

**MEMORANDUM**  
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## PROJECT BOND DEBT LISTINGS REQUIREMENTS

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The following requirements are proposed to be included as a new Section 10 titled “Project Bonds” in the Debt Listings Requirements:

### “General

- 10.1 Applicant issuers of project bonds must comply with the Debt Listings Requirements, unless otherwise indicated in this section.
- 10.2 In this section 10, unless the contrary intention appears, the following terms shall have the meanings assigned to them below:

“**Professional Debt Segment**” is the segment of the Interest Rate Market on which only professional investors (in relation to project bonds, only project bond investors) will be able to trade and all debt securities listed on this segment will be marked as such;

“**project bonds**” means bonds that are financed by the cash flows of a ring-fenced development project (for example infrastructure or renewable energy projects);

“**project bond investor**” means a juristic person that:

1. Is any one of the following acting either for their own account or as an agent for a client on a discretionary basis:
  - (a) a category II or IIA authorised Financial Services Provider, as defined in the Financial Advisory and Intermediary Services Act, No. 37 of 2002 (as amended from time to time);
  - (b) a JSE authorised user, as defined in section 1 of the FMA;
  - (c) a long-term insurer as defined in the Long-Term Insurance Act, No. 52 of 1998 (as amended from time to time);
  - (d) a short-term insurer as defined in the Short-Term Insurance Act, No. 53 of 1998 (as amended from time to time);
  - (e) a bank as defined in the Banks Act, No. 94 of 1990 (as amended from time to time);
  - (f) a Pension Fund Organisation, as defined in the Pension Funds Act, No. 24 of 1956 (as amended from time to time);
  - (g) the Government Employees Pension Fund, established in terms of the Government Employees Pension Law, No. 21 of 1996 (as amended from time to time);
  - (h) the Public Investment Corporation Limited, established in terms of the Public Investment Corporation Act, No. 23 of 2004 (as amended from time to time);
  - (i) an international and supranational institutions such as the World Bank, the IMF, the ECB, the IFC and other similar international organisations; or

- (j) an institution that is the foreign equivalent of the entities listed in paragraphs (a) to (f) and is authorised and regulated in a country other than the Republic of South Africa; and
2. is approved in terms of its applicable legislation and regulations; and
3. is in compliance with the relevant requirements for financial soundness in terms of such juristic person's applicable legislation and regulations.

**“project bond issuers”** means applicant issuers of project bonds;

**“project sponsor”** means the entity that is (i) responsible for the development of the underlying project (including, but not limited to, providing financial support to the underlying project); and (ii) is a shareholder in the project bond issuer;

**“VDR providers”** means companies appointed by the project bond issuer that provide virtual data room services and are acceptable to the JSE pursuant to this section 10; and

**“virtual data room”** means a regulated access cloud-based or internet-based storage in which the project bond issuer uploads/stores certain documents for consumption by investors.

#### **General**

10.3 Project bond issuers may only issue project bonds to project bond investors.

#### **Financial Information**

10.4 Project bond issuers that wish to list and are unable to comply with the requirements of paragraph 5.3 may be accepted for a listing if the following is provided to the JSE:

- 10.4.1. An audited consolidated cash flow model on the project; or
- 10.4.2. A profit forecast for the project bond issuer, produced in compliance with paragraphs 5.7 to 5.14, for the remainder of the financial year during which it will list the first debt security and for one full financial year thereafter. A reporting accountant's report, in compliance with paragraph 5.10(a)(i), is required on this forecast financial information. The reporting accountant signing off on the reporting accountant's report must be accredited by the JSE.

#### **Listing Documentation**

10.5 Project bond issuers are required to disclose all of the information required by section 4. In addition the following information must be included in the placing document:

- 10.5.1. If any of the information detailed in paragraph 10.4 is submitted to the JSE, the placing document must incorporate this information by reference and a statement must be included detailing the website where this information will be available.
- 10.5.2. The legal agreements that relate to the cash flow earned on the project (for example off-take agreements, operation and maintenance agreements, engineering, procurement and construction contracts and tariff agreements) must be incorporated by reference in the placing document and a statement must be included detailing the website where these agreements will be available.

- 10.5.3. The following documents, where applicable, must be incorporated by reference in the placing document and a statement must be included detailing the website where these documents will be available:
- (a) The inter-creditor agreement;
  - (b) Any licenses obtained;
  - (c) Concession agreement;
  - (d) Environmental authorisations;
  - (e) Technical adviser's studies or reports.
- 10.5.4. Information on the project, where applicable:
- (a) A structure/flow diagram detailing the relevant parties to the project.
  - (b) An explanation of the flow of funds/priority of payments including information on the trapping of cash and the permitted investments for any excess cash.
  - (c) The legal jurisdiction where the project assets are located.
  - (d) The information required by Schedule 4, Form A3. This information can either be included in the placing document or incorporated by reference. If the information is incorporated by reference, it must be available on a website and this website be stated in the placing document. Where any information required by section 4 or this section 10 is duplicated in Schedule 4, Form A4, the placing document can reference Schedule 4, Form A4.
  - (e) Information on any liquidity facilities and the name and address of the provider thereof.
- 10.5.5. The name and address of the project sponsor, the obligations of the project sponsor and any restrictions on the project sponsor (e.g. restrictions on selling their equity stake, etc.).
- 10.5.6. Where there is a controlling creditor that has the right to amend certain terms and conditions, the name and address of the controlling creditor must be provided and the circumstances in which they can exercise their rights must be fully described in the placing document. All other amendments must be done in compliance with paragraph 7.26.
- 10.5.7. Funding advances required by the project bond investor over time, if applicable, including the dates and amounts required and that these are subject to amendment only with approval from the controlling credit / holders of the project bonds in accordance with paragraph 7.26.

#### **Continuing obligations**

- 10.6 Project bond issuers are required to comply with section 7 of the Debt Listings Requirements. In addition, project bond issuers must:
- 10.6.1. on a quarterly basis (in accordance with the project bond issuer's financial year-end or interest payment dates on the project bond) and within 1 month of the end of such quarter, publish a report on the project, complying with Schedule 4, Form A4, only to the extent that such information is applicable to the relevant project. An announcement must be released on SENS indicating the website where this report can be found, or if published in the VDR, the SENS announcement must contain the details required by paragraph [10.9]. This report must also be submitted to the JSE; and
  - 10.6.2. immediately inform the JSE and publish an announcement on SENS in the event of any material changes in the contractual arrangements in the structure of the project.
- 10.7 If, when complying with its continuing obligations as set out in the Debt Listings Requirements, the project bond issuer believes that certain information should not be released on SENS, the project bond issuer must

approach the JSE for dispensation from providing the information on SENS and to provide such information in the virtual data room. The JSE may grant this dispensation if:

- 10.7.1. The disclosure of the information to the public will, or probably will, prejudice the project bond issuer's legitimate interests; or
- 10.7.2. Disclosure would be contrary to the public interest or the market as a whole.

### **Publication of information**

10.8 The following information, where applicable, can be disclosed in a virtual data room rather than on a website at the project bond issuer's discretion, provided that paragraphs [10.9], [10.10] and [10.13] have been complied with:

- 10.8.1. The audited cash flow model on the project;
- 10.8.2. Information in relation to a delayed interest or capital payment on the project bonds. The issuer should provide details of the nature and extent of such delay and suggested remedial steps;
- 10.8.3. The legal agreements required by paragraph [10.5.2];
- 10.8.4. The documents required by paragraph [10.5.3];
- 10.8.5. The information required by paragraph [10.5.4(d)];
- 10.8.6. The report required by paragraph [10.6.1]; and
- 10.8.7. Any information where the JSE has granted the project bond issuer a dispensation from publishing such information on SENS, in accordance with paragraph [10.7].

10.9 Where information required to be included in the placing document or pricing supplement is made available in a virtual data room, a statement must be included in the placing document or pricing supplement confirming the following:

- 10.9.1. the information that will be available to project bond investors in the virtual data room;
- 10.9.2. the exact location in the virtual data room where the information can be found (e.g. folder name and document number);
- 10.9.3. the date and time at which such information will be available (this must be no later than the date on which the final placing document is published on a website or 2 business days prior to the trade date, whichever comes first); and
- 10.9.4. the contact details of the individual responsible for granting access to the virtual data room.

### **Virtual data rooms**

#### ***Appointment of a VDR provider***

10.10 Should project bond issuers decide to utilise a virtual data room, the following must be complied with:

- 10.10.1. The project bond issuer must appoint a VDR provider that has been approved by the JSE in accordance with paragraph [10.12].
- 10.10.2. The project bond issuer must confirm the following in writing to the JSE before using a virtual data room:
  - (a) The project bond issuer will sign a non-disclosure agreement with any project bond investor that wishes to access the project bond issuer's virtual data room and will not require any further documents from the project bond investor before granting access to the virtual data room;

- (b) The project bond issuer will not withhold access to the virtual data room from any project bond investor;
- (c) The project bond issuer will ensure that all project bond investors have the ability to download and print all of the documents contained in the virtual data room and there will be no selective disclosure of or discriminatory access to the documents;
- (d) If the virtual data room has a question and answer facility, the project bond issuer will ensure that no price sensitive information or information material to the holders of project bonds listed on the Professional Debt Segment or to the financial or trading position of the project bond issuer (other than such information allowed to be disclosed in the VDR as described in paragraph [10.7]) will be communicated through this facility;
- (e) The project bond issuer/VDR provider will give the required individuals at the JSE and the FSB administrator (or equivalent) access to the virtual data room; and
- (f) The contact details for the individuals at the project bond issuer/VDR provider that will be responsible for ensuring the JSE's and FSB's access and/or support in the event of a failure in the virtual data room.

#### ***Approval of VDR Providers***

10.11 VDR providers must be approved by the JSE prior to their virtual data rooms being utilised. The JSE will publish a list on its website ([www.jse.co.za](http://www.jse.co.za)) of approved VDR providers.

10.12 Project bond issuers wishing to apply for approval for a VDR provider can do so via their submission for the registration of a placing document and the documentation detailed below must be provided. VDR providers can also apply directly to the JSE to be approved by submitting the following documentation:

- 10.12.1. A copy of the ISO 27001 certificate confirming that the VDR provider is so accredited in respect of their entire virtual data room business.
- 10.12.2. A letter confirming that the VDR provider's virtual data room has the following capabilities:
  - (a) The virtual data room is accessible on all major operating systems;
  - (b) Documents can be uploaded to the data room in at least the following minimum formats: Microsoft Word, PowerPoint, Excel, PDF, JPEG and text;
  - (c) There are no time restrictions on access to the information in the virtual data room;
  - (d) Activity in the data room is tracked on an individual and document level and an automatic audit report of all activity is available. This audit report must include the date and time of the activity and the identity of the individual related to such activity;
  - (e) The documents will be version controlled;
  - (f) Information can be stored and will be available in the virtual data room until such time as the project bond issuer deregisters their placing document from the JSE (i.e. no automatic deletion of documents will occur due to a particular time period being reached); and
  - (g) Uploading and downloading of documents will be secure.

#### ***Continuing obligations when using a virtual data room***

10.13 A SENS announcement must be released by the project bond issuer before any information can be uploaded to the virtual data room. The SENS announcement must include the following information:

- 10.13.1. the type of information that will be uploaded into the virtual data room;

- 10.13.2. the exact location in the virtual data room where the information can be found (e.g. folder name and document number);
  - 10.13.3. the date and time at which the information will be available in the virtual data room; and
  - 10.13.4. the contact details of the individual responsible for granting access to the virtual data room.
- 10.14 If the information to be uploaded into the virtual data room has not been uploaded at the time specified in the SENS announcement, a new SENS announcement, in compliance with paragraph [10.13], must be released by the project bond issuer detailing the new time at which the information will be available in the virtual data room. In such an instance, the project bond issuer must ensure that the information is only uploaded after the release of the second SENS announcement.
- 10.15 If the project bond issuer opts to change its VDR provider, the new VDR provider must be accredited with the JSE and the project bond issuer must provide the JSE with 10 business days' notice before such change can be implemented. The project bond issuer must also release an announcement on SENS at least 10 business days' prior to such change being implemented detailing the following:
- 10.15.1. the name of the new VDR provider;
  - 10.15.2. the weblink to the new virtual data room;
  - 10.15.3. the date and time at which all of the project bond issuer's documents will be available in the new virtual data room (the time must not be during JSE trading hours); and
  - 10.15.4. the contact details of the individual responsible for access to the new virtual data room.
- 10.16 If the virtual data room is not available for any reason, the JSE must be immediately notified by the VDR provider and the project bond issuer. In such an instance, the JSE may suspend trading in accordance with section 1.
- 10.17 Project bond Issuers or VDR providers must submit a copy of the renewed ISO 27001 certificate to the JSE within 10 business days of the expiry date of the certificate."

Schedule 4, Form A4

Disclosure required for project bonds

Overview	
Date of issue of report	
Reporting Period	
Issuer	
Project Name/Description	
Project Phase (Construction or Operations)	
Parties to the bond:	
▪ Bond agent / Noteholder representative (if applicable)	
▪ Paying agent	
▪ Bond security trustee (if applicable)	
▪ Legal Advisor	
▪ Arranger(s)	
Parties to the Project:	
▪ Project Sponsor	
▪ Service Providers (including major sub-contractors and their guarantors, if applicable)	
▪ Ownership (including details on any changes)	
▪ Party responsible for the off-take	
▪ BEE advisor (if applicable)	
▪ Technical advisor	
▪ Project facility agent (if applicable)	
▪ Lenders	

Funding					
Debt Type	Bond	Loan	Swap ( if applicable)	Any other debt (if applicable)	Guarantees and unfunded liquidity support (if applicable)
Original amount					
Current amount outstanding					
Currency					
Maturity date					
Margin / Coupon					
Tranche Identifier	[ISIN]	[Loan provider]	[Swap provider]	[Debt provider]	[Provider]
Rating agency (if applicable)					
Credit rating (if applicable)					
Rating outlook (if applicable)					
Date of rating report (if applicable)					

Operational Performance				
Financial Ratios (where applicable):	Historical	Current	Trigger level	Default level
▪ Debt service cover ratio				
▪ Loan life cover ratio				
▪ Project life cover ratio				
▪ Debt liquidity coverage ratio				
<i>Please include the components of each ratio</i>				
Portion of total debt drawn down (if applicable)				
Availability / usage of plant (if applicable)				
Key developments (e.g. regulatory or any changes to the payment mechanism)				
Any penalties and deductions				
Material changes to the construction / maintenance / lifecycle budget				
Material changes to service providers / sub-contractors				
Material replacements (swap providers or credit support)				
Any material claim against the issuer or insurance claims				
Material variations effected (if applicable)				
Concerns/issues raised by the technical advisor (subject to approval by the technical advisor of same)				
Reference to where on the website or in the VDR the updated cash flow model is contained				

Compliance	
There is:	
▪ An event of default or potential event of default	Yes / No (Specify details if Yes)
▪ A Trigger Event (if applicable)	Yes / No (Specify details if Yes)
▪ A Lock-up event (if applicable)	Yes / No (Specify details if Yes)
All repeated representations and warranties are correct	Yes / No (Specify details if No)
All covenants have been complied with	Yes / No (Specify details if No)
The Issuer is still solvent	Yes / No (Specify details if No)
The Issuer is not involved in any material litigation	Yes / No (Specify details if No)
The Issuer is not in any dispute with any regulator	Yes / No (Specify details if No)

Annexure
Operating report from the technical advisor



**GLOSSARY OF TERMS**

<b>Debt Listings Requirements</b>	the Debt Listings Requirements of the JSE;
<b>FSB</b>	Financial Services Board;
<b>JSE</b>	JSE Limited;
<b>placing document</b>	as defined in the Debt Listings Requirements;
<b>pricing supplement</b>	as defined in the Debt Listings Requirements; and
<b>SENS</b>	Stock Exchange News Service of the JSE.

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