THE CAPITAL MARKETS COMMERCIAL PAPER GUIDELINES

Guidelines.

The Capital Markets Commercial Paper Guidelines.

(Under section 102 of the Capital Markets Authority Statute, 1996; Statute No. 1 of 1996)

IN EXERCISE of the powers conferred on the Capital Markets Authority ("Authority") by sections 6 and 102 of the Capital Markets Authority Statute, 1996 ("Statute"), these Guidelines are made this 30th day of January, 2003.

PART I – PRELIMINARY

1. These Guidelines may be cited as the Capital Markets Commercial Paper Guidelines.

2. (a) Commercial paper and corporate bonds are instruments issued for the purpose of raising funds directly from investors without intermediation by banks or other financial institutions. In the case of commercial paper, the purpose is primarily to raise working capital, while in the case of corporate bonds the issuer seeks to meet its long-term financing requirements.

(b) The time horizon of the instrument determines whether it is a commercial paper or corporate bond. The issuing of these instruments is critical to the deepening of the capital markets, as they provide a number of financing options to corporate institutions and also serve to enhance market liquidity. The ultimate result is a reduction in the cost of borrowing and promotion of intermediation in the economy as well as a competitive financial sector.

(c) These Guidelines form part of a series of measures aimed at streamlining the regulatory framework applicable to the issuance of debt financial instruments and addressing investors' interests.

(d) The Guidelines also serve to clarify the regulatory roles of the Capital Markets Authority (CMA) and other relevant regulatory bodies in the issuance of financial instruments.

3. (a) The issuance of debt financial instruments by the corporate sector is traditionally a capital markets activity and in most countries falls under the jurisdiction of the securities regulatory authority.

(b) The issuance of treasury bills is the responsibility of the Government or assigned monetary authorities on behalf of the treasury such as the Central Bank.

(c) Commercial banks and other financial institutions licensed by Bank of Uganda before seeking to issue any financial instruments or guaranteeing their issue will need to satisfy the CMA that by so doing they will not be in breach of any law, regulation or guidelines issued by Bank of Uganda.

(d) Insurance companies licensed by the Uganda Insurance Commission will need to satisfy CMA that issuing or guaranteeing the issue of financial instruments does not contravene any law, regulation or guidelines issued by the Uganda Insurance Commission.

(e) In order to ensure proper and appropriate information disclosure the issuance of commercial paper must be subject to regulatory clearance of CMA. The issuer must also undertake to comply with the continuous disclosure requirement of the CMA and where the issuer's securities are listed on an approved stock exchange, the issuer must comply with the listing rules of that securities exchange.

(f) It is important for the issuer to maintain effective liaison and consultation between CMA and other relevant regulatory bodies.

4. (a) In the absence of an independent credit rating agency in the local money and capital markets there is need to address the major concerns in the issuance of corporate bonds.

(b) These Guidelines are intended to govern the issuance of commercial paper until such time as a credit rating agency will be established in the local market. New Guidelines will then be issued in the future when a rating agency is established.

(c) Until such time as a credit rating agency is established, only companies or other corporate bodies, which meet the criteria outlined in these Guidelines, may issue commercial paper.

(d) In view of risk and credit worthiness concerns, there is need to initially restrict the issuance of commercial paper to listed companies, which are subject to CMA's continuous disclosure obligations, or where the issuer is not a listed company, the issue must be guaranteed as provided in these Guidelines.

PART II – GENERAL CONDITIONS

5. The issuer of commercial paper shall submit to the CMA, and upon obtaining the approval of the CMA, publish an offer document in the form of a Prospectus or Information Memorandum, which complies with all the requirements for the issue of securities as prescribed under the Capital Markets (Prospectus Requirements) Regulations 1996, as amended.

6. The CMA shall not approve the issue of any commercial paper, unless it satisfies the criteria prescribed under these Guidelines and upon payment of the fee prescribed under the Capital Markets (Prospectus Requirements) Regulations 1996, as amended.

PART III – REQUIREMENTS

7. Companies or other corporate bodies satisfying the following requirements will qualify to issue commercial paper.

(a) The issuer's paid up share capital and reserves should not be less than Uganda shillings One billion (Ushs. 1,000,000,000) and shall be maintained at that level during the period the commercial paper remains outstanding.

(b) The issuer shall have made profits in at least two of the last three financial years preceding the issue.

(c) The issuer's total indebtedness, including the new issue of commercial paper should not exceed 400% of the company's net worth (or gearing ratio of 4:1) as at the date of the latest audited balance sheet.

(d) The issuer's funds from operations to total debt for the three accounting periods preceding the issue shall be maintained at a weighted average of 40% or more.

(e) The conditions in paragraphs (c) and (d) shall be maintained for as long as the commercial paper remains outstanding.

8. The minimum size of the issue shall be Uganda shillings five hundred million (Ushs 500,000,000/=).

9. The minimum issue of lots shall be Uganda shillings one hundred thousand (Ushs 100,000/=).

10. (1) The issuer's offer document must be accompanied by an accountant's report relating to its audited accounts of at least three years preceding the issue.

(2) The accountant's report shall disclose the following information for the last three financial years preceding the issue:

(a) earnings before interest and taxes (EBIT) interest cover;

(b) funds from operations to total debt percentage;

(c) free cash flow to total debt percentage;

(d) total free cast flow to short term obligations;

(e) net profit margin;

(f) post tax return (before financing) on capital employed;

(g) long-term debt to capital employed ratio;

(h) total debt to equity ratio; and

(i) any other information that the CMA may deem to be necessary.

11. The issuer shall prepare for submission to the CMA a cash flow projection for the next 12 months or less, depending on the term of the commercial paper.

PART IV – CONTINUOUS DISCLOSURE OBLIGATIONS

12. It is an ongoing obligation upon the issuer to furnish to the CMA, as soon as possible any information that affects its credit worth.

13. During the period the commercial paper remains outstanding the issuer shall submit to the CMA half yearly unaudited financial statements and annual audited financial statements.

14. During the period the commercial paper remains outstanding, the issuer shall as soon as possible, publish in at least one local daily English newspaper with national circulation, the accounts required to be submitted to the CMA under Guideline 13 above.

PART V – GUARANTEED COMMERCIAL PAPER

15. In all cases where the issuer of commercial paper is not a company listed on an approved stock exchange, the issue must be guaranteed in the manner provided in these Guidelines.

16. The guarantor of a commercial paper shall fulfill the following conditions:

(a) where the guarantor is a financial institution, it shall submit to the CMA a no objection from Bank of Uganda;

(b) where the guarantor is an insurance company, it shall submit to the CMA a no objection from the Uganda Insurance Commission.

In both cases (a) and (b), the guarantor shall submit to the CMA a financial capability statement duly certified by its auditors.

(c) where a guarantor is a foreign organization, the guarantor shall submit to the CMA a report from a credible credit rating agency recognized by the CMA on the financial capability of the guarantor.

(d) in any other case, the CMA shall seek such assurance, as it shall deem necessary on the guarantor.

PART VI – MISCELLANEOUS

17. The issuer shall make a public announcement in English language in both the electronic and print media with nationwide circulation at least one week before the issue opens.

18. The issuer shall appoint advisers for the issue from among banks, licensed investment advisers and broker/dealers.

19. The issuer shall appoint placing agents from among banks, licensed investment advisers and broker/dealers.

20. The issuer shall designate one receiving bank. All payments with respect to the issue shall be made in the issuer's name and shall be banked in a designated bank account in the receiving bank.

21. The issuer shall designate payment and settlement agents from among banks.

22. The issuer shall designate an approved registrar and Trustee for the issue.

SCHEDULE

GLOSSARY OF TERMS

Adviser
In relation to an issuer of securities means an institution engaged in the provision of financial services which deals in securities, whether debt or equity, and has been contracted by the issuer as an adviser to the issue of securities and shall include lead adviser.

Average over the period
This is defined as the average of opening and closing balances for the given period. Alternatively, where the debt profile changes significantly during the year, it would be more appropriate to compute the weighted average over the period using month-end and quarter-end balances. The basis of computation should be disclosed.

Bond
A bond is a debt instrument with a maturity of one year or more, and is evidence of a loan extended by a creditor (who later becomes a bondholder) to a corporation or other borrower such as government or local authority. The borrower is obligated to pay the holder a specified interest at specific intervals, and to repay the principal amount of the loan at maturity. Bonds signify indebtedness of the issuer to the bondholder but do not have corporate ownership privileges as shareholders. The terms of the bond are normally contained in the bond indenture or trust indenture.

Bond insurer
An insurance company which insurers an issuer of securities against risk of default in payment of interest and payment of principal due under a guaranteed bond.

Commercial paper
Commercial paper is a debt instrument with a maturity of less than one year and is evidence of a loan extended by a creditor to a corporation.

Free cash flow
This is defined as operating cash flow for the period, less income, taxes paid and net capital investment.

Guaranteed bond
A bond which is guaranteed as to repayment of interest and/or repayment of principal by a third party who may or may not be related to the issuer but is usually larger, better known or more credit worthy that the issuer, or guaranteed by means of a contract of insurance.

Guaranteed paper
Commercial paper which is guaranteed as to repayment of interest and repayment of principal by a third party who may or may not be related to the issuer but is usually larger, better known or more credit worthy than the issuer or guaranteed by means of a contract of insurance.

Net worth (equity)
This represents the worth of the company after all obligations are met. Thus it may be defined as paid up share capital plus all reserves (i.e. revenue and capital reserves including revaluation reserves).

Net profit
This is defined as the net profit for the period after tax and extraordinary and exceptional items.

Offer document
This is a document prepared by the issuer to provide information about the issue and the issuer, and is in compliance with disclosure requirements, whether in form of a prospectus or an information memorandum.

Operating cash flow (funds generated from operations)
This is net profit (see above) for the period as adjusted for the effects of:

- Changes in working capital (stocks, trade debtors and creditors)
- Non cash items such as depreciation, foreign exchange gain/loss, gain/loss on disposal of fixed assets, provisions, deferred taxes, etc.; and
- All other items for which the cash effects are investing or financing cash flows or returns on investment or serving of finance, such as dividend income, interest paid or interest received.

Paid up share capital

This represents the ordinary shares (equity shares), which have been issued and fully paid up for, but excludes all non-equity shares except for non-redeemable preference shares.

Period
The period for which financial statements are issued. This must not exceed 18 months and must not be less than 3 months. For example, the longest period would be 1st January to 30th June of the following year. The shortest period would be 1st January of one year to 31st March of the same year.

Profit for the purpose of determining eligibility for issuing debt
Profit for the purpose of determining eligibility for issuing debt is the net profit before minority interests, as disclosed in the financial statements (i.e. profit after tax and extraordinary items).

The latest available balance sheet date
Where the latest annual audited financial statements are made up to a date more than six months before a launch date e.g. where latest audited financial statements are 12 months to 30th June 2000 for a bond issue to be launched on 31st March 2001, then:

(i) Management should disclose the unaudited balance sheet date to a date less than six months before the launch date (for example December 200) and financial results and cash flows for the period from the last audited financial statements to that date (6 months to 31st December 2000).

(ii) Disclose the financial ratios for that period (6 months to 31st December 2000) on a 12 months basis. The balance sheet, profit and loss accounts and cash flows for the "notional" first 6 months should be extrapolated. The extrapolation should be on a straight-line basis where there are no significant seasonal trends. Where there are significant seasonal trends identified in the previous period, then the extrapolation should be weighed accordingly.

Total indebtedness
This is represented by both long term and shot term debt. Long-term debts are any amounts outstanding on commitments that are repayable after more than one year. Examples include:

- Term loans;
- Bonds issued;
- Non-equity shares outstanding e.g. redeemable preference shares;
- Long term lease obligations; and
- Parent company loans/director loans/shareholder loans.

For this item analyse the amounts as:

- Amounts falling due within 1 year (classified as short term debt);
- Amounts falling due within 2-5 years; and
- Amounts falling due after 5 years.

Short-term debts are any amounts owed that have a maturity period of less than one year or which are repayable on demand but exclude normal trade creditors and other creditors. Examples include:

- Overdrafts;
- Current portion of long term debt;
- Commercial paper;
- Certificate of deposit (CD) issued;
- Parent company loans/director loans/shareholder loans**; [1]
- Trade credit facilities from related parties which are in excess of normal credit terms***

Disclosure should also be provided for future significant/ material cash obligations that are not already reflected on the balance sheets as a liability (i.e. off balance sheet items) such as:

- Contracted obligations, commitment for the next 12 months;
- Capital commitments that have been contracted for but provided for on the balance sheet and those authorized but not contracted;
- Contingent liabilities; and
- Contracted amounts payable under sale and repurchase agreements not recognized in the balance sheet, e.g. sale and leaseback of fixed assets.

Financial ratios

The financial ratios have been defined below to ensure that all issuers prepare them on a consistent and comparable basis.

Earnings before interest and taxes (EBIT) interest cover

EBIT interest cover= (EBIT for the period) / Interest payable + any preference dividend payable for the period for the period.

This is the extent to which dividends are covered by profits before interest (payable) and taxes. EBIT is after interest earned and income from investments during the period. Interest payable for the period is defined as interest payable on all long-term and short-term debts for the period (that is interest accrued).

Operating cash flow

Operating cash flow to total debt ratio =
(funds generated from operations during the period / average total debt during the period) X 100%

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[1] ** these amounts would be classified as long term debt provided that there is an agreed repayment schedule for interest and principal that is adhered to, otherwise the amounts would be classified as short-term debt.

*** for example, if the amount outstanding on a trade credit from a related party is equivalent to 90 days worth of purchases while normal industry terms are 30 days. An amount equivalent to 60 days worth of purchases should be classified as short-term debt.

This is the extent to which debt is covered by the cash generated from operations during the period.

Free cash flow to total debt percentage
Free cash flow to total debt = (free cash flow for the period / average total debt during the period) x 100%

This is the extent to which debt is covered by free cash flow available for the period.

Total cash flow to total short-term debt obligations
Total free cash flow to total short-term debt obligation = (total uncommitted cash flows for the period/total short term debt obligations at the end the period of the period) x 100%

This is the extent to which all short-term obligations are covered by total uncommitted cash flows measured as a percentage.

Total uncommitted cash flow is defined as free cash flow for the period plus any cash and cash equivalents at the end of the period.

Cash equivalents are defined as highly liquid, convertible into known amounts of cash without notice and have insignificant risk of change in value owing to changes in interest or exchange rates. A reasonable cut-off for cash equivalents is represented by a three-month (or less) maturity from date of acquisition.

Short-term debt obligations at the end of the period are defined as:

- Bank loans and overdrafts;
- Current portions of long term liabilities; and
- Other payables, but excluding accounts and notes payable (trade), taxes on income, dividends payable and other payables and accrued expenses which are of a non-financing nature.

Net profit margin
Net profit margin = (net profit far the period / total sales for the period) x 100%

This is a measure of profitability.

Total sales turnover for the period represents the total gross sales net of indirect taxes such as value added tax.

Net profit is defined in this glossary but must be stated after charging depreciation on the gross carrying value of assets.

Post tax return (before financing costs) on capital employed
Post tax return (before financing costs) = (profit after tax but before financing costs for the period / average capital employed for the period) x 100%

This measures the actual percentage rate of return to the "owners" of the capital (both equity and debt holders).

Profit after tax for the period is stated after exceptional items but before extraordinary items and interest payable.

Capital employed is defined as: shareholders' interest + minority interest + non-equity shares at liquidation value + long term debt.

Shareholders' interest is made up of paid-up capital and all reserves (i.e. revenue and capital reserves, including revaluation reserves).

Note: Where extra ordinary items can have significant impact the ratio should also be computed using profit after tax, extraordinary items and exceptional items but before financing costs.

Long-term debt capital employed ratio
Long term debt to capital employed ratio = average long term debt outstanding during the period / average equity for the period.

This measures the level of debt in relation to capital employed — the financial leverage, stated as a percentage.

Total debt to equity ratio
Total debt to equity ratio = average short term debt outstanding for the period / average equity for the period.

This is termed as gearing ratio and it measures the level of debt compared to equity, stated as a factor x 1

Equity = net worth (defined in the glossary)

Funds from operations to debt percentage
Funds from operations to debt = (funds generated from operations in the period / average total debt in the period) X 100%

The terms are defined in the glossary

Free cash flow to debt repayment cover
Free cash flow to debt repayment cover = (free cash flow for the period / interest payable + principal + preference dividend paid during the period.)

This is the extent to which total debt is covered by cash flow available for the period.

Free cash flows are defined in the glossary. Debt repayment includes any obligations on total debt that are due during the period.

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