



M E R G E N C E

**Mergence Investment Managers (Pty) Ltd**

Reg.No 2004/021426/07

**INFORMATION MANUAL**

**PUBLISHED IN TERMS OF SECTION 51 OF THE PROMOTION OF ACCESS TO  
INFORMATION ACT, NO 2 OF 2000**

Updated: November 2011

[www.mergence.co.za](http://www.mergence.co.za)



---

## Introduction

1. Mergence Investment Managers (Pty) Ltd (“Mergence”) is an independent, black owned and black managed asset manager with a pragmatic investment approach that readily enables offerings across the investment risk spectrum. Mergence is an authorised financial services provider in terms of the Financial Advisory and Intermediary Services Act. Our FSP number is 16134.
2. Our focus is on the provision of investment management services to institutional clients within South Africa. Our clients comprise of institutional pension and provident funds, government agencies, fund of funds managers and multi managers.
3. This manual outlines (i) the types of records held by Mergence and (ii) how a person must submit a request to access information or records held by Mergence, in terms of the Promotion of Access to Information Act, No 2 of 2000 (“the Act”).
4. The Act gives effect to Section 37(1) (a) & (b) of the Constitution of the Republic of South Africa, which provides for the right of access to information held by public and private bodies when such information is requested for the exercise or protection of any rights.

The Act also lays out the procedural requirements in relation to a request for information, the requirements to be met, and the grounds for refusal of a request. It recognises that the right to any information from a private body may be limited to the extent that such limitations (such as: the reasonable protection of privacy, commercial confidentiality and good governance), are reasonable and justifiable in a democratic society based on human dignity, equality and freedom as enshrined in the Constitution.

5. A guide to the Act is available from the South African Human Rights Commission ([www.sahrc.org.za](http://www.sahrc.org.za)). Queries regarding the Act can be directed to them:

Postal address:	Private Bag 2700 Houghton 2041
Telephone:	+27 (0)11 484-8300
Fax:	+27 (0)11 484-0582
e-mail:	<a href="mailto:paia@sahrc.org.za">paia@sahrc.org.za</a>

Note: Any reference in this manual to a section or clause is a reference to such section or clause in the Act. The requester should familiarise themselves with the Act’s provisions.

### **PART I: INFORMATION REQUIRED IN TERMS OF SECTION 51(1)(a) OF THE ACT:**

Mergence Investment Manager’s contact details are as follows:



---

Postal address: PO Box 8275  
Roggebaai  
8012  
Cape Town

Physical address: 6<sup>th</sup> Floor, The Equinox  
Corner Main & Milton Roads  
Sea Point  
8060  
Cape Town

Telephone: +27 (0)12 433 2960

Fax: +27 (0)12 433 0675

Email: [info@mergence.co.za](mailto:info@mergence.co.za)

Head of Private Body: Masimo Magerman (Managing Director), contactable on the above details provided. ([masimom@mergence.co.za](mailto:masimom@mergence.co.za))

For the purposes of the Act, the Information Officer is the Chief Operating Officer of Mergence, Mr Andy Howard. All queries may be directed to him. His contact details are:

Tel: +27 21 (0)21 433 2960

Fax: +27 21 (0)21 433 0675

Email: [andy@mergence.co.za](mailto:andy@mergence.co.za)

## **PART II: INFORMATION REQUIRED IN TERMS OF SECTION 51(1)(b)**

6. The South African Human Rights Commission (“the SAHRC”) has compiled a guide. It contains information which would be reasonably required of any person wishing to exercise any right set out in the Act. The guide is available from them in all South African official languages.
7. The guide is available for inspection at the offices of the SAHRC at:  
29 Princess of Wales Terrace Private Bag 2700  
Cnr York and St Andrews Streets  
Houghton  
Johannesburg
8. Further contact details are provided in the Introduction to this manual.



---

## RECORDS HELD BY MERGENCE

Mergence maintains records on a number of aspects relating to its business, clients and legislation governing its operation. The mere noting in this manual that we hold records on a category of information, client, legislation et cetera does not imply that access to such records will be granted. All requests for information must be made in accordance with the provisions of the Act and will be evaluated in a case by case basis.

### PART III: NOTICE IN TERMS OF SECTION 51(1)(c):

9. No notices have been published in the Gazette on the categories of record automatically available without a person having to request access thereto in terms of the Act. At this stage therefore, all requests for access to information must be submitted to Mergence.

### PART IV: RECORDS AVAILABLE IN ACCORDANCE WITH OTHER LEGISLATION IN TERMS OF SECTION 51(1)(d):

10. Where applicable, records are available in terms of the following legislation:
  - 10.1 Basic Conditions of Employment Act, No 75 of 1997
  - 10.2 Collective Investment Schemes Control Act, No 45 of 2002
  - 10.3 Companies' Act, No 71 of 2008
  - 10.4 Compensation for Occupational Injuries and Disease Act, No 130 of 1993
  - 10.5 Employment Equity Act, No 55 of 1998
  - 10.6 Electronic Communications Act, No 36 of 2005
  - 10.7 Electronic Communications and Transactions Act, No 25 of 2002
  - 10.8 Financial Advisory and Intermediary Services Act, No 37 of 2002
  - 10.9 Financial Institutions (Protection of Funds) Act, No 28 of 2001
  - 10.10 Financial Intelligence Centre Act, No 38 of 2001
  - 10.11 Income Tax Act, No 58 of 1962
  - 10.12 Labour Relations Act, No 66 of 1995
  - 10.13 Occupational Health and Safety Act, No 85 of 1993
  - 10.14 Pension Funds Act, No 24 of 1956
  - 10.15 Prevention of Organised Crime Act, No 121 of 1998
  - 10.16 Protection of Information Act, No 84 of 1982
  - 10.17 Rental Housing Act, No 50 of 1999
  - 10.18 Securities Services Act, No 26 of 2004
  - 10.19 Skills Development Act, No 97 of 1998
  - 10.20 Trademarks Act, No 194 of 1993
  - 10.21 Unemployment Insurance Act, No 63 of 2001
  - 10.22 Value Added Tax Act, No 89 of 1991.

### PART V: INTERNAL RECORDS (subject to Part VI and ANNEXURE 1 to this manual):

Mergence holds records in the following categories:



---

11. Companies' Act Records, inter alia

- 11.1 Memorandum of Incorporation / Articles of Association;
- 11.2 Minutes of meeting of the Board of Directors;
- 11.3 Minutes of meetings of the Executive Committee (EXCO);
- 11.4 Appointment of directors, auditors, company secretary and employees; and
- 11.5 Share certificates.

12. Financial and Accounting Records:

- 12.1 Annual Financial Statements;
- 12.2 Accounting Records;
- 12.3 Tax Returns;
- 12.4 Asset Register;
- 12.5 Rental Agreements;
- 12.6 Invoices (both relating to clients and Mergence).

13. Tax Records:

- 13.1 Pay-as-you-earn (PAYE) Records;
- 13.2 IRP5's / employee tax documents;
- 13.3 Records of payments made to SARS.

14. All statutory compliances:

- 14.1 Value Added Tax;
- 14.2 Regional Services Levies;
- 14.3 Skills Development Levies;
- 14.4 Unemployment Insurance Fund contributions;
- 14.5 FAIS compliance records;
- 14.6 Statutory returns to the Financial Services Board.

15. Personnel and Other Records:

- 15.1 Employment Contracts;
- 15.2 Personal staff records, next of kin and contacts;
- 15.3 Medical Aid Records;
- 15.4 Provident Fund Records;
- 15.5 Disciplinary Records;
- 15.6 Salary Records;
- 15.7 Code of Conduct;
- 15.8 Leave Records;
- 15.9 Training Records;
- 15.10 Conflict of interest policy and register;
- 15.11 Disaster recovery and business continuity plans;
- 15.12 Investment records;
- 15.13 Records relating to BEE (eg. Empowerdex rating)
- 15.14 Service level agreements;
- 15.15 Trademarks, patents & copyrights;



---

15.16 Insurance policies;

15.17 Licences;

15.18 Risk management plan;

15.19 Personal Account (PA) trading policy and PA register.

16. Records relating to Third Parties:

16.1 Records held by Mergence pertaining to third parties, including, but not limited to financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about any contractors and / or suppliers;

16.2 Records held by Mergence pertaining to contractors, subsidiary companies, joint venture companies, special purpose vehicles and service providers. (In cases where information requested by the requester may impact on a third party, the Information Officer is obliged to comply with the requirements set out in the Act).

#### **PART VI: PROCEDURE FOR REQUEST FOR ACCESS:**

17. The requester must comply with all the procedural requirements as set out in the Act, relating to the request for access to a record.

18. The requester must complete the form attached to this document as Annexure 1, and submit it together with payment of the required fee (if applicable) and a deposit (if applicable) to the Information Officer at the postal or physical address, facsimile number or electronic mail address listed under PART I above.

19. The said form must be completed with enough information / detail so as to enable Mergence to be in a position to identify:

19.1 The record/s requested;

19.2 The identity of the requester;

19.3 Which form of access to the records is required, should the request be granted;

19.4 The postal address or facsimile number of the requester.

20. The requester must identify the nature of the right for which purposes access to the record is required. Space is provided on the form in this regard.

21. The requester must indicate if, in addition to being informed in writing whether access to the record has been granted, they wish to be informed of the decision of the request in any other manner.



---

22. If the request is made on behalf of another person, then the requester must submit proof of the capacity in terms of which the requester is acting. The Information Officer is entitled to ask for proof that satisfies identity.

23. Should a person be unable to complete the form supplied because of illiteracy, disability or any other reason, the person can submit the request verbally to the Information Officer (but still providing identity and identity verification). If verbally communicated, the requester must note that the conversation will be recorded as proof of record of it being held.

24. The requester must pay the prescribed fee (if applicable) before any further processing of the request will take place by Mergence. See annexure 2 for details on the fee.

25. Mergence will inform the requester within 30 days after receipt of the request of its decision whether or not to grant the request. The 30 day period may be extended by a further period of not more than 30 additional days if the request is for a large number of records or requires a detailed search through a large number of records and compliance with the original period would unreasonably interfere with the ordinary business activities of Mergence, or if the records are not located at the premises of Mergence, or consultations amongst the Group of companies to which Mergence belongs or another private body are necessary.

26. Should the request be granted (which is not automatic), the notice must state the access fee (if any) to be paid upon access, the form in which access will be given and that the requester may lodge an application with a competent Court against the access fee to be paid or the form or method of access granted.

27. Should the request be refused, the notice issued by Mergence will state the reasons for the refusal, including the provisions of the Act relied upon, and state that the requester may lodge an application with a competent Court against the refusal of the request.

#### **GROUNDINGS FOR REFUSAL OF ACCESS TO RECORDS:**

28. According to the Act, the primary grounds for Mergence to refuse a request for information relates to the following:

28.1 The protection of the privacy of a third party (eg. a client), if that third party is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;

28.2 The protection of commercial information of a third party as defined by the Act, if the record contains:

28.2.1 trade secrets of that third party;

28.2.2 financial, commercial, scientific or technical information other than trade secrets of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party;

28.2.3 information disclosed in confidence to Mergence by a third party, the disclosure of which could



---

put that third party at a disadvantage in contractual or other negotiations or would prejudice that third party in commercial competition;

28.3 Protection of confidential information if the disclosure would constitute a breach of a duty or confidence to a third party in terms of an agreement or mandate;

28.4 The safety of individuals and the protection of property;

28.5 Protection of records which would be regarded as privileged in any legal proceedings, unless the person so entitled to privilege waives it;

28.6 The protection of the business activities of Mergence, which includes but is not necessarily limited to:

28.6.1 the trade secrets of Mergence;

28.6.2 financial, commercial, scientific or technical information, disclosure of which could cause harm to the financial or commercial interests of Mergence;

28.6.3 information which, if disclosed, could put Mergence at a disadvantage in negotiations or commercial competition;

28.6.4 a computer programme or software or system owned by Mergence, and which is protected by copyright or trademark;

28.7 The research information of Mergence, or a third party on behalf of Mergence, if the disclosure would expose the third party, Mergence, the researcher or the subject matter of the research to serious disadvantage.

## **REMEDIES AVAILABLE IF A REQUEST FOR INFORMATION IS REFUSED**

29. Mergence does not have internal appeal procedures and as such, the decision made by the Information Officer of Mergence is final. Objections to the decision to refuse access can be made by that person within 30 days after notification of the refusal, to a Court for the appropriate relief.

30. Should a third party be dissatisfied with the Information Officer's decision to grant a request for information relating to that third party, they may within 30 days of notification of the decision, apply to a Court for the appropriate relief.

## **FEES:**

31. The prescribed fee for requests to private bodies is available on the website of the SAHRC. The fees may be amended from time to time. At the time of publishing this manual, the fees were as outlined in Annexure 2.





**ANNEXURE 1****FORM TO BE COMPLETED:****REQUEST FOR ACCESS TO RECORDS OF A PRIVATE BODY****A. PARTICULARS OF MERGENCE INVESTMENT MANAGERS (PTY) LTD**

This form must be addressed to the following person:

Chief Operating Officer (the Information Officer)

PO Box 8275

Roggebaai

8012

Cape Town

Fax: +27 (0)12 433 0675

E-mail: [brandon@mergence.co.za](mailto:brandon@mergence.co.za)

**B. PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORD**

Please note:

- The details of the person who requests access to the record concerned must be provided below
- Proof of the capacity in which the request is made / identity of the requester must be attached
- Accurate contact details must be provided to enable proper processing.
- Merely submitting a request does not mean access to the record will be granted.

Full name and surname: \_\_\_\_\_

Identity Number: \_\_\_\_\_

Postal Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

Cell phone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_



---

Capacity in which the request is made (including if made on behalf of another person):

---

---

---

**C. PARTICULARS OF PERSON ON WHOSE BEHALF REQUEST IS MADE**

Please note:

- Only complete this section "C" if you are making a request *on behalf of another person*

Full name and surname: \_\_\_\_\_

Identity Number: \_\_\_\_\_

**D. PARTICULARS OF RECORD**

Please note:

- Provide an accurate description of the record you wish to access in this Section "D".

Description of record or relevant part of the record:

---

---

---

---

---

Please provide any additional information you want to convey relating to the record requested:

---

---

---

---

---



---

## E. PARTICULARS OF THE RIGHT TO BE EXERCISED OR PROTECTED

As per the Promotion of Access to Information Act, please indicate which / what right is to be exercised or protected:

---



---



---

Please explain why the record requested is required / needed for the exercise or protection of the right you mentioned above:

---



---



---



---



---

## F. FEES PAYABLE

Please note:

- Fees are outlined in Annexure 2
- No request for a record will be auctioned without the relevant fee, if applicable, being paid.
- The fee must be paid into the following account:
  - Mergence Investment Managers (Pty) Ltd
  - Bank: Standard Bank
  - Account number: 070 196 222
  - Branch code: 020009
- If you believe you are exempt from the payment of fees, please declare the reason below (also refer to the Act for guidance).
- Use your initial and surname as a **deposit reference** when making payment and keep proof of payment.

Reason for exemption from the payment of fees as per Annexure 2:

---



---



---



---



## G. FORM OF ACCESS TO RECORD

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

**Please tick the appropriate box below**

Please note:

- Compliance with your request may depend on what form the record is available
- Access in the form requested may be refused in certain cases, and provided in a different form
- The fee payable by you for access to the record, if any, will be determined by the form in which access is requested (see Annexure 2)

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

Copy of record

inspection of record at our premises

2. If the record consists of visual images (eg. photographs, drawings, video etc)

View the images

copy of the images

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

Listen to the soundtrack (audio cassette)

written transcript of soundtrack

4. If the records is held on computer or electronic media or machine-readable form:

Printed copy of record

copy in computer readable form (eg. CD)

5. If you request a copy or transcript of a record, do you want the copy or transcript to be posted to you? (Postage will be payable by yourself)

Yes

No



---

**H. NOTICE OF DECISION REGARDING ACCESS TO RECORD**

Please indicate how would you like to be informed of the decision by Mergence regarding your request for access to the record concerned:

Post

Fax

Email

Telephone or any other reasonable method

Provide the details with respect to your choice above (eg. email address, postal address etc):

---

---

---

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

---

**Signature of requester or the person on whose behalf the request is made**

**Note:**

- No request for access will be processed without the required signature above, or without the required fee being paid.
- A reasonable time for processing by Mergence must be allowed.



## ANNEXURE 2

## FEES PAYABLE IN RESPECT OF PRIVATE BODIES

	Description	Fee in Rands
1	The fee for a copy of the manual as contemplated in regulation 9(2)(c), for every photocopy of an A4-size page or part thereof.	1,10
2	The fees for reproduction referred to in regulation 11(1) are as follows:	
(a)	For every photocopy of an A4-size page or part thereof	1,10
(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,75
(c)	For a copy in a computer readable form on -	
	(i) Stiffy disc	7,50
	(ii) Compact disc (CD)	70,00
(d)	(i) For a transcription of visual images, for an A4-sized page or part thereof	40,00
	(ii) For a copy of visual images	60,00
(e)	(i) For a transcription of an audio record, for an A4-sized page or part thereof	20,00
	(ii) For a copy of an audio record	30,00
3	The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2)	50,00
4	The access fees payable by a requester referred to in regulation 11(3) are as follows:	
4.1	(a) For every photocopy of an A4-sized page or part thereof	1,10
	(b) For every printed copy of an A4-sized page or part thereof held on a computer or in electronic or machine readable form	0,75
	(c) For a copy in a computer readable form on -	
	(i) Stiffy disc	7,50
	(ii) Compact disc (CD)	70,00
	(d) (i) For a transcription of visual images, for an A4-sized page or part thereof	40,00
	(d)(ii) For a copy of visual images	60,00
(e)	(i) For a transcription of an audio record, for an A4-sized page or part thereof	20,00
	(ii) For a copy of an audio record	30,00
(f)	To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation	
4.2	For purposes of section 54(2) of the Act, the following applies:	
(a)	Six hours as the hours to be exceeded before a deposit is payable; and	
(b)	One third of the access fee is payable as a deposit by the requester.	
4.3	The actual postage is payable when a copy of a record must be posted to a requester.	

