

1.0 INTRODUCTION

The Securities and Exchange Commission (Commission) is mandated by the Securities Industry Act, 1993 (PNDCCL 333) as amended to formulate principles for the guidance of the securities industry. Pursuant to this, the Commission hereby publishes these guidelines for the issuance of Corporate Bonds in Ghana in accordance with section 9 (d) of the Act.

These guidelines are issued to simplify the securities issuance requirements under Schedule 5 of L.I. 1728 and shall apply to all bond issues that involve an invitation to the public (including restricted issues) as prescribed by section 266 of the Companies Act, 1963 (Act 179) as amended

2.0 PARTIES TO THE OFFER

Parties to the offer may include the following:

- A. Issuer
- B. Lead Manager
- C. Co-Manager(s)
- D. Registrar
- E. Underwriter(s)
- F. Receiving Broker-Dealer(s) and Receiving Bank(s)
- G. Auditor
- H. Reporting Accountant
- I. Legal Advisor
- J. Trustee
- K. Rating Agency

3.0 DISCLOSURES

3.1 GENERAL INFORMATION FOR CORPORATE BOND OFFERINGS

The offer document shall contain the following information:

- A. The legal and commercial name of the issuer.
- B. The authorized business or businesses of the issuer.
- C. Certified copies of certificate of incorporation, certificate to commence business and company regulations
- D. The legal form of the issuer
- E. The full postal address, telephone numbers, email, address of the registered office of the issuer and that of its domestic agent in the event the issuer is registered or incorporated outside Ghana
- F. The principal place of business of the issuer

- G. The full name, address and business occupation of every director and proposed director and of the secretary or proposed secretary of the issuer.
- H. The name and address of the issuer's auditors for the preceding three years.
- I. The name and address of the Accountants making the report.
- J. The names and addresses of the Lead Manager and /or Co-Manager(s) if any
- K. The name and address of underwriter of the invitation if any.
- L. The names and addresses of the issuer's bankers, sponsoring dealer and legal advisors.
- M. The names and addresses of the registrar and depository to the issuer.
- N. The name and address of Trustees for bondholders.
- O. Tax Clearance certificate of the issuer if applicable.
- P. Resolution of the Board of the issuer and shareholders' approval
- Q. The names, countries of incorporation or residence and nature of the businesses of the subsidiaries of the issuer and of the corporate bodies in which the issuer is beneficially entitled to equity shares conferring the right to exercise more than thirty per centum of the votes exercisable at a general meeting of the body corporate;
- R. If the issuer is a subsidiary, the name, country of incorporation and nature of the business of the holding issuer and the number of each class of shares of the issuer held by the holding issuer;
- S. If the issuer is part of a group, a brief description of the group and the issuer's position within the group preferably using a diagrammatic presentation;
- T. Information on the organizational structure of the issuer preferably using a diagrammatic presentation.

3.2 SUMMARY TERMS OF THE BOND

- A. Description of Bonds
- B. Amount to be raised
- C. Minimum amount to be raised /underwritten
- D. Denomination
- E. Issue Price/ Face Value
- F. Tenor/Maturity Date
- G. Currency of Issue
- H. Coupon and Coupon payment Frequency
- I. Secured or Unsecured
- J. Redemption provisions (mandatory or optional)
- K. Conversion provisions, if any
- L. Restrictive (or protective) covenants if any
- M. Minimum Subscription Amount
- N. Events of default
- O. Meetings of bondholders
- P. Indicate whether bonds will be listed and if so name and location of the stock exchange or market and whether such exchange or market has been approved under applicable laws
- Q. If not tendered for trading, indicate liquidity provision for investor
- R. Mode of issue (Programme or Single Issue)
- S. Commencement and Closing date of the offer

- T. Credit Rating(s), if any
- U. Tax status
- V. If convertible securities to be offered are subject to redemption or call, the terms under which they may be redeemed or called
- W. If known, the dates on which trading of the bond on the stock exchange or market is expected to commence

3.3 HISTORY AND DEVELOPMENT OF THE ISSUER

- A. A brief summary of the operational history of the issuer, the authorized business of the issuer and any businesses to which it has succeeded.
- B. Details of important events in the development of the issuer's business including information on:
 - i. the nature and results of any material reclassification, merger or consolidation of the issuer or any of its significant subsidiaries
 - ii. acquisition or disposal of material assets other than in the ordinary course of business
 - iii. any material changes in the mode of conducting business
 - iv. material changes in the types of products or services rendered
 - v. name changes;
 - vi. the nature and results of any bankruptcy, receivership or similar proceedings with respect to the issuer or subsidiaries.
- C. A description, including the amounts invested of the issuer's principal capital expenditures and divestitures (including interests in other companies) in the last three years immediately preceding the date of the offer document.
- D. Information concerning the principal capital expenditures and divestitures currently in progress, including in the case of an issuer operating outside Ghana the distribution of the expenditure/ divestiture geographically (home and abroad) and the methods of financing (internal and external).
- E. An indication of any takeover offers by third parties in respect of the issuer's shares or by the issuer in respect of other companies' shares which have accrued during the last and current financial year and the consideration attaching to such offers and the outcome thereof.

3.4 DESCRIPTION OF THE OPERATIONS OF THE ISSUER

- A. A description of the nature of the issuer's operation and principal activities, stating the main categories of products sold or services performed for each of the last three financial years, indicating any significant new products and/or services introduced and to the extent that the development of new products or services have been disclosed, the status of such development.
- B. A description of the principal markets in which the issuer competes including a breakdown of total revenues, by category of activity and market for each of the last three financial years.
- C. A description of the seasonality of the issuer's main business, (if applicable).
- D. A description of the sources and availability of raw materials, (if applicable).

- E. A description of the marketing channels used by the issuer including an explanation of any special sales methods.
- F. Information regarding the extent to which the issuer is dependent if at all, on patents or license, industrial, commercial or financial contracts or new manufacturing processes, where such factors are material to the issuer's business or profitability.
- G. Information on service and management contracts.
- H. The basis for any statements made by the issuer regarding its competitive position.
- I. A description of the material effects of governmental regulations on the issuer's business.
- J. A statement as to:
 - i. the financial and trading prospects of the issuer together with any material information which may be relevant thereto; and
 - ii. any material changes in the financial or trading position of the issuer which may have occurred since the end of the last completed financial year.
- K. a statement by the directors of the issuer that in their opinion the issuer's working capital is sufficient or if not, how the company intends to provide the additional capital needed.

3.5 PROFILE OF THE DIRECTORS AND EXECUTIVE OFFICERS OF THE ISSUER

- A. The following information shall be disclosed in the offer document with respect to the issuer's directors, persons nominated to become directors and executive officers:
 - i. name, business experience during the preceding 5 years, functions and areas of experience in the issuer;
 - ii. principal business activities performed outside the issuer including in the case of directors other directorships held;
 - iii. age;
 - iv. the nature of any family relationships between any of the persons above named;
 - v. any arrangement or understanding with major shareholders, customers, suppliers or others pursuant to which any person referred to above was selected as a director or member of executive management.
- B. The offer document shall indicate if a director or a chief executive officer or a person nominated to any of these positions is or has been involved in any of the following events:
 - i. a petition under bankruptcy laws in any jurisdiction filed against such person or any partnership in which he was a partner or any corporation of which he was a director or chief executive officer;
 - ii. such person has been convicted of fraud, misappropriation or breach of trust or any other similar offence; and
 - iii. such person was the subject of any order, judgement or ruling of any court of competent jurisdiction or administrative body enjoining him from acting as an investment adviser, dealer's representative, investment representative, a director of a financial institution or engaging in any type of business or professional activity.
- C. The offer document shall give full particulars of:
 - i. any contract or arrangements subsisting at the date of the offer document in which a director of the issuer is materially interested and which is significant in relation to the

- business of the issuer, its subsidiaries taken as a whole stating in full the nature of the director's interest or an appropriate negative statement;
- ii. any management contract, technical services contract or other similar contract and the fee payable under the contract including details of when the contract falls due for renewal and the probability of the fees under the contract being reviewed;
 - iii. details of existing or proposed service contracts of the director with the issuer or any subsidiary of the issuer or an appropriate negative statement.

3.6 CORPORATE GOVERNANCE AND BOARD PRACTICES

The offer document shall provide details of the issuer's directors and chief executive officer in respect of the last financial year:

- i. date of expiration of the current term of office (if applicable), and the period served;
- ii. directors service contracts with the issuer or any of its subsidiaries providing for benefits upon termination of employment; and
- iii. composition, terms of reference and scope of functions and powers of the audit committee and remuneration committee of the issuer and other committees of the Board.

3.7 DETAILS OF SHARE OWNERSHIP OF THE ISSUER

The offer document shall provide details of:

- A. Share ownership of individual directors, executive management and employees in the issuer with disclosure being on an individual basis in the case of directors and executive management;
- B. Names of the registered holders of 5% or more of the voting rights of the ordinary shares of the issuer as at the date to the issue of the offer documents;
- C. The portion of each class of shares held in the country of incorporation or registration and the number of shareholders in the country, where the issuer is registered or incorporated outside Ghana;
- D. Details of whether the issuer is directly or indirectly owned or controlled by
 - i. another corporation,
 - ii. any foreign government, or
 - iii. any other natural or legal person along with the names of the persons and the nature of the control, including the amount and proportion of voting securities; and
- E. Details of any arrangements known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.

3.8 AUDITED FINANCIAL STATEMENTS

Issuers shall submit audited financials for the last three years. Issuers with less than 3 years of existence shall submit audited financial statements since inception. The last of the audited financial statements presented with the offer document should not be more than 15 months old at the time of the offer.

3.9 INTERIM FINANCIAL STATEMENTS

- A. If the offer document is dated more than nine months after the end of the last audited financial year, it should contain consolidated interim financial statements, which may be un-audited (in which case that fact should be stated), covering at least the first six months of the financial year.
- B. The interim financial statements should include a statement of financial position, income statement, statement of cashflows, and a statement of changes in equity.
- C. The statements included in the interim financial statements may be in condensed form as long as it contains the major line items from the latest audited financial statements and includes the major components of assets, liabilities and equity (in the case of the statement of financial position); income and expenses (in the case of the income statement) and the major subtotals of cash flows (in the case of the statement of Cashflows).
- D. The interim financial statements should include comparative statements for the same period in the prior financial year, if available.
- E. The interim financial statements should include notes that will provide an explanation of events and changes that are significant to an understanding of the changes in financial position and performance of the issuer since the last annual reporting date.
- F. If, at the date of the document, the issuer has published interim financial statements that cover a more current period than those otherwise required by this regulation, the more current interim financial statements shall be included in the offer document.
- G. If the interim financial statements have been reviewed by an independent auditor, a copy of the auditor's interim review report must be provided in the offer document.

3.10 REPORTING ACCOUNTANT'S REPORT

The offer document shall contain a report by accountants duly qualified under section 296 of the Companies Act, 1963 (Act 179) to be appointed auditors of the issuer in respect of:

- (a) Financial Statements in each of the three years immediately preceding the publication of the offer document or if the issuer was incorporated less than 3 years, profit or loss since inception;
- (b) Where the issuer is a holding company, similar report as in (a) above, in respect of the issuer and its subsidiaries as far as it is attributable to the interests of the issuer;
- (c) Aggregate emoluments paid by the issuer to the directors of the issuer or any associated company during the last period in which the financial statements was prepared and the amount, if any, by which the emoluments would differ from the amount payable under any arrangement in force at the date of publication of the offer document;
- (d) Where at the date of publication of the offer document, the issuer proposes to acquire any business or subsidiary, similar report as in (a) above, in respect of that business or subsidiary; and
- (e) Projected financial statements included in the offer document.

3.11 CAPITAL STRUCTURE OF THE ISSUER

The offer document shall disclose as at the most recent date presented in the financial statements included in the document, and as of the latest practicable date, the following information:

- A. The stated capital of the issuer
- B. The number and description of the issuer's authorised shares of each class, issued shares of each class, and treasury shares (if any) of each class
- C. The number of unissued shares of each class agreed to be issued in connection with warrants, convertible obligations or other outstanding equity-linked securities, or subscription rights granted.
- D. If any of the issuer's shares are redeemable preference shares, the earliest date on which the issuer has the right to redeem the same
- E. Where there are shares not representing capital, a statement detailing the number and main characteristics of such shares
- F. Particulars of any debentures of the issuer or any of its subsidiaries and proposed subsidiaries which are under option, or agreed conditionally or unconditionally to be put under option, with
 - the title and amount of securities covered by the option,
 - the price to be paid for the securities under option,
 - the duration of the option,
 - the consideration for which the option was granted,
 - and the name and address of the grantee,
- G. Particulars of debentures of any of the issuer's subsidiaries and proposed subsidiaries which have, within two years immediately preceding the publication of the offer document, been issued, or which are proposed to be issued, otherwise than for cash and the nature of the consideration.

3.12 COMPREHENSIVE INDEBTEDNESS

A. The offer document shall contain a comprehensive statement of indebtedness of the issuer including any outstanding convertible debt securities and contingent liabilities prior to the date of the offer document including:

(i) The amount and maturity of the outstanding debentures issued or agreed to be issued by the issuer and any of its subsidiaries and proposed subsidiaries or, if none, a statement to that effect; and

(ii) particulars of any bank overdrafts of the issuer and any of its subsidiaries and proposed subsidiaries as at the latest practicable date, which shall be stated, or if there are no bank overdrafts, a statement to that effect.

B. Where the indebtedness is secured, the details of the collateral or security provided by/or on behalf of the issuer.

C. The issuer's statement of total indebtedness shall be adjusted to reflect the proceeds from the new issue of bonds.

3.13 PROPERTY, PLANT AND EQUIPMENT

The offer document shall provide:

A. Details of the situation, area, and tenure, including, where appropriate, the rent and unexpired term of the lease or concession, of the main places of business of the issuer and its subsidiaries and proposed subsidiaries;

B. Details of other material tangible fixed assets including lease properties and any major encumbrances along with details of the following in respect of each property

i. a brief description of its nature,

ii. existing use, and

iii. terms of lease or sub-leases (if any);

C. Details of the production capacity and extent of utilization of the issuer's facilities.

D. A description of environmental issues, if any, that may affect the utilization of assets.

E. Where the proceeds of the bonds will be used to build or complete property, plant and equipment, the issuer must indicate

i. whether planning permission has been obtained and the conditions attached,

ii. the date when development is scheduled to complete,

iii. the estimated cost of carrying out or completing development if part has already been carried out, and

iv. the effect the property, plant and equipment will have on productivity of the business when development is completed.

3.14 REMUNERATION AND COMPENSATION

A. The following information shall be provided in the offer document for the last full financial year with respect to the issuer's directors, chief executive officer and executive management of the issuer:

(i) the aggregate of all remuneration and compensation paid and benefits granted in kind to these persons by the issuer and its subsidiaries for services in the different capacities to the issuer and its subsidiaries;

(ii) contingent or deferred compensation payable at a later date;

(iii) in the event any portion of compensation was paid pursuant to a bonus or profit sharing plan, details of the plan and the basis of computation in the case of bonus or profit sharing;

(iv)) in the event any portion of compensation was paid in the form of stock options, details of the scheme, class and amount of securities covered by the options, purchase price of the options if any, and exercise and expiration date; and

(v) the total amount set aside or accrued by the issuer or its subsidiaries to provide retirement or similar benefits.

B. The offer document shall also indicate, if available, the estimated amount of the aggregate emoluments payable to the directors of the issuer including proposed directors for the current financial year under the arrangements in force at the date of the offer document.

3.15 EMPLOYEES

The offer document shall provide details of:

(i) the number of permanent and temporary employees and their key skills;

(ii) employee turnover rate in the preceding three years; and

(iii) any collective agreements between the issuer and its workforce.

3.16 RELATED PARTY TRANSACTIONS

The offer document shall provide information for at least 3 years immediately preceding the date of the document of loans and transactions between the issuer and:

(i) enterprises that directly or indirectly through one or more intermediaries control or are controlled by or are under common control with the issuer;

(ii) persons associated with the issuer;

(iii) individuals owning directly or indirectly an interest in the voting power of the issuer that gives them significant influence over the issuer and close members of any of the individual's family;

(iv) key management personnel, (i.e. those persons having authority and responsibility for planning, directing and controlling the activities of the issuer including directors and senior managers) and close members of their families; and

(v) enterprises in which a substantial interest in voting power is owned directly or indirectly by any person described in (b), (c) or (d) above and over which such person is able to exercise significant influence.

3.17 INFORMATION REGARDING THE ISSUE

A. The reasons for the offer

The offer document shall provide the following information:

1. A statement or an estimate of the net proceeds of the issue and giving specific details as to how proceeds are to be applied;

2. If the expected net proceeds is not fully raised, the balance of the sums required to be provided in respect of each of the following matters will be disclosed

(i) the price of any property purchased or to be purchased which is to be defrayed in full or in part out of the proceeds of the issue,

(ii) if the proceeds are being used directly or indirectly to acquire assets other than in the ordinary course of business of the issuer, then a brief description of the assets and cost of acquisition,

(iii) the repayment of any money borrowed by the issuer in respect of the matters listed or if any material part of the proceeds is to be used to discharge, reduce or retire indebtedness, the interest and maturity of the indebtedness, and

(iv) working capital.

3. If the anticipated proceeds will not be sufficient to fund all proposed purposes, the order of priority of purposes along with amounts and sources from which the shortfall will be financed;

4. If assets are to be acquired with proceeds are from affiliates, associates, subsidiaries or persons connected to the issuer, the promoters of the issuer or a director of the issuer then the manner in which the cost of acquisition was determined;

5. Where the issuer is proposing to acquire securities in any body corporate, which, by reason of the acquisition or anything to be done in consequence thereof or in connection therewith, will become a subsidiary of the issuer, the name, country of incorporation, and nature of the business of that proposed subsidiary; and

6. If the proceeds will or may be used to finance acquisitions of other businesses a full description of such business and information on the status of the acquisition along with the commercial rationalisation for such acquisition.

B. Details of the securities on offer

The offer document shall provide in addition to the details stated under the summary terms of the bond in 3.2:

(1) The material terms under which securities are underwritten together with the amount of securities being underwritten by each underwriter.

(2) A statement as to whether the underwriters are or will be committed to take and to pay for all of the securities on offer if not subscribed to by the public or whether it is an agency or the type of “best efforts” arrangement under which the underwriters will be required to take and to pay for only such securities as they may be able to sell to the public.

(3) The details of any material relationships the underwriter to the issue has with the issuer and the nature and terms of such relationship.

(4) A description of the arrangements for transfer and any restrictions on the free transferability of the securities offered.

(5) If convertible bonds to be offered are subject to redemption or call, the terms under which they may be redeemed or called.

(6) An indication of the total expenses of the issue which should include detailed breakdown of underwriting commission, sponsors fees, brokerage, listing fees and any other fees

C. Offer statistics and timetable

The offer document shall provide for all issues and separately for each group of targeted potential investors a statement disclosing the following information to the extent applicable to the offer procedure:

1. The period during which the issue of bonds will remain open after the publication of the offer document and the date prior to the expiration of which applications will not be accepted or treated as binding;

2. Where and from whom purchase or subscription applications could be obtained;

3. Whether the offer period may be extended or shortened and the manner and duration of possible extensions or possible early closure or shortening of this period and the manner in which this information will be made public;

4. The method and time limits for paying for bonds, and where payment is by installments, the manner and dates on which amounts due are to be paid;

5. The method and time limits for the delivery of securities (including certificates if applicable) to successful subscribers;
6. A description of the manner in which results of the distribution of bonds are to be made public and when appropriate, the manner for refunding excess amounts paid by applicants; and
7. A statement as to whether interest is payable on refund and the basis of computation.

D. Plan of distribution

The offer document shall provide the following information:

1. To the extent known to the issuer, a statement indicating whether major shareholders, directors or members of the issuer's management, supervisory or administrative bodies intend to subscribe to the offering;
2. If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for these markets details of the offering and the extent of such tranche reserved;
3. Where any increase in the amount of the offering is anticipated, a statement as to the maximum extent of such increase;
4. The amount and brief description of the plan of distribution of any securities that are to be offered otherwise than through underwriters including, if known, the identities of the market intermediaries that will participate in the offering and the amount to be offered for distribution through such intermediaries; and
5. The allotment policy which will be adopted if applications exceed the securities on offer.

3.18 SIGNIFICANT CHANGES

Additional disclosure shall be made in an offer document where a significant change has occurred since the date of the annual financial statements, or since the date of the most recent interim financial statements, if any, included in the document.

3.19 RECENT DEVELOPMENTS AND PROSPECTS OF THE ISSUER

The offer document shall contain a statement as to the financial and business prospects of the issuer and where relevant the group of which the issuer is a part, together with any material information which may be relevant including such business factors or risks if any which are not mentioned elsewhere in the offer document and which are unlikely to be known or anticipated by the general public and which can materially affect the profitability of the issuer.

3.20 RISK FACTORS

The offer document shall provide the following:

1. A disclosure of the risk factors that are specific to the issue or the industry in which it operates which can contribute to making the issue speculative or one of high risk;
2. The risk factors shall be listed in the order of priority to the issuer; and
3. The information disclosed shall cover inter-alia the risks associated with
 - a. the nature of the business in which the issuer is engaged or proposes to engage in,
 - b. the *factors* relating to the country or countries in which the issuer operates,
 - c. the absence of profitable operations in recent periods, if applicable,
 - d. the financial position of the issuer,
 - e. the possible absence of a liquid trading market for the issuer's securities,
 - f. reliance on the expertise of management,
 - g. unusual competitive conditions,
 - h. pending expiration of patents, trademarks or material contracts,
 - i. dependence on a limited number of customers or suppliers,
 - j. Changes in prices of principal raw materials, and
 - k. Where raw materials are used, a description of whether prices of principal raw materials are volatile

3.21 SIGNIFICANT TRENDS

The offer document shall provide details of:

1. Any significant trends in production, sales and inventory including uncertainties, demand, commitments or events that are reasonably likely to have a material effect on the net sales or revenues, income from continuing operations, profitability, liquidity or capital resources;
2. Any material commitments for capital expenditure, the general purpose of the commitments and the anticipated source of funds; and
3. Any unusual or infrequent events or transactions or any significant economic changes that may materially affect the amount of income from operations.

3.22 ANCILLARY INFORMATION

The offer document shall provide details of information that could cause reported financial information not to be necessarily indicative of future operating results or financial condition.

3.23 ADDITIONAL INFORMATION

A. Regulations and constitution of the Issuer

The following information shall be provided in the offer document:

1. A description of the objects and purposes of the issuer as contained in the Regulations or constitution of the issuer;

2. With respect to directors, a summary of any provisions of the issuer's Regulations or constitution with respect to
- a) a director's power to vote on a proposal, arrangement or contract in which the director is materially interested,
 - b) the directors' power to vote on compensation to themselves or any members of their body,
 - c) borrowing powers exercisable by the directors and how such borrowing powers can be varied,
 - d) retirement of and re-election of directors under an age limit requirement, and
 - e) the number of qualifying shares, if any, required to be held by a director.

3. A description of what action is necessary to change the rights of stockholders indicating whether the conditions are more onerous than those prescribed by law;
4. A description of the conditions governing the manner in which annual general meetings and extraordinary general meetings of shareholders are convened including the conditions of admission;
5. Details of any limitations on the right of non-residents/foreigners to own securities, imposed by law or by the Regulations or constitution of the issuer or an appropriate negative statement;
6. A brief description of any provisions in the issuer's Regulations or constitution that could have an effect of delaying, deferring or preventing a change in control of the issuer;
7. An indication of the regulations, if any, governing the ownership threshold above which shareholder ownership must be disclosed; and
8. A description of the conditions, if any, imposed by the Regulations or constitution of the issuer governing changes in capital, where such conditions are more stringent than those prescribed by law.

B. Material contracts

The offer document shall provide a summary of each material contract, other than contracts entered into in the ordinary course of business, to which the issuer or any member of the group is a party, for the two years immediately preceding date of publication of the offer document, including dates, parties, general nature of the contracts, terms and conditions and amount of any consideration passing to or from the issuer or any other member of the group.

C. Litigation and Legal Proceedings

The offer documents shall provide information on any legal or arbitration proceedings, including those relating to bankruptcy, receivership or similar proceedings and those involving any third party, which may have, or have had in the recent past, significant effects on the issuer's financial position or profitability including governmental proceedings pending or known to be contemplated.

D. Exchange controls

The offer document shall provide information on any laws, regulations or other legislation that may affect:

- a. the import or export of capital, including the availability of cash and cash equivalents for use by the issuer; and
- b. the remittance of interest or other payments to non-resident holders of the issuer's securities.

E. Taxation

The offer document shall provide information regarding taxes (including withholding provisions) and obligations to which the investor may be subject. Information should also be included as to whether the issuer assumes responsibility for withholding tax at source and in the case of securities being offered outside Ghana or in Ghana by a foreign issuer the applicable provisions of any reciprocal tax treaty between the two countries or a statement that there are no such treaties.

3.24 DECLARATION OF INTERESTS BY AND STATEMENTS OF EXPERTS AND ADVISERS

- A. If any named expert or adviser employed in the preparation of the offer document has a material direct or indirect economic or financial interest in the issuer or an interest which depends upon the success of the offering, the offer document shall provide details of the interest.
- B. In the case of a statement or report attributed to an expert or adviser, the offer document shall carry a statement to the effect that the expert has not withdrawn his written consent to the statement or report being included in the offer document, in the form and context in which it is included

3.25 INSPECTIONS

The offer document shall specify a reasonable time of not less than 28 days from the issue of the document within which and a place at which the originals of all documents referred to in the offer document or certified copies thereof may be inspected, including the following:

1. The issuer's regulations;
2. The debenture trust deed, if any;
3. Each contract disclosed pursuant to above paragraphs of these guidelines or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof;
4. Three years (consolidated) audited financial statements required to be circulated to the members and debenture holders of the issuer in accordance with section 124 of the Companies

Act 1963, (Act 179), if the issuer is a company incorporated or registered under the Act). If the issuer has been incorporated for less than three (3) years, for the number of years in respect of which it has or should, in accordance with the section 124, have circulated the accounts and reports;

5. All other reports, letters, valuations and statements by any expert any part of which is extracted or referred to in the offer document;
6. Separate copies of financial statements of subsidiary(ies) which have been included in the consolidated financial statements, where the issuer is a holding company must also be available for inspection;
7. A written statement, signed by the accountants making the reports required under 3.10 above, setting out the adjustments made by them in arriving at the figures shown in their report and giving reasons; and
8. Where the whole or any part of any of the above-mentioned documents is in any other language, a certified translation of such document or of the parts shall be made available in a language acceptable to the Registrar for inspection instead of the original or a certified copy.

3.26 MANDATORY DECLARATIONS AND STATEMENTS

The following declarations and statements shall be included in the offer document:

- A. Declaration in the following form by the Directors of the Issuer, “This prospectus/letter of offer/circular has been seen and approved by us the Directors of the issuer and we collectively and individually accept full responsibility for the accuracy of the information given and that after making all reasonable inquiries and to the best of our knowledge and belief there are no facts the omission of which would make any statement in the document referred to above misleading”;
- B. A statement by the promoters and directors stating whether they have any intention to realize or transfer any part of their interests in the issue before maturity date of the bond;
- C. A statement by the person managing the issue that to the best of his knowledge and belief the offer document constitutes full and fair disclosure of all material facts about the issue and the issuer and where appropriate that the profit forecast has been stated by the directors after due and careful enquiry;
- D. The following Cautionary Statements shall be displayed in bold type on the face or at the commencement of the offer document
 - i. “This prospectus/offer document has been reviewed and approved by the Securities and Exchange Commission in accordance with section 9 of the Securities Industry Act, 1993 (PNDCL 333) as amended. In its review, the Commission examined the contents of the prospectus/offer document to ensure that adequate disclosures have

been made. To ascertain the financial soundness or value of the securities on offer, investors are advised to consult a dealer, investment adviser or other professional for appropriate advice”,

- ii. In the event the issuer is an issuer incorporated or registered under the Companies Act, 1963 (Act 179) pursuant to its section 279 (11), the offer document shall state at its head:
“A copy of this prospectus has been delivered to the Registrar of Companies, Ghana, for filing. The Registrar has not checked and will not check the accuracy of any statements made and accepts no responsibility therefore or for the financial soundness of the issuer or the value of the securities concerned”, and
- iii. In the event an application for listing of the bonds has been made, “Provisional approval has been obtained from the (name of the stock exchange) for permission to deal in and for quotation of all bonds of the issuer already issued as well as those which are the subject of this issue. Such approval is granted subject to the issuer being admitted to one of the Lists of the said stock exchange upon the issuer fulfilling all the listing requirements”.

4.0 ADMINISTRATIVE MATTERS

4.1 Submission of Proposals

An Issuer shall appoint a Lead Manager to seek approval of the Commission for the proposed issue or offer under these guidelines. In this regard, only persons licensed by the Commission can act as Lead managers.

The submission of the offer document to the Commission for approval shall be accompanied by the approval fee as shall be determined from time to time.

4.2 Approval Process

- A. The Commission will grant its approval for the proposed issue or offer within four weeks from the date of receipt of complete documents as required under these guidelines. For issuance under an already approved shelf programme, the Commission will give approval within 4 working days.
- B. Where the issue is under a shelf registration the issuer shall certify to the Commission that there has been no material change in the circumstances of the company since the last issue under the shelf registration.

4.3 Timeframe For Bond Issuance

- A. Except in the case of a shelf registration any approval given by the Commission under these guidelines must be implemented within four (4) weeks from the date of the approval of the Commission.

- B. In the case of a shelf registration scheme, the final issuance under the shelf registration must be made within three years from the date of the approval of the Commission.

4.4 Other Regulatory Approvals And Compliance With Relevant Laws

A. All the relevant requirements and approvals from other regulatory authorities, such as the Bank of Ghana, National Insurance Commission and National Pensions Regulatory Authority to the extent required, in relation to the issue and offer of corporate bonds must be complied with and obtained prior to the submission of a proposal to the Commission.

B. Any conditions imposed by such regulatory bodies, if applicable, must continue to be complied with throughout the tenure of the corporate bond as approved under these guidelines.

4.5 Revision Of Terms And Conditions

A. Where an offer document has been approved and at any time during the offer period,

(i) there is a significant change affecting any matter contained in the offer document, the inclusion of which is required by these Guidelines,

(ii) a significant new matter arises the inclusion of which would have been required if it has arisen when the offer document was prepared, or

(iii) there is a significant inaccuracy in the offer document,

the issuer shall, with the prior consent of the Commission, publish a supplementary offer document containing the particulars of the change or new matter or; in the case of inaccuracy, correct it and deliver the offer document to the Commission for approval.

B. Where a supplementary prospectus has been approved in respect of an offer, the offer document originally approved and the supplementary shall be read together.

C. Where the principal terms and conditions are changed after the offer, the Commission shall be notified with reasons of such change. Any such change will require an approval from the bond holders or trustee and the Commission.

DEFINITIONS:

Associated with: has the same meaning as in Section 143 of the Securities Industry law 1993.

Close family member: means a member of an individual's family who may be expected to influence or be influenced by the individual in their dealings with the issuer.

Closing date: the date on which an offer to purchase bonds on offer to the public ends

Coupon: periodic interest payment made to investors during the life of the bond

Credit Enhancement: improving credit worthiness of a company through additional collateral, insurance or third party guarantee. This is aimed at reducing default risk.

Events of Default: actions that cause a lender to demand full repayment of outstanding balance sooner than it was originally due.

Issue price: price at which a company's bonds are offered to the market for the first time

Issuers include:

1. A body corporate registered under the Companies' Act of 1963 (Act179) of Ghana,
2. Statutory Agencies of Government
3. Supra-Nationals (African Development Bank, IFC, World Bank, etc)
4. Sub-nationals (Metropolitan, Municipal and District Assemblies) subject to Schedule 6 of the LI 1728.

Maturity date: date on which the debt will cease and the borrower will redeem the debt by paying.

Par value: amount to be paid to the investor either at maturity or at the time when the bond is called or retired.

Private placement means the issue and sale of securities to persons up to a maximum of 50 investors with no public advertisement.

Public Offering: an offer made to the Public for the issue of bonds.

Shelf registration: registration of new bond issue prepared up to several years in advance to enable issue to be offered quickly as soon as funds are needed or market conditions are favourable; or a prospectus for multiple undefined future offerings. A relatively short statement regarding material changes in business and finances of the issuer since the shelf prospectus was filed is submitted before each offering or sale is made.

Significant: as used in these guidelines means material for the purpose of investors making an informed assessment of the matters mentioned in the prospectus or offer document.

Significant influence: means the power to participate in the financial and operating policy decision of an enterprise but is less than control over those policies. Shareholders beneficially holding a 5% or more interest in the voting power of an issuer are presumed to have a significant influence in the issuer.

Subordination: a process by which a creditor is placed in a lower priority for the collection of its debt from its debtor's assets than the priority a previous creditor previously had.

Tenor: The initial term or length of a loan expressed in years, months or days.