants that person leave, in terms of subsection (6), to apply to a court for a review of the transaction in accordance with subsection (7).

## ANNEXURE 2 CONTINUED

- (4) For the purposes of subsections (2) and (3), any voting rights controlled by an acquiring party, a person related to an acquiring party, or a person acting in concert with either of them, must not be included in calculating the percentage of voting rights –
- (a) required to be present, or actually present, in determining whether the applicable quorum requirements are satisfied; or
  - (b) required to be voted in support of a resolution, or actually voted in support of the resolution.
- (4A) In subsection (4), 'act in concert' has the meaning set out in section 117(1)(b).
- (5) If a resolution requires approval by a court as contemplated in terms of subsection (3)(a), the company must either –
- (a) within 10 business days after the vote, apply to the court for approval, and bear the costs of that application; or
  - (b) treat the resolution as a nullity.
- (6) On an application contemplated in subsection (3)(b), the court may grant leave only if it is satisfied that the applicant –
- (a) is acting in good faith;
  - (b) appears prepared and able to sustain the proceedings; and
  - (c) has alleged facts which, if proved, would support an order in terms of subsection (7).
- (7) On reviewing a resolution that is the subject of an application in terms of subsection (5)(a), or after granting leave in terms of subsection (6), the court may set aside the resolution only if –
- (a) the resolution is manifestly unfair to any class of holders of the company's securities; or
  - (b) the vote was materially tainted by conflict of interest, inadequate disclosure, failure to comply with the Act, the Memorandum of Incorporation or any applicable rules of the company, or other significant and material procedural irregularity.
- (8) The holder of any voting rights in a company is entitled to seek relief in terms of section 164 if that person –
- (a) notified the company in advance of the intention to oppose a special resolution contemplated in this section; and
  - (b) was present at the meeting and voted against that special resolution.
- (9) If a transaction contemplated in this Part has been approved, any person to whom assets are, or an undertaking is, to be transferred, may apply to a court for an order to effect –
- (a) the transfer of the whole or any part of the undertaking, assets and liabilities of a company contemplated in that transaction;
  - (b) the allotment and appropriation of any shares or similar interests to be allotted or appropriated as a consequence of the transaction;
  - (c) the transfer of shares from one person to another;
  - (d) the dissolution, without winding-up, of a company, as contemplated in the transaction;
  - (e) incidental, consequential and supplemental matters that are necessary for the effectiveness and completion of the transaction; or
  - (f) any other relief that may be necessary or appropriate to give effect to, and properly implement, the amalgamation or merger.

# ANNEXURE 3

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## SECTION 164: DISSENTING SHAREHOLDERS' APPRAISAL RIGHTS

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- (1) This section does not apply in any circumstances relating to a transaction, agreement or offer pursuant to a business rescue plan that was approved by shareholders of a company, in terms of section 152.
- (2) If a company has given notice to shareholders of a meeting to consider adopting a resolution to –
  - (a) amend its Memorandum of Incorporation by altering the preferences, rights, limitations or other terms of any class of its shares in any manner materially adverse to the rights or interests of holders of that class of shares, as contemplated in section 37(8); or
  - (b) enter into a transaction contemplated in section 112, 113, or 114(1)(c),that notice must include a statement informing shareholders of their rights under this section.
- (3) At any time before a resolution referred to in subsection (2) is to be voted on, a dissenting shareholder may give the company a written notice objecting to the resolution.
- (4) Within 10 business days after a company has adopted a resolution contemplated in this section, the company must send a notice that the resolution has been adopted to each shareholder who –
  - (a) gave the company a written notice of objection in terms of subsection (3); and
  - (b) has neither –
    - (i) withdrawn that notice; or
    - (ii) voted in support of the resolution.
- (5) A shareholder may demand that the company pay the shareholder the fair value for all of the shares of the company held by that person if –
  - (a) the shareholder –
    - (i) sent the company a notice of objection, subject to subsection (6); and
    - (ii) in the case of an amendment to the company's Memorandum of Incorporation, holds shares of a class that is materially and adversely affected by the amendment;
  - (b) the company has adopted the resolution contemplated in subsection (2); and
  - (c) the shareholder –
    - (i) voted against that resolution; and
    - (ii) has complied with all of the procedural requirements of this section.
- (6) The requirement of subsection (5)(a)(i) does not apply if the company failed to give notice of the meeting, or failed to include in that notice a statement of the shareholders' rights under this section.
- (7) A shareholder who satisfies the requirements of subsection (5) may make a demand contemplated in that subsection by delivering a written notice to the company within –
  - (a) 20 business days after receiving a notice under subsection (4); or
  - (b) if the shareholder does not receive a notice under subsection (4), within 20 business days after learning that the resolution has been adopted.
- (8) A demand delivered in terms of subsections (5) to (7) must also be delivered to the Panel, and must state –
  - (a) the shareholder's name and address;



## ANNEXURE 3 CONTINUED

- (b) the number and class of shares in respect of which the shareholder seeks payment; and
  - (c) a demand for payment of the fair value of those shares.
- (9) A shareholder who has sent a demand in terms of subsections (5) to (8) has no further rights in respect of those shares, other than to be paid their fair value, unless –
- (a) the shareholder withdraws that demand before the company makes an offer under subsection (11), or allows an offer made by the company to lapse, as contemplated in subsection (12)(b);
  - (b) the company fails to make an offer in accordance with subsection (11) and the shareholder withdraws the demand; or
  - (c) the company, by a subsequent special resolution, revokes the adopted resolution that gave rise to the shareholder's rights under this section.
- (10) If any of the events contemplated in subsection (9) occur, all of the shareholder's rights in respect of the shares are reinstated without interruption.
- (11) Within five business days after the later of –
- (a) the day on which the action approved by the resolution is effective;
  - (b) the last day for the receipt of demands in terms of subsection (7)(a); or
  - (c) the day the company received a demand as contemplated in subsection (7)(b), if applicable, the company must send to each shareholder who has sent such a demand a written offer to pay an amount considered by the company's directors to be the fair value of the relevant shares, subject to subsection (16), accompanied by a statement showing how that value was determined.
- (12) Every offer made under subsection (11) –
- (a) in respect of shares of the same class or series must be on the same terms; and
  - (b) lapses if it has not been accepted within 30 business days after it was made.
- (13) If a shareholder accepts an offer made under subsection (12) –
- (a) the shareholder must either in the case of –
    - (i) shares evidenced by certificates, tender the relevant share certificates to the company or the company's transfer agent; or
    - (ii) uncertificated shares, take the steps required in terms of section 53 to direct the transfer of those shares to the company or the company's transfer agent; and
  - (b) the company must pay that shareholder the agreed amount within 10 business days after the shareholder accepted the offer and –
    - (i) tendered the share certificates; or
    - (ii) directed the transfer to the company of uncertificated shares.
- (14) A shareholder who has made a demand in terms of subsections (5) to (8) may apply to a court to determine a fair value in respect of the shares that were the subject of that demand, and an order requiring the company to pay the shareholder the fair value so determined, if the company has –
- (a) failed to make an offer under subsection (11); or
  - (b) made an offer that the shareholder considers to be inadequate, and that offer has not lapsed.
- (15) On an application to the court under subsection (14) –
- (a) all dissenting shareholders who have not accepted an offer from the company as at the date of the application must be joined as parties and are bound by the decision of the court;

## ANNEXURE 3 CONTINUED

- (b) the company must notify each affected dissenting shareholder of the date, place and consequences of the application and of their right to participate in the court proceedings; and
  - (c) the court –
    - (i) may determine whether any other person is a dissenting shareholder who should be joined as a party;
    - (ii) must determine a fair value in respect of the shares of all dissenting shareholders, subject to subsection (16);
    - (iii) in its discretion may –
      - (aa) appoint one or more appraisers to assist it in determining the fair value in respect of the shares; or
      - (bb) allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective, until the date of payment;
    - (iv) may make an appropriate order of costs, having regard to any offer made by the company, and the final determination of the fair value by the court; and
    - (v) must make an order requiring –
      - (aa) the dissenting shareholders to either withdraw their respective demands, or to comply with subsection (13)(a); and
      - (bb) the company to pay the fair value in respect of their shares to each dissenting shareholder who complies with subsection (13)(a), subject to any conditions the court considers necessary to ensure that the company fulfils its obligations under this section.
- (15A) At any time before the court has made an order contemplated in subsection (15)(c)(v), a dissenting shareholder may accept the offer made by the company in terms of subsection (11), in which case –
- (a) that shareholder must comply with the requirements of subsection 13(a); and
  - (b) the company must comply with the requirements of subsection 13(b);
- (16) The fair value in respect of any shares must be determined as at the date on which, and time immediately before, the company adopted the resolution that gave rise to a shareholder's rights under this section.
- (17) If there are reasonable grounds to believe that compliance by a company with subsection (13)(b), or with a court order in terms of subsection (15)(c)(v)(bb), would result in the company being unable to pay its debts as they fall due and payable for the ensuing 12 months –
- (a) the company may apply to a court for an order varying the company's obligations in terms of the relevant subsection; and
  - (b) the court may make an order that –
    - (i) is just and equitable, having regard to the financial circumstances of the company; and
    - (ii) ensures that the person to whom the company owes money in terms of this section is paid at the earliest possible date compatible with the company satisfying its other financial obligations as they fall due and payable.
- (18) If the resolution that gave rise to a shareholder's rights under this section authorised the company to amalgamate or merge with one or more other companies, such that the company whose shares are the subject of a demand in terms of this section has ceased to exist, the obligations of that company under this section are obligations of the successor to that company resulting from the amalgamation or merger.

## ANNEXURE 3 CONTINUED

- (19) For greater certainty, the making of a demand, tendering of shares and payment by a company to a shareholder in terms of this section do not constitute a distribution by the company, or an acquisition of its shares by the company within the meaning of section 48, and therefore are not subject to –
- (a) the provisions of that section; or
  - (b) the application by the company of the solvency and liquidity test set out in section 4.
- (20) Except to the extent –
- (a) expressly provided in this section; or
  - (b) that the Panel rules otherwise in a particular case,
- a payment by a company to a shareholder in terms of this section does not obligate any person to make a comparable offer under section 125 to any other person.