



REPUBLIC OF ZAMBIA

GOVERNMENT GAZETTE

Published by Authority

Price: K10.00 net
Annual Subscription: Within Lusaka—K300.00
Outside Lusaka—K350.00

No. 6893]

Lusaka, Friday, 24th July, 2020

[Vol. LVI, No. 62

GAZETTE NOTICE No. 723 OF 2020

[9435937/1

The Securities and Exchange Commission

The Securities Act (Act No. 41 of 2016)

The Securities (Commercial Papers) Guidelines, 2020

IN EXERCISE of the powers contained in section 211 of the Securities Act, 2016, the following Guidelines are hereby made:

1. Title

These Guidelines may be cited as the Securities (Commercial Paper) Guidelines, 2020.

2. Application

2.1 These Guidelines shall apply to all issuers of Commercial Paper in Zambia.

2.2 Unless specifically exempted under the Securities Act, The Securities (Registration of Securities) Rules, Statutory Instrument No. 164 of 1993 as amended and additional requirements prescribed in these Guidelines shall apply to the registration of commercial paper.

2.3 In case of any doubt on the application of these Guidelines to a specific issuance of commercial paper, it is advised that direction or clarification be sought from the Securities and Exchange Commission ("SEC").

3. Interpretation

In these Guidelines, unless the context otherwise requires—

"Act" means the Securities Act No. 41 of 2016 and any subsequent amendments;

"Call option" means the right given to an issuer to redeem all or part of the debt before the specified maturity date;

"Credit Reporting Agency" has the same meaning assigned to it in the Credit Reporting Act, No.8 of 2018;

"Commercial paper" means a promissory note or security with a maturity of not less than 30 days and not more than 365 days;

"Company" has the meaning assigned to it in the Companies Act, No. 10 of 2017;

"Issuer" has the meaning assigned to it in the Act;

"Paying agent" means an organization that makes payments either of principle or interest to the commercial paper holders;

"Put option" means the right of an investor to sell back the debt to the issuer at par on specified dates;

"Roll over" means to reinvest funds from a security that has reached its maturity term into a new issue of a similar security in accordance with these Guidelines;

"SEC" means the Securities and Exchange Commission; and

"Share transfer agent" has the meaning assigned to it in the Act.

4. Effective Date

4.1 These Guidelines shall take effect on the date of publication in the Government Gazette.

4.2 An issuer that has an existing commercial paper in issue on the date of coming into effect of these Guidelines shall, within 30 days from the effective date, file in a registration statement with the SEC and shall not pay the registration fee prescribed under Rule 8(g) of the Securities (Licensing, Fees and Levies) Rules, Statutory Instrument No. 82 of 2013.

4.3 An issuer that does not have an existing commercial paper in issue on the date of coming into effect of these Guidelines but subsequently issues a commercial paper shall, subject to the eligibility criteria specified in clause 5 of these Guidelines, register a commercial paper and shall pay the prescribed fee prescribed in Rule 8(g) of the Securities (Licensing, Fees and Levies) Rules, Statutory Instrument No. 82 of 2013, for the registration.

5. Eligibility for issuing commercial paper

5.1 Subject to the terms and conditions specified in these Guidelines, a company which satisfies the following requirements may issue commercial paper:

5.1.1 the issuer must be a limited liability company registered under the Companies Act, No. 10 of 2017;

5.1.2 the issuer must have been profitable for at least 3 years prior to the issue;

5.1.3 the issuer must have a minimum paid up capital of K500,000 and turnover of at least K 5,000,000 per annum;

5.1.4 the issuer's total indebtedness, including the new issue of commercial paper shall not exceed total debt to equity ratio of 4:1 as at the date of the latest audited statement of financial position;

5.1.5 the issuer should have registered the commercial paper with the SEC in accordance with paragraph 6 of these Guidelines; and

5.1.6 the issuer should not have any overdue loan or defaults in the latest report obtained from the Credit reporting agency.

5.2 Where a CRB report required under clause 5.1.6 is not available, the issuer shall submit the latest credit rating report issued by a credit rating agency authorized by the SEC.

6. Procedure for issuance of Commercial paper

6.1 The issuer of commercial paper shall file with the SEC, a registration statement in accordance with section 75 of the Act which shall contain the following information:

6.1.1 Name of issuer;

6.1.2 Names of directors;

6.1.3 Name of Auditors;

6.1.4 Board resolution authorizing the issue;

6.1.5 Amount to be raised;

6.1.6 Currency of issue;

6.1.7 Risks associated with the issue;

- 6.1.8 Use of proceeds;
- 6.1.9 Repayment plan and conditions for early redemption;
- 6.1.10 Whether the Commercial Paper is to be secured or unsecured;
- 6.1.11 Form of Security, if any;
- 6.1.12 Tenor of paper;
- 6.1.13 Latest Credit reporting agency Report or latest credit rating report;
- 6.1.14 Audited financial statements for the last three (3) years, with the most recent not exceeding 9 months from the date of submission of the application for registration and latest management accounts no older than 6 months;
- 6.1.15 Projected management accounts (profit and loss, statement of financial position and cash flow) to cover the period of the issuance of the commercial paper; and
- 6.1.16 any material adverse change in the issuer's financial position since the date of its last audited financial statement.

6.2 The SEC may require an issuer to submit such further information as the SEC may require for purposes of registering the commercial paper.

6.3 An Issuer shall report to the SEC the amount raised from the commercial paper issued, within seven days of closing of the subscription period.

6.4 The issuer shall appoint a licenced share transfer agent as the paying agent.

6.5 Commercial Paper shall be issued—

- 6.5.1 At a discount to face value, in keeping with the interest rate determined by the issuer; or
- 6.5.2 As an interest bearing note whereby investors buy face value and receive face value and accrued interest at maturity.

7. *Minimum and Maximum period of commercial paper*

7.1 The commercial paper shall be issued for maturities of between thirty (30) days and not more than 365 days from the date of subscription.

7.2 If the maturity date happens to fall on a holiday, the issuer shall be liable to settle the obligations on the following working day.

8. *Roll Over and Early Redemption Options*

8.1 Commercial Paper may be rolled over subject to the following:

8.2 The total period or tenor of the CP including the rolled over period shall not exceed 365 days

- 8.2.1 the written consent of the investor(s) is obtained prior to the maturity of the issue and provided the option to roll over is stated in the terms and conditions of the registration under which the commercial paper was initially issued; and
- 8.2.2 the issuer fulfils the eligibility requirements of clause 5 of these Guidelines at the time of roll over.

8.3 The issuer may redeem the Commercial Paper before maturity under the call option, if any, and the investor may request the issuer for early redemption under the put option, if any, in accordance with the terms and condition of issue.

9. *Ceiling on the amount of issue of commercial paper*

The aggregate amount of commercial paper raised by an issuer shall be within the limit as provided by the Board of Directors of the issuer.

10. *Default reporting*

10.1 The share transfer agent shall report any incidence of default of interest or principal to the Credit reporting agency and the Commission.

10.2 The default event shall be reported within 5 (five) working days of the occurrence of the event.

11. *Approval time frame*

11.1 The SEC shall consider and approve an application for registration of commercial paper within five (5) working days from the date of receipt of application provided that—

- 11.1.1 a duly completed application has been submitted; and
- 11.1.2 the Commission is satisfied that the applicant meets all the requirements stipulated in these Guidelines.

12. *Continuing Obligations*

12.1 In addition to the Continuing Obligations stipulated in part IV of the Securities (Registration of Securities) Rules, an issuer of commercial paper shall—

- 12.1.1 As soon as possible furnish the Commission any information that affects its credit worth;
- 12.1.2 Submit monthly reports on the commercial paper outstanding as at the end of each month, which reports are to be submitted within ten (10) working days following the end of the reference month;
- 12.1.2 Submit monthly management accounts where the issuer has issued commercial paper with a maturity of less than 180 days. The monthly management accounts shall be signed by the issuer's Chief Executive Officer and the Chief Financial Officer or the equivalent within ten (10) working days following the end of the reference month; and

12.2 The SEC may impose other continuing obligations not stated in these Guidelines, where necessary, to effectively carry out its supervisory mandate.

13. *Review and updating of these Guidelines*

The SEC may from time to time issue updates to these Guidelines.

Dated the 14th day of July, 2020.

LUSAKA

P. K. CHITALU,
Chief Executive Officer