

AngloGold Ashanti Holdings Finance plc

Form F-3ASR

August 31, 2009

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**As filed with the Securities and Exchange Commission on August 31, 2009**

**Registration Statement No. 333-**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**Form F-3  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**AngloGold Ashanti Limited**

**AngloGold Ashanti Holdings Finance plc**

*(Exact Name of Registrant as Specified in its Charter)*

**The Republic of South Africa**

**The Isle of Man**

*(State or Other Jurisdiction of Incorporation or Organization)*

**Not Applicable**

**Not Applicable**

*(I.R.S. Employer Identification Number)*

**76 Jeppe Street  
Newtown, Johannesburg, 2001  
(PO Box 62117, Marshalltown, 2107)  
South Africa  
Tel: +27 (11) 637-6000**

**1st Floor, Atlantic House  
4-8 Circular Road  
Douglas, Isle of Man, IM1 1AG  
Tel: +44 (1624) 697 280**

*(Address and Telephone Number of Registrant's Principal Executive Offices)*

**AngloGold Ashanti North America Inc.  
7400 East Orchard Road, Suite 350  
Greenwood Village, CO 80111  
Tel: +1 (303) 889-0700**

*(Name, Address and Telephone Number of Agent for Service)*

***Copies to:***

**Richard J.B. Price  
Shearman & Sterling LLP  
9 Appold Street  
London EC2A 2AP, England  
Tel: +44 (20) 7655-5000**

**Approximate date of commencement of proposed sale to the public:** From time to time after this registration statement becomes effective.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, please check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a registration statement pursuant to General Instruction I.C. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.C. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

**CALCULATION OF REGISTRATION FEE**

**Amount to be Registered/Proposed**

| Title of Each Class of Securities to be Registered   | Maximum Offering Price per Unit/Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|--|---|----------------------------|
| Ordinary shares, debt securities <sup>(1)</sup> , guarantees <sup>(2)</sup> , warrants to purchase ordinary shares, and rights to purchase ordinary shares | Indeterminate <sup>(3)</sup>  | \$0 <sup>(4)</sup>         |

(1) *There is being registered hereunder an indeterminate principal amount of AngloGold Ashanti Limited debt securities and, separately, guaranteed debt securities of AngloGold Ashanti Holdings Finance plc and related guarantees thereof of AngloGold Ashanti Limited, each as may be issued from time to time at indeterminate prices.*

(2) *Please see note (1) above for a description of these guarantees. No separate consideration will be received for the guarantees.*

(3) *An indeterminate aggregate initial offering price or number of the securities of each identified class is being registered as may from time to time be offered at indeterminate prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities or that are issued in units or represented by depositary shares.*

(4) *In accordance with Rules 456(b) and 457(r), the Registrants are deferring payment of all of the registration fee.*

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**PROSPECTUS**

**AngloGold Ashanti Limited**

**(Registration No. 1944/017354/06)**

**AngloGold Ashanti Holdings Finance plc**

**This prospectus offers:**

**Ordinary Shares, par value 25 South African cents, of AngloGold Ashanti Limited in the form of Ordinary Shares or American Depositary Shares**

**Debt Securities of AngloGold Ashanti Limited**

**Guaranteed Debt Securities of AngloGold Ashanti Holdings Finance plc**

**Warrants to Purchase Ordinary Shares of AngloGold Ashanti Limited**

**Rights to Purchase Ordinary Shares of AngloGold Ashanti Limited**

We will provide the specific terms of the securities that may be offered, and the manner in which they are being offered, in one or more supplements to this prospectus. Any supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement, together with the additional information described under the heading **Where You Can Find More Information**, before investing in our securities. The amount and price of the offered securities will be determined at the time of the offering. This prospectus may be used by a selling securityholder to sell securities from time to time.

Our American depositary shares, or ADSs, each representing one ordinary share, are listed on the New York Stock Exchange under the symbol **AU**. Our ordinary shares are listed on the JSE Limited under the symbol **ANG**, the London Stock Exchange under the symbol **AGD**, Euronext Paris under the symbol **VA**, the Australian Stock Exchange in the form of CHESS depositary interests, each representing one-fifth of an ordinary share, under the symbol **AGG**, the Ghana Stock Exchange where our shares are quoted under the symbol **AGA**, each representing one-hundredth of an ordinary share, and in the form of Ghanaian Depositary Shares under the symbol **AADS**, and Euronext Brussels where our shares are quoted in the form of unsponsored international depositary receipts under the symbol **ANG**.

**Investing in these securities involves risks that are described in the **Risk Factors** section contained in the applicable prospectus supplement and may be described in certain of the documents we incorporate by reference in this prospectus.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is August 31, 2009

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**ABOUT THIS PROSPECTUS**

Unless the context otherwise requires, the Company, we, us and our refers to AngloGold Ashanti Limited and its consolidated subsidiaries.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual and other reports with the United States Securities and Exchange Commission, or the SEC. The SEC maintains a website (<http://www.sec.gov>) on which our annual and other reports are made available. You may also read and copy any document we file at the SEC's public reference room at 100 F Street, N.E., Washington D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. You may also read and copy these documents at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

The SEC allows us to incorporate by reference the information we file with the SEC, which means that we can disclose important information to you by referring you to those documents that are considered part of this prospectus. Information that we file with the SEC in the future and incorporate by reference will automatically update and supersede the previously filed information. We incorporate by reference the documents listed below:

Our annual report on Form 20-F for the year ended December 31, 2008 filed with the SEC on May 5, 2009 as amended by our Form 20-F/A filed with the SEC on May 6, 2009 (together, our Form 20-F);

Our Form 6-K filed with the SEC on August 28, 2009 containing unaudited condensed consolidated financial information as of June 30, 2009 and December 31, 2008 and for each of the six month periods ended June 30, 2009 and 2008, prepared in accordance with U.S. GAAP, and related management's discussion and analysis of financial condition and results of operations; and

Our Form 6-K filed with the SEC on August 31, 2009 containing pro forma financial information for the year ended December 31, 2008 and the six month period ended June 30, 2009 related to the sale of our 33.33% interest in the Boddington joint venture.

We also incorporate by reference in this prospectus all subsequent annual reports filed with the SEC on Form 20-F under the Securities Exchange Act of 1934 and those of our reports submitted to the SEC on Form 6-K that we specifically identify in such form as being incorporated by reference in this prospectus after the date hereof and prior to the completion of an offering of securities under this prospectus. This prospectus is part of a registration statement filed with the SEC.

As you read the above documents, this prospectus and any prospectus supplement, you may find inconsistencies in information from one document to another. If you find inconsistencies you should rely on the statements made in the most recent document, including this prospectus and any prospectus supplement. All information appearing in this prospectus is qualified in its entirety by the information and financial statements, including the notes thereto, contained in the documents we have incorporated by reference.

Upon written or oral request, we will provide to any person, at no cost to such person, including any beneficial owner to whom a copy of this prospectus is delivered, a copy of any or all of the information that has been incorporated by reference in this prospectus but not delivered with this



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prospectus. You may make such a request by writing or telephoning us at the following address or telephone number:

AngloGold Ashanti North America Inc.  
7400 East Orchard Road  
Suite 350  
Greenwood Village, CO 80111  
Telephone: +1 303 889 0753  
Fax: +1 303 889 0707  
E-mail: MPatterson@AngloGoldAshantiNA.com

You should rely only on the information incorporated by reference or provided in this prospectus and in any prospectus supplement. We have not authorized anyone else to provide you with different information. This prospectus is an offer to sell or to buy only the securities referred to herein, but only under circumstances and in jurisdictions where it is lawful to do so. You should not assume that the information in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of those documents.

**FORWARD-LOOKING STATEMENTS**

This prospectus includes and incorporates by reference forward-looking statements. We have based these forward-looking statements on our current expectations and projections of future events. These forward-looking statements are subject to risks, uncertainties and assumptions about our business. You should consider any forward-looking statements in light of the risks and uncertainties described in the information contained or incorporated by reference in this prospectus. See *Where You Can Find More Information* . We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. In light of these risks, uncertainties and assumptions, the future events described in this prospectus may not occur.

**ENFORCEABILITY OF CERTAIN CIVIL LIABILITIES**

We are a public company incorporated under the laws of South Africa. All except two of our directors and officers, and the experts named herein, reside outside the United States, principally in South Africa. You may not be able, therefore, to effect service of process within the United States upon those directors and officers with respect to matters arising under the federal securities laws of the United States.

In addition, substantially all of our assets and the assets of our directors and officers are located outside the United States. As a result, you may not be able to enforce against us or our directors and officers judgments obtained in U.S. courts predicated on the civil liability provisions of the federal securities laws of the United States.

We have been advised by Taback & Associates (Pty) Limited, our South African counsel, that there is doubt as to the enforceability in South Africa, in original actions or in actions for enforcement of judgments of U.S. courts, of liabilities predicated on the U.S. federal securities laws.

**ANGLOGOLD ASHANTI LIMITED**

We are headquartered in Johannesburg, South Africa and are a global gold company with a diversified portfolio of assets in many gold producing regions. Our 20 operations comprising open-pit and underground mines are located in ten countries (Argentina, Australia, Brazil, Ghana, Guinea, Mali, Namibia, South Africa, Tanzania and the United States), and are supported by extensive exploration activities. We also undertake greenfields exploration activities in other regions including Australia, China, Colombia, the Democratic Republic of Congo, the Philippines and Russia.



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We (formerly AngloGold Limited) (Registration number 1944/017354/06) were incorporated in the Republic of South Africa in 1944 under the name of Vaal Reefs Exploration and Mining Company Limited and operate under the South African Companies Act 61 of 1973, as amended. On April 26, 2004, we acquired the entire issued share capital of Ashanti Goldfields Company Limited and changed our name to AngloGold Ashanti Limited on the same day. Our principal executive office is located at 76 Jeppe Street, Newtown, Johannesburg, 2001 (P.O. Box 62117, Marshalltown, 2107) South Africa (Telephone +27 11 637-6000). Our general website is at [www.anglogoldashanti.com](http://www.anglogoldashanti.com). Information contained in our website is not, and shall not be deemed to be, part of this prospectus.

**ANGLOGOLD ASHANTI HOLDINGS FINANCE PLC**

AngloGold Ashanti Holdings Finance plc is a finance company that is wholly-owned by AngloGold Ashanti Limited. Its business is to issue debt securities to finance the activities of AngloGold Ashanti Limited and its subsidiaries and affiliates. It has no other operations or employees.

AngloGold Ashanti Holdings Finance plc was incorporated as a limited company under the laws of the Isle of Man on June 4, 2008. It is incorporated under the Isle of Man Companies Act 2006 with registered number 002740V. AngloGold Ashanti Holdings Finance plc's registered office is at 1<sup>st</sup> Floor, Atlantic House, 4-8 Circular Road, Douglas, Isle of Man, IM1 1AG.

**RISK FACTORS**

For a description of some of the risks that could materially affect an investment in the securities being offered, you should read the discussion of risk factors, starting on page 15 in our Form 20-F, and identified in our future filings with the SEC, incorporated herein by reference. Additional risk factors not presently known to us or that we currently deem immaterial may also impair our business operations.

**RATIO OF EARNINGS TO FIXED CHARGES**

Our ratio of earnings to fixed charges for the periods indicated below were as follows:

|                                    | <b>2004</b> | <b>2005</b>                   | <b>Year Ended December 31,</b> |                               | <b>2008</b>                    | <b>Six Months<br/>Ended<br/>June 30<br/>2009</b> |
|------------------------------------|-------------|-------------------------------|--------------------------------|-------------------------------|--------------------------------|--|
|                                    |             |                               | <b>2006</b>                    | <b>2007</b>                   |                                |  |
| Ratio of earnings to fixed charges | 1:1         | \$(232)m:\$96m <sup>(1)</sup> | \$66m:\$87m <sup>(1)</sup>     | \$(571)m:\$85m <sup>(1)</sup> | \$(223)m:\$102m <sup>(1)</sup> | 7.16:1   |

(1) In 2005, 2006, 2007 and 2008, we had a deficiency of earnings to fixed charges.

We expect to record a deficiency of earnings to fixed charges for the year ended December 31, 2009 as a result of the impact of the hedge restructure that was effected in July 2009.

We computed the ratio of earnings to fixed charges by dividing the amount of earnings by the amount of fixed charges. For the purposes of calculating this ratio, and the deficiency, if any, of earnings available to cover fixed charges, we have calculated earnings by adding (i) pre-tax income from continuing operations before income from

affiliates, tax and noncontrolling interests; (ii) fixed charges; (iii) amortization of capitalized interest; (iv) distributed income of equity investees (dividends received); and (v) our share of any pre-tax losses of equity investees for which charges from guarantees are included in fixed charges. Interest capitalized, preference security dividend requirements of consolidated subsidiaries, and the noncontrolling interest in pre-tax income of subsidiaries that have not incurred fixed charges were subtracted from the total of the added items to give earnings. For the purposes of calculating the ratio of earnings to fixed charges and the deficiency, if any, of earnings available to cover fixed charges, fixed charges consist of the total of (i) interest expensed; (ii) interest capitalized; (iii) amortized premiums, discounts and capitalized expenses related to indebtedness; (iv) estimates of interest within rental expense; and (v) preference security dividend requirements of consolidated subsidiaries.

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**REASONS FOR THE OFFERING AND USE OF PROCEEDS**

Except as may be described otherwise in a prospectus supplement, we will add the net proceeds from our sale of the securities under this prospectus to our general funds and will use them for funding any potential future acquisitions, or our working capital, project development or capital expenditure requirements or for our other general corporate purposes. In addition, we may apply the proceeds of such sale to the reduction of our short-term and other indebtedness as may be described in a prospectus supplement.

AngloGold Ashanti Holdings Finance plc will lend the net proceeds from the sale of any guaranteed debt securities offered by it to us or our other subsidiaries to be used for these purposes.

We may designate a specific allocation of the net proceeds of an offering of securities by us to a specific purpose, if any, at the time of the offering and will describe any allocation in the related prospectus supplement.

**PROSPECTUS SUPPLEMENT**

This prospectus provides you with a general description of the securities that may be offered. Unless the context otherwise requires, we will refer to the ordinary shares, ADSs, debt securities, guarantees, warrants and rights as the offered securities. Each time offered securities are sold, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add to, update or change information contained in this prospectus. Accordingly, to the extent inconsistent, information in this prospectus is superseded by the information in the prospectus supplement. You should read both this prospectus and any prospectus supplement together with the additional information described under the heading **Where You Can Find More Information**.

The prospectus supplement to be attached to the front of this prospectus will describe the terms of the offering, including the amount and more detailed terms of offered securities, the initial public offering price, the price paid for the offered securities, net proceeds to us or a selling securityholder, the expenses of the offering, the terms of offers and sales outside of the United States, if any, our capitalization, the nature of the plan of distribution, the terms of any rights offering, including the subscription price for ordinary shares, record date, ex-rights date and exercise period, the other specific terms related to the offering, and any U.S. federal income tax consequences and South African tax considerations applicable to the offered securities.

For more detail on the terms of the offered securities, you should read the exhibits filed with, or incorporated by reference into, our registration statement on Form F-3, as well as the registration statements on Form F-6 (Registration Nos. 333-133049 and 333-159248) relating to the ADSs.

**SOUTH AFRICAN RESERVE BANK APPROVAL**

The issuance of securities under this prospectus may be subject to the approval of the South African Reserve Bank.

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Our authorized share capital consists of four classes of shares: ordinary shares of par value in South African rands, or ZAR, of 0.25 each, E ordinary shares of par value ZAR 0.25 each, A redeemable preference shares of par value ZAR 0.50 each, and B redeemable preference shares of par value ZAR 0.01 each. The ordinary shares, E ordinary shares and the A redeemable preference shares have voting rights, while the B redeemable preference shares have voting rights only under certain circumstances, and in respect of each of these classes of shares, there is no provision in our memorandum and articles of association for cumulative voting. There is no limitation imposed by our memorandum and articles of association or by South African law on the rights of any person, including non-residents, to own our ordinary shares or to exercise voting rights in respect of our ordinary shares.

Our authorized and issued share capital as of June 30, 2009 and August 28, 2009 (the latest practicable date prior to the date of this prospectus) is set out below:

| <b>Title of Class</b>          | <b>Authorized</b>    |                        | <b>Issued</b>        |                        |
|--------------------------------|----------------------|------------------------|----------------------|------------------------|
|                                | <b>June 30, 2009</b> | <b>August 28, 2009</b> | <b>June 30, 2009</b> | <b>August 28, 2009</b> |
| Ordinary shares                | 600,000,000          | 600,000,000            | 354,241,602          | 354,292,874            |
| E Ordinary shares              | 4,280,000            | 4,280,000              | 3,879,290            | 3,844,154              |
| A redeemable preference shares | 2,000,000            | 2,000,000              | 2,000,000            | 2,000,000              |
| B redeemable preference shares | 5,000,000            | 5,000,000              | 778,896              | 778,896                |

All of the issued ordinary shares, E ordinary shares, A redeemable preference shares and B redeemable preference shares are fully paid and are not subject to further calls or assessment by us.

All of the A redeemable preference shares and B redeemable preference shares are held by Eastvaal Gold Holdings Limited, our wholly-owned subsidiary. Our memorandum and articles of association provide that the A redeemable preference shares and B redeemable preference shares are not transferable.

At the annual general meeting of shareholders held on May 15, 2009, these shareholders approved an ordinary resolution granting our directors the authority to issue convertible bonds, convertible into a maximum of 15,384,615 of our ADSs. On May 22, 2009, AngloGold Ashanti Holdings Finance plc issued \$732.5 million principal amount of convertible bonds due May 22, 2014. These convertible bonds are convertible into our ADSs at an initial conversion price of \$47.6126 per ADS. These convertible bonds are unconditionally and irrevocably guaranteed by us. At the general meeting of shareholders held on July 30, 2009, shareholders approved, as a specific authority, the placement of 15,384,615 ordinary shares under the control of the directors, to be issued upon any conversion of the convertible bonds.

We are incorporated under the laws of South Africa and your rights as a holder of our ordinary shares will be governed by the South African Companies Act 61 of 1973, as amended, which we refer to as the Companies Act, the South African Securities Regulation Code on Take-Overs and Mergers and the JSE Listing Requirements, as well as our Memorandum and Articles of Association. The South African Companies Act 71 of 2008, which we refer to as the 2008 Companies Act, was signed by the President of the Republic of South Africa on April 8, 2009 and will replace the Companies Act upon its commencement, which is expected to occur during 2010.

The founding document of a company under the 2008 Companies Act will be the Memorandum of Incorporation, which will replace what is currently the memorandum and articles of association. The memorandum and articles of association of an existing company will continue to be effective for two years notwithstanding any conflicts between the memorandum and articles of association and the 2008 Companies Act and can continue to be effective beyond two years if there is no conflict between the memorandum and articles of association and the 2008 Companies Act.

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The 2008 Companies Act provides that ordinary shares will no longer have a par or nominal value. It is expected that regulations will be passed to provide for the transition of existing par value shares to no par value shares. Such regulations are obliged to preserve the rights of the existing shareholders and provide for the company to compensate its shareholders for any loss of any such rights. Additionally, under the 2008 Companies Act, a new class of shares referred to as unclassified shares may be created. The rights and terms that will attach to unclassified shares are to be determined by the directors of a company.

Your rights as a holder of our ordinary shares are summarized below. In addition, if you are a holder of our ADSs, your rights will also be governed by the deposit agreement which governs our ADS program. For a discussion of your rights as a holder of AngloGold ADSs, see *Description of ADSs* on page 14.

The following summary does not contain all the information that may be important to you and is qualified in its entirety by reference to the laws of South Africa and our governing corporate documents. We have filed our governing corporate documents as exhibits to this registration statement. Descriptions of the 2008 Companies Act are included below to the extent that the relevant provisions of the 2008 Companies Act, upon its commencement, are expected to differ materially from the corresponding provisions of the Companies Act.

## **Directors**

The management and control of any of our businesses is vested in our directors who, in addition to their powers under the Articles of Association, may exercise all powers and do all such acts and things as may be exercised or done by AngloGold Ashanti which are not expressly required to be exercised or done by our shareholders in a general meeting as set out in this prospectus.

### ***Appointment, Retirement and Removal of Directors***

The board of directors may appoint any person to be a director and any director so appointed will hold office only until the following annual general meeting of shareholders and will then be eligible for election. The directors who retire at the annual general meeting in this manner will not be taken into account in determining the directors who are to retire by rotation at such meeting.

At every annual general meeting of shareholders one-third of the directors not subject to employment contract will retire by rotation, or if their number is not a multiple of three, then the number will be rounded down to the nearest whole number. Directors retiring by rotation are eligible for re-election. The directors so to retire at such annual general meeting will, unless otherwise determined by the board, be those who have been the longest in office since their last election, but as between persons who become or were last elected directors on the same day, those to retire will (unless they otherwise agree amongst themselves) be determined by lot.

A director will no longer act as a director of the company if he becomes insolvent or subject to insolvency procedures, is found to be of unsound mind, is requested to resign by at least three-quarters of the directors, is removed by a resolution of shareholders or is absent from board meetings without leave of the directors for six consecutive months. A director can resign with one month's written notice unless he obtains the permission of the directors to shorten his notice period.

Our memorandum and articles of association contain no provision for directors to hold qualification shares, nor stipulate an age limit requirement for the retirement or non-retirement of directors.

Under the 2008 Companies Act, the Memorandum of Incorporation of a profit company must provide the company's shareholders the right to elect a minimum of 50% of the company's directors. The remaining directors may be

appointed in accordance with the Memorandum of Incorporation of such company. In addition, a director may be removed by an ordinary resolution at a shareholders meeting. The director concerned must be given notice of the meeting and be afforded a reasonable

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opportunity to make a presentation on the matter either personally or by representative before a vote is taken by the shareholders. If a company's Memorandum of Incorporation so provides, a person may be appointed to be an ex officio director as a consequence of that person holding some other office, title, designation or similar status.

The 2008 Companies Act provides that the authority of the board and its actions are not limited, negated or invalidated if the number of directors of a company falls below the minimum required by the 2008 Companies Act or the Memorandum of Incorporation of such company. Instead, the board is obliged, within 40 business days, to convene a shareholders meeting to elect additional directors to bring the number of directors into compliance with the 2008 Companies Act and the Memorandum of Incorporation of such company.

### ***Board Meetings***

The directors may regulate board meetings and determine the quorum necessary for the transaction of business as they think fit. Unless otherwise determined by the directors, two directors form a quorum. Issues arising at meetings are decided by majority vote with the chairman having a second or casting vote where there are more than two directors present at the meeting.

Under the 2008 Companies Act, to the extent that the Memorandum of Incorporation does not provide otherwise, decisions can be adopted by the written consent of a majority of the directors given in person or by electronic communication, provided that each director has received notice of the matter to be decided.

### ***Borrowing Powers***

We may create and issue secured or unsecured debentures and the directors may, subject to any regulations from time to time made by shareholders in general meeting, borrow or secure the payment of such sums as they think fit and may secure the repayment of any indebtedness by bond, mortgage or charge provided that no special privileges as to allotment of shares, attending and voting at meetings, appointment of directors or otherwise will be given to the holders of our debentures without the sanction of shareholders in general meeting.

Our borrowing powers are unlimited. These borrowing powers may be varied by shareholders by way of a special resolution in a general meeting of such shareholders.

### ***Remuneration***

The directors are entitled to such remuneration as shareholders may approve by ordinary resolution in a general meeting. If a director serves on any executive or other committee or performs services that, in the opinion of the board of directors, are outside the scope of the ordinary duties of a director, he may be paid such extra remuneration as the directors determine.

Under the 2008 Companies Act, directors' remuneration is required to be approved by a special resolution of shareholders within two years of the date of such remuneration.

### ***Interests of Directors and Restriction on Voting***

A director who is in any way, whether directly or indirectly, interested in a contract or arrangement or proposed contract or arrangement with us or any of our subsidiaries must declare the nature of his interest to us in accordance with the Companies Act.

A director will not vote nor be counted in the quorum and if he will do so his vote will not be counted on any resolution for his own appointment to any other office or position under us or in respect of any contract or arrangement in which he is interested, but this prohibition will not apply to:

any arrangement for giving to any director any security or indemnity in respect of money lent by him to us, or obligations undertaken by him for our benefit;

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any arrangement for the giving by us of any security to a third party in respect of a debt or obligation of us which the director has himself guaranteed or secured;

any contract by a director to subscribe for or underwrite securities; or

any contract or arrangement with a company in which he is interested by reason only of being a director, officer, creditor or member of such company (and note that these prohibitions may at any time be suspended or relaxed to any extent either generally, or in respect of any particular contract or arrangement, by us in general meeting).

Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more directors to offices or employments with us or any company in which we are interested, such proposals may be divided and considered in relation to each director separately and in such cases each of the directors concerned will be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.

If any question arises at any meeting as to the entitlement of any directors to vote and such question is not resolved by his or her voluntarily agreeing to abstain from voting, such question must be referred to the chairman of the meeting and his ruling in relation to any other director must be final and conclusive except in a case where the nature or extent of the interests of the director concerned have not been fairly disclosed.

The directors may exercise the voting powers conferred by the shares in any other company held or owned by us in such manner and in all respects as they think fit, including the exercise thereof in favor of any resolution appointing themselves or any of them to be directors or officers of such other company or voting or providing for the payment of remuneration to the directors or officers of such other company.

Under the 2008 Companies Act, the restrictions described above will apply to a company's directors, certain prescribed officers (the precise scope of which remains to be defined) and any person who is a member of a committee of the board of the company or of the audit committee of the company, whether or not that person is also a member of the company's board.

## **Share Rights, Preferences and Restrictions**

### ***Allotment and Issue of Ordinary Shares***

Any unissued ordinary shares can be disposed of or dealt with in such manner as shareholders may direct in a general meeting. Shareholders may resolve that all or any of such ordinary shares are at the disposal of the directors who may allot, grant options over or otherwise deal with or dispose of the ordinary shares to such persons at such times and on such terms and conditions and for such consideration as the directors may determine.

Any ordinary shares may be issued with such rights or restrictions as shareholders in general meeting may from time to time determine.

No ordinary shares may be issued at a discount except in accordance with section 81 of the Companies Act. Section 81 states that a company can issue shares at a discount to the par value of such shares, if such shares are of a class already in issue, if such issue is authorized by a special resolution requiring a 75% majority approval of shareholders present and voting at the general meeting to consider such resolution, if the company has been trading for at least one year, if the issue is sanctioned by the court and if the issue occurs within one month of the sanction. If

shares are issued at a discount, every prospectus issued by the company thereafter relating to the issue of any shares, will contain particulars of the discount allowed on the issue of those shares, or so much of the discount as has not been written off at the date of the issue of such prospectus.

Under the 2008 Companies Act, although directors may generally issue shares without shareholder approval, shareholder approval by way of a special resolution will, subject to certain

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exceptions, be required for the issue of shares (including our ordinary shares), convertible securities (including share options to directors and other persons that are related to the company or to any director) or if there is an issue of shares (including our ordinary shares), or convertible securities, including share options, with voting power on an as-converted basis equal to or exceeding 30% of the voting power of all shares of that class held by shareholders immediately prior to the transaction or series of transactions.

Under the 2008 Companies Act, directors may only issue shares for adequate consideration as determined by the board. The term *adequate consideration* is not defined under the 2008 Companies Act. The board's determination of adequate consideration may not be challenged unless the directors have breached their standards of conduct as specified in the 2008 Companies Act. In some cases, it may not be possible to indemnify the directors for their conduct and the company may have a claim against the directors for a breach of their duties as set out in the 2008 Companies Act. When a company has received the consideration for the issuance of shares (including in our case our ordinary shares) as approved by the board, such shares will be fully paid and the company will be obliged to issue the shares and cause the name of the holder to be entered into the company's securities registers.

The 2008 Companies Act also provides that shares can be issued for a consideration of future services, future benefits or future payment.

### ***Dividends, Rights and Distributions***

The ordinary shares participate fully in all dividends, other distributions and entitlements as and when declared by us in respect of fully paid ordinary shares. Under South African law, we may declare and pay dividends from any reserves included in total shareholders' equity calculated in accordance with International Financial Reporting Standards, subject to our solvency and liquidity. No larger dividend may be declared by shareholders in general meeting than is recommended by the directors. Dividends are payable to shareholders registered at a record date that is after the date of declaration.

Dividends may be declared in any currency at the discretion of the board of directors. Currently, dividends are declared in South African rands and paid in Australian dollars, South African rands, Ghanaian cedis or United Kingdom pounds. Dividends paid to registered holders of our ADSs are paid in US dollars converted from South African rands by The Bank of New York Mellon, as depository, in accordance with the deposit agreement. See *Description of ADSs* .

As approved by shareholders in general meeting on December 11, 2006, our authorized share capital was increased through the creation of a maximum of 4,280,000 E ordinary shares, to be issued for cash, pursuant to an employee share ownership plan and Black Economic Empowerment transaction. The E ordinary shares are not and will not be listed. Holders of E ordinary shares are entitled to receive a dividend, equal to the dividend per ordinary share declared by us from time to time, of which 50% of the declared dividend is payable in cash and 50% of the declared dividend is offset against the loan value of the E ordinary shares.

The holder of A preference shares is entitled to an annual dividend equivalent to the balance of the after-tax profits from income from mining the Moab Lease Area as determined by our directors in each financial year, only once the annual dividend on the B preference shares has been paid in full.

Any dividend may be paid and satisfied, either wholly or in part, by the distribution of specific assets, or in paid-up securities of us or of any other company, or in cash, or in any one or more of such ways as the directors or we in general meeting may at the time of declaring the dividend determine and direct.

The holder of B preference shares is entitled to an annual dividend amounting to the lesser of 5% of the issue price of the B preference shares, or an amount equivalent to the balance of the after-tax profits from income from mining the Moab Lease Area (which is part of the Vaal River operations in South Africa) as determined by the directors in each financial year. This annual dividend is a first

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charge on any profit available for distribution from the Moab Lease Area. The annual dividend is not payable from any of our other profits.

All dividends remaining unclaimed for a period of not less than three years from the date on which they became payable, may be forfeited by resolution of the directors for the benefit of us.

All of the issued ordinary shares, E ordinary shares, A redeemable preference shares and B redeemable preference shares are fully paid and are not subject to further calls or assessment by us.

Under the 2008 Companies Act, any dividend distributions must be approved by the board and satisfy certain solvency and liquidity tests as provided in the 2008 Companies Act.

## ***Voting Rights***

Each ordinary share confers the right to vote at all general meetings of shareholders. Each holder present in person or, in the case of a corporate entity, represented, has one vote on a show of hands. If a poll is held, holders present or any duly appointed proxy will have one vote for each ordinary share held. A holder of ordinary shares is entitled to appoint a proxy to attend, speak and vote at any meeting on his or her behalf and the proxy need not be a shareholder. Holders of ADSs are not entitled to vote in person at meetings, but may vote by way of proxy through The Bank of New York Mellon as the ADS issuer. Holders of CHESSE depository interests are not entitled to vote in person at meetings, but may vote by way of proxy. Holders of Ghanaian depository shares are not entitled to vote in person at meetings, but may vote by way of proxy.

There are no limitations on the right of non-South African shareholders to hold or exercise voting rights attaching to any of the ordinary shares.

Holders of E ordinary shares have the right to vote at all general meetings of shareholders and are entitled to appoint a proxy or proxies to attend, speak and vote at any meeting on his or her behalf and the proxy need not be a shareholder, to the extent that holders of E ordinary shares will not be entitled to veto any resolution that would otherwise have been capable of being passed, or not, by the required majority of votes of holders of ordinary shares and subject to the Listings Requirements of the JSE, holders of E ordinary shares will not be counted for categorization purposes in terms of section 9 of the Listings Requirements. These limitations on the E ordinary shares are a function of shareholder approval and the JSE Listing Requirements.

The A redeemable preference shares have voting rights that are similar to those of ordinary shares. The B redeemable preference shares have limited voting rights, except in the event that a dividend on this class of share has not been paid and remains unpaid for six months, or in connection with issues directly affecting these preference shares or us as a whole, such as disposal of substantially all of the company's assets, our winding up or reducing our share capital.

Our memorandum and articles of association do not provide for cumulative voting in respect of any of the classes of our shares.

Our memorandum and articles of association specify that if new classes of ordinary or preference shares are issued, the rights relating to any class of shares may be modified or abrogated either with the consent in writing of the holders of at least three-fourths of the issued shares of that class, or with the sanction of a resolution passed as if it were our special resolution at a separate general meeting of the holders of the shares of that class.

## ***Transfer of Ordinary Shares***

Dematerialized shares which have been traded on the JSE are transferred on the Strate (Share Transactions Totally Electronic) settlement system and delivered within five business days after each trade.

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The dematerialization of shares is not mandatory and holders of our ordinary shares may elect to retain their certificated securities. Subject to any statutory restrictions on transfer any shareholder may transfer all or part of his certificated securities, to the extent it is not prevented by section 91A of the Companies Act. Every transfer must be in writing in the usual common form or in such other form as the directors may approve and must be left at the transfer office where the register of transfers is kept or at such other place as the directors prescribe and must be accompanied by the share certificate and such other evidence as the directors or registrar may require to prove title and capacity of the intending transferor or transferee.

The directors may refuse to register any transfer of certificated securities unless the instrument of transfer, duly stamped, is lodged with us accompanied by the share certificate, the transfer is in respect of only one class of securities or th