

GUIDELINES ON DEPOSITARY RECEIPTS (DRs) AND GLOBAL DEPOSITARY NOTES (GDNs) IN UGANDA

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1. Definitions

“Bare trustee” means a person who holds property in trust for the absolute benefit and at the absolute disposal of the beneficiaries who are of full age and are sui juris,

“Depository” means a regulated financial institution that creates and issues depository securities;

“Depository note” means a means a negotiable certificate that represents ownership of bonds in a company or debt security listed in another country.

“Depository receipt” means a negotiable certificate that represents ownership of shares in a company or listed in another country;

“Depository securities” means Global Depository Receipts “GDR” and Global Depository Notes GDN”;

“in-bound depository securities” means securities whose primary jurisdiction of issuance is a foreign country and which are issued as depository securities in Uganda;

“Issuer” means the depository for an unsponsored issue and the listed company or an agent appointed by the listed company for a sponsored issue;

“Out-bound depository securities” means securities whose primary jurisdiction of issuance is Uganda and which are to be issued as depository securities in another jurisdiction;

“Sponsored depository security” means a depository security in which the issuer of the underlying security has direct involvement in the issuance of the depository securities; and

“Unsponsored depository security” means a depository security, issued by a depository without the involvement, participation or consent of the issuer of the underlying securities.

2. General requirements

2.1 This Guideline focuses on the guiding principles for listing and trading, settling and cancelling in-bound and out-bound depository receipts and depository notes.

2.2 All transactions in the Ugandan market on depository receipts and depository notes shall be in Uganda Shillings.

2.3 All documents submitted to the Authority shall be in English.

2.4 All issuances of depository receipts and depository notes in Uganda shall be allocated an International Securities Identification Number (ISIN) by the securities exchange in which the securities shall be listed, to uniquely identify the securities.

3. Responsibility for issuance of depository receipts and notes

3.1 The ultimate responsibility of structuring an offer of depository receipts or depository notes shall be on the depository bank for an unsponsored issue and on the issuer or an agent appointed by the issuer for a sponsored issue.

3.2 Depositary receipts or depositary notes shall be issued in Uganda in cases where a foreign company desires to sell them in Uganda or if it would be less costly and commercially viable for the depositary to service such a market using these instruments in the country rather than do a direct cross listing or such other reasons that the foreign company may have.

3.3 A locally listed company may issue the depositary receipts or depositary notes in a foreign country if it shall be less costly and commercially viable or for such other reasons the company may deem necessary.

4. Pre-listing requirements for in-bound depositary receipts

4.1 Before formally applying for listing, the issuer shall evaluate and understand the specific relevant listing requirements in Uganda as set out both in this Guideline and in the relevant sections of the Capital Markets Act and Regulations.

4.2 If the issuer is not a depositary, it shall appoint a depositary institution to handle depositary and custody aspects of the originally listed securities and a sponsoring Broker.

4.3 Prior to commencing the application process, the issuer shall appoint the relevant advising professionals such as lawyers, underwriters, accountants, analysts or any other professionals.

4.4 In consultation with the appointed professionals, the issuer shall evaluate the listing requirements, the prospectus and other relevant documentation, in preparation for listing.

5. Approvals for in-bound depositary notes and appointment of other parties

5.1 Before approaching the Authority for approval to offer depositary notes in the Ugandan market, an issuer intending to list or privately offer depositary notes in Uganda, either by itself or through a depositary bank shall obtain and prove that it has all the necessary approvals and exemptions from its domicile jurisdiction.

5.2 If the issuer is not a depositary bank, it shall appoint a depositary institution, a custodian institution and a sponsoring Broker to handle depositary and custody aspects of the originally listed bonds or listed company.

5.3 Prior to commencing the application process, the issuer shall appoint the relevant advising professionals such as lawyers, underwriters, accountants or any other professionals.

5.4 In consultation with the appointed professionals, the issuer shall evaluate the listing requirements and the possible listing challenges, the prospectus and other relevant documentation, in preparation for a listing.

6. Applicability of the Act and Regulations

6.1 For all intents and purposes, depositary receipts and depositary notes shall be recognized just like any other capital market security.

6.2 Depositary receipts and depositary notes fall within the definition of securities as defined in the Capital Markets Authority (Amendment) Act, 2016, CMA (Prospectus) Regulations, 1996,

7. Approvals for out-bound depositary receipts and appointment of other parties

7.1 Before applying to issue depositary receipts or depositary notes on securities of listed companies in Uganda or in any foreign jurisdiction, the issuer, whether as itself or as a depositary, shall obtain an approval in writing from the Authority.

7.2 If the issuer is not a depositary, it shall appoint a depositary institution, a custodian institution and a sponsoring broker to handle depositary and custody aspects of the originally listed shares

8. Approvals for out-bound depositary notes and appointment of other parties

8.1 Before applying to issue depositary notes on Uganda's listed bonds in any foreign jurisdiction, the issuer, whether as itself or as a depositary, shall obtain an approval in writing from the Authority.

8.2 If the issuer is not a depositary, it shall appoint a depositary institution, a custodian institution and a sponsoring broker to handle depositary and custody aspects of the originally listed securities

9. Role of the issuer

The issuer shall

(a) prepare the necessary issuance documentation including the prospectus, service level agreements and other relevant disclosure documents;

(b) maintain continuous communication with the Authority and the securities exchange, while responding to all pertinent questions requiring redress prior to the offer;

(c) send notices to the depositary on any corporate action likely to have an impact on pricing of depositary receipts or depositary notes including splits, bonuses, shareholder meetings, dividends, change of management, rights issues and other relevant events within a reasonable time but not less than twenty one days before the proposed action or event;

(d) develop and conduct an extensive investor relations engagement to establish the existence of a captive market and create awareness about the profile of the securities that would be on offer;

(e) avail relevant required information on request to facilitate the processing of an application;

(f) meet continuing prudential and other relevant obligations as prescribed by the Authority;

(g) for in-bound depositary receipts and depositary notes, as applicable, the issuer shall ensure that a register of holders and the securities held including transfers of the securities is prepared, maintained and promptly updated, through an authorised registrar.

10. Role of the custodian

The custodian shall

(a) either be a financial institution or body corporate licensed or approved by the Authority with the primary responsibility of ensuring the safe custody of the securities handed over for safekeeping;

(b) not only hold the assets safely for the account of the depositary, but also provide a periodical overview of the assets' value over time to the Authority and on request, to investors; and

(c) only be responsible for any general losses or negligence, and not for any investment losses.

11. Rights of investors

11.1 As the beneficial owners, investors shall have the right to –

(a) access all information affecting the security that could influence purchase or continued holding of depositary receipts and depositary notes certificates;

(b) vote in any shareholder meetings, for sponsored depositary securities, through the depositary or alternatively if the depositary is to vote by proxy, receive clear instructions mandating it to vote in relation to sponsored depositary receipts; and

(c) distribution of dividend or interest where applicable using procedures that shall be clearly outlined in the prospectus.

11.2 In case of a rights issue, investors in depositary receipts and depositary notes shall be made aware well in advance about the details of the issue.

12. Role of Depositary

12.1 The Depositary shall be a suitably authorized and regulated financial institution or consortium of financial institutions, acceptable to the Authority and each member of the consortium be duly incorporated or otherwise validly established according to the relevant laws of the place of incorporation or establishment, and be operating in conformity with those laws and its constitution.

12.2 Unless the Depositary itself is licensed by the Authority to perform the functions of a sub-custodian, payment agent and authorized registrar within Uganda, it shall appoint a sub-custodian, paying agent and authorized registrar in Uganda.

12.3 The primary role of the Depository shall be to avail all the necessary information to the Authority on type of depositary receipt or depositary note program, market to list or quote, issuance ratio, custody arrangements and foreign exchange conversion plans, among others.

12.4 The Depository shall be the overall coordinator of all parties, drawing up the issuance timetable, consulting with the issuer, the legal counsel, the custodian and the public relations firm among others, on the observance of obligations and timelines of the issuance.

12.5 By itself, or in close collaboration with the issuer, if sponsored, the Depository shall promptly announce and process corporate actions such as rights issues, bonus issues, dividends as and when made aware of such corporate actions.

12.6 The Depository shall also perform the following functions

(a) oversee the deposit of local shares in the custodian account;

(b) offer securities registration and transfer services for depositary receipts or depositary notes holders;

(c) offer facilitation services to depositary receipts or depositary notes holders including but not limited to; handling complaints, answering inquiries and distributing communications materials to registered holders;

(d) on a quarterly basis, prepare reports and give an update to the investing public, the issuer, if applicable, and the Authority, a summary on the depositary receipts and depositary notes investors, the performance, the markets, trends and other key developments;

(e) effect tax and other regulatory changes affecting the securities and maintain relevant documentation (if applicable);

(f) advise on, coordinate and assist in executing corporate actions, including effecting depositary receipts and depositary notes ratio changes;

(g) provide securities transfer and agency services in connection with the program in accordance with the terms of the deposit agreement submitted to and approved by the Authority;

(h) arrange for an international sub-custodian to accept deposits of underlying securities;

(i) issue the negotiable depositary receipts and depositary notes that represent the shares;

(j) for unsponsored programs, ensure that voting decisions are effected;

(k) either directly or through a local sub-custodian appointed by itself, maintain an account at the central depositary to receive depositary receipts and depositary notes for cancellation and on creation of new depositary receipts and depositary notes to be subsequently transferred to investors; and

(l) either directly or through a registrar appointed by the Depository, maintain the register of depositary receipts issued to reflect all transfers, issuances, cancellations and exchanges, monitor compliance with the limits specified in this Guideline for minimum percentage of depositary receipts and depositary notes in public hands and maximum number of depositary receipts and depositary notes issued and submit regular reports to the Authority as per the relevant clauses of this Guideline.

12.7 The Depository shall hold an account as a bare trustee in a local custody account either in its name or a nominee's name, for the sole benefit of the holders of the depositary receipts and depositary notes.

12.8 The Authority will permit the Depository to receive cash distributions or other amounts from the issuer without segregating such distributions from other cash amounts held by the Depository, provided that the documentation constituting the depositary receipts and depositary notes that the Depository shall distribute such amounts to investors as soon as practicable taking into account circumstances such as requirements to convert foreign currencies into Uganda Shillings, contractual arrangements with local custodians and legal requirements applicable

13. Role of the central depository

The central depository shall

(a) avail a platform for clearing and settlement of transactions in the depositary receipts and depositary notes executed on the securities exchange within the normal settlement cycle; and

(b) liaise with the Depository or its agent, to effect the transfer for purposes of issuance or cancellation both the underlying securities and depositary receipts and depositary notes from the Depository's Agent to the Depository's custodian, Free-of-Payment, subject to payment of all statutory fees.

14. Role of licensed broker, dealer and Investment house

The licensed broker, dealer or Investment house, whichever is applicable, shall

(a) act as placing agents on the initial public offer of depositary receipts and depositary notes; and

(b) provide brokerage services to facilitate trading of depositary receipts and depositary notes.

15. Role of accountants

Where applicable, accountants shall be charged with the responsibility of, among others:

(a) preparing the issuer's accounts for incorporation into the prospectus;

(b) reviewing the issuer's prospectus and interacting with the Authority on financial accounts matters; and

(c) conducting periodic audits and preparing financial reports and audit opinions.

16. Role of lawyers where applicable,

The issuer's lawyers shall, in addition to any other responsibilities that may be performed

(a) prepare the legal opinion and if applicable review the depositary counsel together with the Prospectus and regularly interact with the Authority to deal with any legal challenges to the issue;

(b) prepare the draft deposit agreement providing that the depositary holds in trust, for the sole benefit of the holders the securities to which the depositary receipts and depositary notes certificates relate, subject only to payment of the remuneration and appropriate expenses incurred by the depositary; and (c) ensure compliance with securities laws, regulations and rules necessary for the approval and continuing compliance of the issue.

17. Role of investment house and underwriters

As applicable, on accepting to be the issuer's broker or Underwriter or advisor whichever is applicable shall perform the following roles, among others-

(a) at the time of the offering, advise on size, pricing and marketing of offering, type of program to be launched, exchange or market that the securities shall trade in and ratio of depositary receipts and depositary notes to underlying securities;

(b) act as the placement agent or underwriter in the issuance;

(c) together with the public relations team, plan, advice and conduct road shows with the issuer's management to introduce the issuer to investors; and

(d) provide research coverage for the issuer through research reports.

18. Role of the exchange

The exchange shall

(a) obtain all relevant documentation and proposed timetable before admitting the depositary receipts and depositary notes for listing;

(b) cross-check compliance with established rules and procedures on depositary receipts and depositary notes issuance and cancellation;

- (c) seek commitment in writing, on continuing obligations of the issuer;
- (d) confirm, in writing, to the Authority completeness of infrastructural (software, human resource other issuance stakeholders preparedness etc.) arrangements before admitting the securities for listing; and
- (e) obtain the Authority's approval of the listing in writing.

19. Requirements for underlying securities

19.1 For in-bound securities, the underlying securities shall

- (a) conform with the law of the issuer's place of incorporation;
- (b) be duly authorized in accordance with the requirements of the issuer's constitution; and
- (c) have any necessary statutory or other consents.

19.2 The securities that the depositary shares represent must be fully paid and free from all liens and any restriction on the right of transfer to the Depositary.

20. Requirements for depositary securities

20.1 The Depositary Securities for which listing is sought shall

- (a) conform with the law of the Depositary's place of incorporation;
- (b) be duly authorised in accordance with the requirements of the Depositary's constitutive documents;
- (c) have the necessary statutory or other consents;
- (d) be valid under the law which is expressed to govern the document giving effect to the Depositary securities;
- (e) be free from all liens and any restriction on the right of transfer and should be listed on an unrestricted market segment; and

20.2 The Authority may admit to listing depositary receipts and depositary notes of lower value provided it is satisfied that there will be an adequate market for the Depositary securities concerned.

20.3 Unless otherwise determined by the Authority, where an application for listing has been made for a class of depositary receipts and depositary notes, twenty five per cent of that class of securities shall be in the hands of public investors.

20.4 Depositary Shares will not be regarded as being held in public hands if they are held, directly by:

- (a) a director or employee of the issuer or any of its subsidiary undertakings;

(b) a person who is a related party with a director of the issuer or of any of its subsidiary undertakings;

(c) the trustees of any employees share scheme or pension fund established for the benefit of any directors and employees of the issuer and its subsidiary undertakings;

(d) any person who by virtue of any agreement has a right to nominate a person onto the board of directors of the issuer or its subsidiary undertakings; and

(e) a strategic investor holding more than 5 percent of the total issued and paid-up securities.

20.5 The Authority may accept a lower market capitalization or percentage in public hands if it determines that the market in the depositary receipts will be sufficiently liquid and will operate properly.

20.6 If the percentage of a class of depositary receipts in the hands of the public falls below twenty five per cent or such lower percentage as may be established by the Authority, the Authority may suspend and allow a reasonable time to restore the percentage, unless this is precluded by the need to maintain the smooth operation of the market or to protect investors.

21. Clearing and settlement

The issuer or where applicable, the Depositary, shall ensure that appropriate arrangements are made with a central depositary licensed for the clearing and settlement of arrangements of the depositary securities.

22. Eligibility requirements for issuers

The issuer shall meet the following eligibility requirements:-

a) Incorporation status of the Issuer

The issuer shall be a duly incorporated institution, complying with the relevant laws of the jurisdiction of incorporation and operating in conformity with those laws and its constitution. For purposes of the listing rules, the issuer shall be the originator of the relevant underlying securities or the depositary which shall be a foreign entity acceptable to the Authority and whose securities are not listed and trading on a securities exchange licensed by the Authority.

b) Size: Share capital

The issuer shall be expected to comply with the minimum capitalization guidelines in force in the jurisdiction of primary listing or the minimum amount required to list is One Billion Uganda Shillings

c) Net Assets

Issuers shall comply with the minimum capitalization and net asset guidelines in force in the jurisdiction of primary listing, or two Billion Uganda Shillings.

d) Free transferability of underlying Securities and Depositary Shares

The underlying Securities of the issuer shall be freely transferable and not subject to any restrictions on marketability or any pre-emptive rights. The Depositary securities shall be freely transferable and not subject to any restrictions on marketability or any pre-emptive rights

e) Competence and suitability of directors and management of the Issuer

At the time of the application, the issuer shall not be in breach of any of its loan covenants or other contractual obligations, particularly in regard to its maximum debt capacity. The directors of the issuer shall collectively have appropriate expertise and experience for the management of its business. The structure of the Board of Directors shall comply with the applicable Corporate Governance Guidelines or Regulations specified by the securities regulator in the jurisdiction of the issuer's primary listing.

f) Dividend policy

A statement on the future dividend policy, if applicable

g) Track record, profitability and future prospects

As applicable, the issuer shall over the last five years, have been carrying on as its main activity, either by itself or through one or more of its subsidiaries, an independent business capable of generating revenue. The issuer must have declared profits after tax attributable to shareholders in at least three of the last five completed accounting periods to the date of the application for issue of the Depositary securities. The issuer's securities must have been listed on a permissible Exchange for a minimum of two years. The Authority may waive these restrictions with respect to minimum track record, listing period and profitability where, in the opinion of the Authority, it would be in the public interest or promote compliance with public policy and legislative requirements such as minimum local shareholding legislation, to allow the offer and listing of Depositary securities. The Authority shall consider such circumstances on a case-by-case basis.

h) Solvency and adequacy of working capital

As applicable; the issuer shall not be insolvent. The issuer shall have adequate working capital.

i) Depositary Share ownership structure

Following the public offer of Depositary securities, or immediately prior to listing in the case of an introduction, at least twenty five per centum of the Depositary securities shall be held by public investors

j) Legal opinion

The issuer shall provide a legal opinion in the form set out in Clause 23(1) of this Guideline.

23. Requirements for issuance of depositary receipts and notes

23.1 Legal opinion

As applicable, the issuer shall provide to the Authority a satisfactory legal opinion from a qualified counsel practicing in the issuer's country of incorporation, in a form satisfactory to the Authority, which shall include an opinion that at the time of the application for listing of the Depositary securities-

- (a) the issuer is listed on a securities exchange;
- (b) the issuer has the capacity to apply to list Depositary securities;
- (c) any issue of underlying securities and the establishment of the Depositary securities facility is in compliance with the issuer's constitution and all applicable local laws and regulations and listing rules; and
- (d) all actions, consents, registrations, and filings to be taken, obtained or made by the issuer under such laws have been taken or obtained.

23.2 Proportionate securities to be held in trust in a custody account

No issuance of depositary receipts or depositary notes shall be conducted without corresponding proportionate securities being held in trust in a custody account.

23.3 Subscription payments

On conclusion of the issuance process, through appropriate arrangements, the appointed sponsors or agents shall within a period specified in the Prospectus make payments for subscription through remittance to the issuer's currency account in the country of the depositary receipts and depositary notes issuance.

23.4 transfer of the underlying securities in the country of origin

Upon confirmation of the payment for such subscription, through clearly outlined procedures and channels, the issuer shall organize for the transfer of the underlying securities in the country of incorporation and credit the underlying shares to the Depositary's securities account opened with the local custodian which earlier appointed by the Depositary.

23.5 Crediting of depositary receipts

Upon receiving advice on the details of the underlying securities received by the custodian, the Depositary shall issue the depositary receipts and depositary notes. The depositary or its agent shall be responsible for crediting depositary receipts and depositary notes subscribed to by the investor in these securities to the investor's securities account.

23.6 Market maker

If applicable, a designated sponsor/agent may act as a market maker, to minimize the price gap between depositary receipts and depositary notes price and the price of the underlying securities.

24. Documentation requirements for issuance of depositary securities

24.1 Documentation

As a general rule, to the extent applicable, all the requisite documentation for issuance of securities as outlined in the Capital Markets Act, shall apply in the case of issuance of both sponsored and unsponsored in-bound depositary receipts and depositary notes in Uganda.

24.2 Prospectus Disclosures

The Issuance prospectus shall be a first step towards issuance. The prospectus shall contain all disclosures necessary, to help prospective investors make an informed decision as to whether or not, to participate in the offer.

24.3 Prospectus preparations

25. Contents of the prospectus

25.1 The prospectus shall outline information about the issuer including-

- (a) the name, registered office legal form, governance structure, operational jurisdictional outreach and relevant experience of the issuer;
- (b) the date and country of incorporation; and
- (c) the capital market regulatory provisions under which it operates in the country of domicile

25.2 The prospectus shall also indicate details of the depositary including-

- (a) the name, registered office legal form, governance structure, operational jurisdictional outreach and relevant experience of the institution;
- (b) The date and country of incorporation; and
- (c) The regulatory provisions under which it operates in the country of domicile.

25.3 A highlight of the content and conditions of the deposit agreement including the date, parties, duration, and any indemnities or restrictions on the liability of the Depositary (if applicable), a statement as to how the terms of the deposit agreement may be varied and a description of how such agreement may be terminated.

25.4 The prospectus shall also indicate a summary of the material terms and conditions of the depositary receipts and depositary notes issuance including-

- (a) circumstances to necessitate withdrawal of deposited securities and for further issuance of depositary receipts and depositary notes ;

- (b) conditions under which trading depositary receipts and depositary notes can be suspended;
- (c) liability of parties to the issue;
- (d) situations that may lead to the resignation and termination of Deposit Agreement and Depositary services; and
- (e) conditions under which a Deposit Agreement may be amended.
- (f) Fees (an addition)

25.5 Other details to be disclosed include-

- (a) a statement of the relevant resolutions, authorizations, agreements and approvals on the basis of which, the Depositary receipts and depositary notes shall be created and issued;
- (b) a statement of any right of pre-emption of shareholders exercisable in respect of any securities to be represented by the Depositary receipts and depositary notes (where applicable);
- (c) the securities exchange(s) in which the issuer's securities are primarily listed and their per unit average price in Uganda Shillings for Six (6) months prior to the publication of the prospectus;
- (d) the total number of securities being offered, whether it is a public or private placement, investor target category, offer type (book-build, fixed price etc.);
- (e) the issue price, its justification, whether it is at a discount or premium and the number of securities on issue, frequency of issuance;
- (f) The securities represented by the depositary receipts and depositary notes and the applicable conversion ratio;
- (g) where applicable, the procedure for the exercise of any right of pre-emption, the transferability of subscription rights and treatment of subscription rights not exercised;
- (h) a summary of the rights attaching to the depositary receipts and depositary notes, and in particular the voting rights, entitlement to share in any profits and, in the event of liquidation, in any surplus among others. In case of more than one class of securities of the issuer, details of each class;
- (j) the ranking securities' rights in relation to the issuer's total financial obligations, covenants attached to issuance and, in the event of liquidation, any special rights attached;
- (k) a statement on the date(s) on which entitlements to dividends or interests shall fall due.
- (l) a statement regarding all taxes payable on the gains from the securities and if or not, they shall be withheld at source in the country of domicile;
- (m) a statement as to whether the issuer (or depositary) assumes responsibility for the withholding of tax at source;

- (n) a detailed account of the arrangements for the transfer of the securities to the beneficial owners and restrictions (if any) on their transferability;
- (o) in case of out-bound depositary receipts and depositary notes, where a listing of securities on another securities exchange is to be sought by the Issuer (or depositary), among others, details of that securities exchange in terms of its size, global ranking and a justification of the listing in that market;
- (p) the period during which the issue shall remain open and names and addresses of the
Issuer's (or depositary) registrars, custodians, brokers, underwriters, transfer agents (where applicable) and other advisers as applicable;
- (q) the methods of and time limits for delivery of the securities, green-shoe option (if any), subscription rate for the issue to be considered successful and refunds arrangements in case of an over-subscription, the estimated net proceeds of the issue if known and the intended application of such proceeds;
- (r) where applicable, the names, addresses and descriptions of the persons underwriting the issue and the amount of portions not covered (if any);
- (s) the dates on which the underlying securities will be listed; and
- (t) where applicable, clearing and settlement arrangements for the securities.

26. Additional issue of depositary securities

There shall be no requirement for a prospectus for an additional issue of depositary securities that arises by way of a corporate action by the Issuer such as scrip dividends, bonus issues etc. with respect to the underlying securities provided that:

- (a) the corporate action is in compliance with the requirements of the primary securities exchange on which its securities are listed or any competent authority or equivalent regulatory authority that regulates it and the information specified in Clauses 33 and 35 has been submitted to the Authority; and
- (b) the issuer makes appropriate arrangements to disclose information in respect of these corporate actions in accordance with Clause 35 of this Guideline.

27. Policy on securities distribution and operational issues

The issuer shall outline its general policy on specific securities distribution and operational issues affecting Depository securities issuance. These policies shall include among others, policies on:

- (a) dividend declaration and distribution;
- (b) transferability of Depository securities;
- (c) securities ownership structure;
- (d) communication with stakeholders;
- (e) transfer of voting rights;
- (f) distribution of documents;
- (g) investor education;
- (h) collateralization and pledging; and
- (i) asset class categorization.

28. Risk management and allocation of responsibilities

Prior to undertaking issuance of Depository receipts and depository notes, the issuer shall ensure that all foreseeable risks are comprehensively addressed, with clear provisions on allocation of responsibilities to minimize risk exposure. Among the risks to be exhaustively addressed include;

- (a) foreign currency fluctuation risk;
- (b) subscription risk;
- (c) dilution risk;
- (d) underwriter's financial capacity risk;
- (e) competition risk;
- (f) securities custody risk;
- (g) issuer credit risk;
- (h) price fluctuation risk;
- (i) depository's resignation risk;
- (j) conflicts of interest risk;
- (k) liquidity risk; and
- (l) regulatory risk.

29. Trading and settlement of depository securities

29.1 Following the initial offer and listing of Depository securities, investors shall trade their Depository securities on the relevant securities market segment using the

normal securities trading and settlement systems and processes as is the case for other listed securities.

29.2 Under the terms of the deposit agreement:

- (a) the Depository bank may need to create new depository securities by buying the underlying securities from the relevant primary securities exchange, putting them in a custody arrangement in that market and then creating and distributing newly created depository securities to existing or new holders of Depository securities in response to corporate actions by the Issuer such as splits, bonus issues, rights issues and subsequent offerings/employee share option plans, among others; and
- (b) Holders of depository securities shall have the right to sell the Depository securities to other investors on exchange or by private transfer or, if they do not get a ready buyer, they may require the Depository bank to cancel held Depository securities and request the Depository bank to deliver a proportionate number of the underlying securities to their account (or pay a cash equivalent) to them.

30. Transfer of securities outside a securities exchange

30.1 To facilitate the process of creation and cancellation of Depository securities, it shall be necessary for the central securities depository to be able to transfer the underlying and Depository securities between the nominated account of the Depository (or its agent) and other investors within or outside of the trading and settlement infrastructure on a “free-of-payment” basis, subject to payment of relevant fees and commissions, given that the Depository (or its agent) shall be acting as a conduit for the transfer of beneficial ownership between one investor and another.

30.2 the Authority, authorizes the Depository and licensed persons to transfer Depository Securities “free-of-payment” basis, subject to payment of relevant fees and commissions to implement:

- (a) instructions by the Depository or its agent to transfer newly created Depository securities to investors to implement an initial public offer or corporate actions that may lead to creation of new Depository securities that comply with the relevant clauses in this Guideline or instructions by the Depository or its agent to transfer cancelled Depository securities to the Depository’s custodian or nominated agent to implement a redemption of the underlying securities on payment of a cash equivalent.
- (b) instructions by investors and subsequent transfer of newly created Depository securities to their account on their depositing previously held underlying securities with the

Depository that are issued in accordance with the provisions of the Deposit agreement approved by the Authority and in accordance with the processes agreed between the Depository and the central depository.

(c) instructions by investors to cancel and subsequent transfer of Depository securities initially issued in accordance with the provisions of the Deposit agreement approved by the Authority and in accordance with the process agreed for such cancellations between the Depository bank or its agent and the central depository specifically for such transactions and that comply with the provisions set out in 35.1.

31. Cancellation of depository receipts and notes

31.1 The depository bank shall outline in the prospectus circumstances under which it shall allow for the cancellation of Depository receipts and depository notes.

31.2 Cancellation of the depository receipts and depository notes shall take place upon the request of the depository receipts and depository notes owner to cancel the security and receive the underlying securities.

31.3 The depository receipts and depository notes owner shall send a cancellation request to the depository or its agent, who will then cancel the depository receipt and instruct the custodian to deliver the underlying securities to the account of the depository receipts and depository notes owner.

31.4 Upon receipt of the application for cancellation, the Depository shall instruct the underlying securities' custodian to deliver the proportionate number of underlying securities to the investor's custodian, usually located in the issuer's country of incorporation.

31.5 The Depository shall then retire the proportionate number of Depository receipts and depository notes by debiting the same to the register of the securities' owners at the time when it is advised by the underlying securities' custodian that the transfer of the underlying shares has been effected as instructed.

31.6 For both in-bound and out-bound Depository receipts and depository notes, the issuer or Depository bank, if applicable, shall be clear from the outset, on the target category of investors and whether or not, the issuance and subsequent trading of the securities shall be on or off the exchange.

32. Rights of holders of depository securities

32.1 The issuer must ensure equal treatment of all holders of its listed depositary securities and underlying securities and for the purposes of this Guideline, the Depositary security shall be fully recognized and shall be generally equivalent to the rights of holders of the underlying securities represented by the Depositary securities.

32.2 To the extent possible, the issuer shall ensure that all the necessary facilities and information is promptly available to the Authority and of the holders of underlying securities and holders of Depositary receipts and depositary notes to enable all stakeholders exercise their rights as a regulator and beneficial owners respectively by ensuring they are promptly informed in case of, among others:

- (a) meetings which they are entitled to attend;
- (b) information to enable holders of depositary receipts and depositary notes to exercise their right to vote, where applicable;
- (c) allocation and payment of dividends;
- (d) the issue of new securities, including arrangements for the allotment, subscription, renunciation, conversion or exchange of the securities;
- (e) material changes to the level of debt;
- (f) changes in the board of directors; and
- (g) changes in the issuer's business line or model.

33. Continuing Obligations

33.1 As a general rule, unless expressly provided, any information that might reasonably be expected to affect market activity of both the primary and underlying securities in depositary receipts and depositary notes arrangement shall be disclosed well in advance, in line with the disclosure provisions in the Capital Markets Act.

33.2 For in-bound depositary securities, the issuer shall ensure that copies of all documents required to be filed as part of continuing obligations are promptly made available to the Authority.

33.3 The issuer shall submit to the Authority, at the same time as it submits to shareholders, copies of all documents or other similar communication relayed to shareholders.

- 33.4 The issuer shall promptly notify the Authority of any corporate actions (mergers and acquisitions, dividend declarations, rights issues/splits/bonuses modification in the rights of the underlying securities and their corresponding depositary securities etc.) and in certain circumstances, the Authority may require a new application for listing of such additional securities.
- 33.5 Where applicable and in line with the requirements of the Capital Markets Act on publication of annual, semi-annual and quarterly reports, the issuer shall publish these reports in accordance with the Rules of the Securities Exchange on which the underlying securities are listed.
- 33.6 Prepared audited financial statements shall be compliant with International Financial Reporting Standards or any other applicable standards acceptable to the Authority.
- 33.7 For unsponsored issues, the depositary shall ensure that to the extent applicable, any information that might reasonably be expected to affect market activity of both the primary and underlying securities in depositary receipts and depositary notes arrangement is disclosed promptly, in line with the disclosure provisions in the Capital Markets Act.

34. Fees and other charges

34.1 The depositary shall clearly spell out its policy on all fees, commissions and other charges payable by the investor in the prospectus and the charges shall only be changed on them getting express authority in writing.

34.2 Some of the chargeable fees shall include;

- (a) tax (stamp duty and other taxes)
- (b) custodian Safekeeping Fee
- (c) custodian Settlement Fee
- (d) administration fees
- (e) currency fluctuation adjustments
- (f) miscellaneous Service Charges
- (g) indirect Expenses
- (h) broker Commission
- (i) application and Listing Fees

34.3 An applicant for listing of Depository securities shall pay initial listing fees calculated in accordance with the rates determined by the Authority

34.4 An applicant shall pay an annual fee for listing, calculated in accordance with the rates determined by the Authority

35. Notifications to the Authority

35.1 An issuer must inform the Authority in writing, promptly, when it becomes aware that the proportion of any class of listed depository securities in the hands of the public has fallen below twenty-five per cent (25%) of the total number of issued depository securities or, where applicable, such lower percentage as the Authority may determine.

35.2 For sponsored issues, the issuer shall promptly notify the Authority of any change of depository. The issuer shall furnish the Authority with information with respect to the cancellations and ensure that the replacement depository shall satisfy the applicable conditions set out in this Guideline.

35.3 The issuer shall provide information on changes to the registered holders on a monthly basis in compliance with the disclosure requirements of its primary listing exchange and/or any competent authority or equivalent regulatory authority that regulates it.

35.4 Where the Authority assesses that the corporate governance requirements that the issuer is required to comply with in the jurisdiction of its primary listing differ significantly from the corporate governance requirements applicable to companies with a primary listing in Uganda, the Authority may require the issuer to issue an undertaking to comply with the provisions of the Corporate Governance Code (to the extent applicable) for as long as the Depository securities remain listed in Uganda.

35.5 Where, in the opinion of the issuer, disclosure of any matter required by the provisions of this Guideline would be unduly detrimental to the issuer, the issuer shall provide this information in confidence to the Authority and apply for a waiver from the relevant requirements, giving clear justification why it believes the information should not be disclosed.

36. Review and updating of the Guideline

36.1 The Authority shall from time to time issue updates to this Guideline in respect of depositary receipts and depositary notes through a wide circulation medium as and when necessary;

36.2 The Authority shall review applications for issue and listing of depositary receipts and depositary notes to ensure that the proposed programme, applicants and advisors comply with the eligibility requirements and disclosure requirements as set out in this Note;

36.3 The Authority shall at any time require the applicant, its managers, its officers or employees to provide it with information to help confirm that the applicant meets its eligibility and continuing obligations.

36.4 The Authority shall take such enforcement action as provided under the Capital Markets Act on any person if it finds that such person has not complied with the provisions of this Guideline.

37. Clarifications from the Authority

In case of doubt with respect to the content of this Guideline, the Authority advises market participants and investors to seek clarifications from the Authority.