



Debt Capital Markets - Primary Issuance Guidelines

1. Objective:

To document high level guidelines that Issuers, Investors and Arrangers can refer to in order to ensure fair and transparent engagement between Issuers and Investors on corporate bond and commercial paper primary issuances (excludes securitisation issuances) in the South African debt capital markets.

The initial guidelines were agreed between the Debt Issuer Association (“DIA”) and the Association for Savings and Investment South Africa (“ASISA”) as at 4 September 2012. This update of 1 November 2017 has been carried out by the DIA to bring the guidelines in line with what we see as current market practice.

2. Key Principle:

It is acknowledged that South Africa is part of the global markets and that principles and practices followed should be acceptable to all Issuers and Investors having due regard to the particular requirements of an evolving domestic capital market.

The DIA recommends that all Issuers familiarise themselves with the concepts/principles included in this document ahead of entering and engaging within the debt capital markets. These Guidelines are voluntary and have been developed to provide a common set of principles and practices to promote the integrity and effective functioning of the South African debt capital markets.

3. Offering legal documentation:

- 3.1 The Domestic Medium Term Note Programme Memorandum and Applicable Pricing Supplements or Offering Circular form the legal agreement between Issuer and Investor. Terms, processes and timing of engagement between Issuer and Investor should take into account the nature of the Issuer (for example bank, municipality, type of corporate) and the instrument expected to be issued (for example high yield, guaranteed or structured bonds and whether this is a new or existing instrument type) in the context of applicable legislation and listing requirements.
- 3.2 It is recommended that Issuers and Arrangers should carefully consider the nature and complexity of the issuance and whether separate legal counsel for Issuers and Investors is required - more complex issuance may require a bond trustee to represent the interests of Investors on an ongoing basis.
- 3.3 Issuers, together with their Arrangers should engage relevant Investors well in advance of a placement to determine what terms and/or documentation Investors will require to enable them to make an appropriately informed decision on whether to invest. Documentation would include customary terms such as events of default, negative pledge and tax gross-up and, where relevant, more Issuer specific covenants such as change of control. Any forms of guarantee or security should be clearly reflected with relevant information. Reference to established local and/ or international precedent is encouraged. Where customary terms are excluded Issuers should alert Investors to this when providing the documentation together with reasons therefor.

- 3.4 Arrangers should ensure they provide Investors with sufficient time to review and consider any issuance and related documentation prior to placement. This includes providing Investors with a draft of proposed placement documents and sufficient opportunity to provide comments or feedback within a specified time frame. Marked up final issuance documentation reflecting any changes from prior drafts and noting any significant Investor comments, on a no name basis, that have been incorporated or not incorporated by the Issuer should be provided to all Investors at least 5 business days prior to launch of the placement.
- 3.5 Issuers, Arrangers and Investors should share views on key issuance terms where relevant (for example in the case of new or non-standard instruments or Issuers). To this end, where an Investor requests an Issuer or Arranger to share any feedback given by other Investors in respect of a specific term, provided the other Investor has not indicated that the feedback is confidential, Issuers and Arrangers should share that feedback.
- 3.6 Issuers should include a financial information undertaking in their placing documents committing to provide Investors with audited financial information, published on the Issuer's website or available by e-mail upon request, on at least an annual basis, but preferably semi-annually.
- 3.7 Issuers are encouraged to have their note/s separately rated in addition to having an Issuer rating, recognising that an issuance may include terms that could result in a rating that differs from that of the Issuer. Where an Issuer or notes have been rated:
- Credit ratings should be made available to Investors in advance of placement;
 - A credit rating should be maintained while any issuance remains outstanding (and will be considered to have been maintained notwithstanding any rating agency changes and/or credit rating changes);
 - The Issuer or note's rating should ideally be available to Investors on the Issuer's website and if not then promptly upon request;
 - Credit rating or rating agency changes should promptly be communicated by the Issuer to Investors.
- 3.8 The issuance documentation should provide for minority protection in the event of significant buy back activity on notes issued.
- 3.9 The Issuer and Arranger should consider whether there are any particularly unusual limitations on Investor rights and whether Investors have sufficient protection against foreseeable event risk within the Issuer's control.
- 3.10 In formulating terms of notes, Issuers should seek to ensure that Investors are practically able to enforce their rights under the notes against the Issuer and any Guarantor.
- 3.11 The Issuer and any related entity to it should be prohibited from exercising any voting rights in respect of the Issuer's debt instruments.

4 Placement Process:

4.1 Pre-placement disclosure:

Issuers are encouraged to announce roadshows for note issues to be placed by way of public auction prior to commencement on financial market media e.g. Bloomberg.

4.1.1 Full details of the notes to be issued:

- Types of notes to be issued (for example floating rate, fixed rate, inflation-linked, amortising);
- Tenor of notes;
- Benchmark for setting the interest rate;

- Credit ratings and rating agency, specifying whether ratings relate to the Issuer or the note;
 - Confirmation of the date that the Issuer or Arranger sent the final issuance documentation to Investors (refer point 3.4 above).
- 4.1.2 Date and timing of the placement (for example open from 09:00 to 12:00).
- 4.1.3 Detailed description of the placement methodology (whether sealed bid auction or book build process to be used including whether with or without feedback to Investors).
- 4.1.4 The maximum size of the proposed issuance. Where Investor appetite in the placement exceeds the maximum size disclosed and the Issuer wishes to increase the size of the issuance, then the Arranger should contact all Investors that participated in the bid process and inform them of the new maximum size and all Investors need to consent to their bid now being used in this follow on placement process.
- 4.1.5 Issuers should provide a minimum issue size per instrument to be placed which, should there be sufficient demand within or below the Issuer's specific price guidance range, the Issuer would commit to issue.
- 4.1.6 Disclosure of any committed hard underwriting/anchor or cornerstone bids including the quantum, but not price, on a no name basis unless it is the Arranger or a related party of the Arranger or Issuer providing same.
- 4.1.7 Disclosure of any Investor groups being excluded from taking part in the placement (for example, no bank bids will be accepted).
- 4.1.8 Disclosure of any Arranger take-up options.
- 4.1.9 Prospective Investors should provide Issuers and Arrangers with an indication of their interest in participating in the proposed placement, with as much detail as to size and pricing as is reasonably possible under the circumstances and prior to price guidance being issued.
- 4.1.10 The Issuer and Arranger are encouraged to provide upfront price guidance ranges to Investors prior to the placement date.
- 4.1.11 Any actual or potential Issuer or Arranger conflicts of interest should be disclosed to all prospective Investors. In this context, in the interests of a fair and transparent placement, Issuers and Arrangers are requested to consider whether there is any arrangement in place in respect of the placement, not specifically contemplated above, that would amount to a conflict of interest as generally understood and which should be disclosed to Investors. For example, where an Arranger's trading desk intends to bid in the auction then that bid should be submitted as the placement opens.

4.2 Post Placement Feedback:

Issuers and Arrangers are encouraged to provide as much information about the placement to Investors as is reasonably possible, including (without limitation):

- Total bids received;
- Total bids allocated;
- Number of bidders;
- An indication of bid pricing ranges showing levels and volumes;
- Confirmation of any related entity take-up;
- Confirmation of the allocation methodology; and
- Confirmation of any excluded Investor groups.