



'Ensuring Investor Protection'

SECURITIES INDUSTRY (GREEN BOND) GUIDELINES 2023

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SECURITIES INDUSTRY (GREEN BOND) GUIDELINES 2023

PART ONE: PRELIMINARY

1. Introduction

- 1) These Guidelines are issued by the Securities and Exchange Commission (hereinafter referred to as “the SEC”) pursuant to sections 3 and 209 of the Securities Industry Act, 2016 (Act 929) as amended for the issuance of Green Bonds.
- 2) These Guidelines follow the Green Bond Principles (“GBP”) published by the International Capital Market Association (“ICMA”). The GBP aim to:
 - a) Foster the integrity of the green bond market, promote transparency, and the use of adequate reporting.
 - b) Promote the dissemination of the necessary information to allocate more funds to projects with a positive environmental impact.
- 3) These Guidelines are intended to:
 - a) Facilitate the development of a domestic green securities market;
 - b) Maintain credibility of green securities in general through transparency, disclosure, integrity, and quality;
 - c) Prevent “green washing” or “green wash” bonds from being issued and invested in.

2. Scope and application

- (1) These Guidelines shall apply to issuers of green bonds.
- (2) An issuer shall include public companies, external companies, supra-national institutions, local government authorities and statutory corporations.
- (3) An Issuer of green bonds shall comply with the requirements of these Guidelines, the Act, the L.I. 1728, and any applicable law.
- (2) The Commission may grant an exemption or partial exemption or waiver from compliance with these Guidelines, subject to Section 210 of the Act.
- (3) Where any doubt arises about the meaning of any provision contained in these Guidelines and any other Guideline issued by the Commission, the same shall be referred to the Commission and the interpretation provided by the Commission shall be final.

PART TWO: INFORMATION REGARDING THE ISSUE

3. Use of proceeds

- (1) Proceeds from issuance of green bonds shall be used to finance projects with a positive environmental impact.
- (2) Where the proceeds or a portion of it may be used for refinancing, the issuer shall provide an estimate of the share of financing and re-financing, and indicate which investments or project portfolios may be refinanced, together with the expected look-back period for eligible green projects to be refinanced.
- (3) An issuer shall define relevant indicators that will allow the expected impacts of projects financed by green bonds to be quantified.
- (4) Projects eligible for green bond financing include but not limited to the following as contained in Schedule 1 of these Guidelines:
 - a) Renewable energy

- b) Energy efficiency
 - c) Pollution prevention and control
 - d) Environmentally sustainable management of living natural resources
 - e) Environmentally sustainable land use
 - f) Terrestrial and aquatic biodiversity conservation
 - g) Clean transportation
 - h) Sustainable water and wastewater management
 - i) Climate Change Adaptation
 - j) Circular economy adapted products, production technologies and processes
 - k) Green buildings
- (5) Proceeds from issuance of green bonds shall not be used for the financing of prohibited projects specified in Schedule 2 of these Guidelines.

4. Process for Project Evaluation and Selection

- (1) The evaluation and selection process for projects shall be sufficiently clear, precise and transparent with regard to:
- (a) The objectives of the projects and their environmental impact ;
 - (b) The eligibility criteria for projects;
 - (c) The process for identifying and managing environmental risks potentially associated with projects.

5. Management of proceeds

- (1) The net proceeds of the green bond, or an amount equal to the net proceeds, shall be:
- (a) credited to an account opened for the green bond project ;
 - (b) where there are sub-projects, the proceeds from (1) (a) above shall be allocated to the sub-projects; or
 - (c) otherwise tracked by the issuer in an appropriate manner and attested to by the issuer in a formal internal process linked to the issuer's operations for eligible green projects.
- (2) Where the green bond is outstanding, the balance of the tracked net proceeds shall be periodically adjusted to match allocations to eligible green projects made during that period.
- (3) The issuer shall disclose in the offer document the intended types of temporary placement for the balance of unallocated net proceeds, and the ramp-up period targeted in order to reach full allocation of green bonds proceeds to eligible projects.
- (4) The external auditor of the issuer shall report on the issuer's internal tracking method and the allocation of funds from the green bond proceeds to the selected projects.

6. Communication and reporting / Performance measurement and Monitoring

- (1) the issuer shall, at the time of issuance and throughout the life of the green bonds, make available to the public via its website and, on request:
- (a) The procedures for project evaluation and selection;
 - (b) The procedures for project monitoring;
 - (c) Information on the allocation of funds raised;
 - (d) The external evaluation report related to these procedures.

- (2) An issuer shall, on an annual basis or in case of material developments, publish an updated list of projects financed or refinanced by the green bonds issued, indicating among others, a brief description of the projects, the amount allocated to each project, the expected environmental impact and unused balances.
- (3) An issuer shall use quantitative and or qualitative performance indicators to measure results achieved in respect of eligible projects and the methodology and assumptions used for the quantitative measures.
- (4) An issuer shall disclose in its annual report to the Commission, bondholders and the securities exchange on which it is listed, impact achieved by project, project category and on an overall basis.
- (5) The information published shall be comparable over time, while maintaining the same indicators in all publications.
- (6) Where there is a change in an impact measurement indicator, the issuer shall disclose the change to its bondholders and the public, explain the reason for the change and ensure a 12-month transitional period during which abandoned indicators continue to be published. Information regarding environmental impacts could be reviewed and confirmed by an independent expert.

7. Independent review

- (1) An issuer shall provide an independent external review of:
 - (a) green nature of eligible projects before the green bonds are issued and
 - (b) compliance with the obligations to which the green bond issuance is subject to.
- (2) The opinion on the external review in 5 (1) above, shall be
 - (a) provided by a qualified and independent expert
 - (b) aligned with the ICMA Green Bond Principles.
 - (c) submitted to the Commission at the time of issuance, together with the Green Bond Framework as specified in schedule 3.
- (3) The issuer may obtain additional assurance through certification or green bond scoring/rating of the green nature of the bonds.
- (4) In addition to the above, an issuer may also use other types of reviews as described below at the time or after the issuance:
 - (a) **The verification:** In this case, the issuer relies on an external third party to have only certain aspects of the issuance monitored v/s certain specific criteria defined by the issuer at the time of issuance. The review may only concern compliance with the criteria for the selection of projects, or may cover the procedures it has established for the management of the funds raised, the monitoring of the balances of accounts dedicated to the funds raised, the respect of the environmental impact criteria, among others.
- (5) The independent expert or third party used by the issuer shall have the experience and skills to assess the green characteristics of the bond issuance. As part of its review, the independent expert shall mention his references and skills, the scope of the review and any contextual information relevant to the investor. The report must contain at least:
 - (a) A general description of the objectives and scope of the review;
 - (b) Qualifications and key references of the review;
 - (c) A declaration of independence and conflict of interest management policy;
 - (d) A description of the analytical approach and methodology used; and
 - (e) The conclusions and possible limitations of the external review.
- (6) The due diligence report provided by the independent expert shall contain:

- (a) an assessment of the expected environmental impact of projects to be financed or refinanced by the green bond;
- (b) the verification and recommendation in terms of aligning the green bond with the elements with which it must comply;
- (c) an assessment of the material environmental risks associated with eligible projects and the management of these risks by the issuer.

PART THREE: APPROVAL PROCESS

8. Pre-issuance

- (1) An issuer shall file with the Commission a draft information memorandum or prospectus, or an applicable pricing supplement where a shelf programme has been previously approved, in accordance with the legal and regulatory framework governing the issuance of bonds to the public.
- (2) The prospectus for the green bond issuance shall comply with the Act, the Companies Act, 2019 (Act 992), the L.I. 1728 in addition to these Guidelines.
- (3) The issuer shall comply with the requirements for the issuance of bonds including but not limited to;
 - (a) have the issuance approved by the relevant bodies;
 - (b) structure the issuance in cooperation with its advisor;
 - (c) obtain a credit rating, where necessary;
 - (d) promote the bond and set the price.
- (4) The content of the documentation and the internal processes of the issuer will need to be adapted to the best practices described in these Guidelines and in the Green Bond Principles.

9. Identification of projects

An issuer shall disclose the following in its Green Bond Framework:

- (a) A clear and accurate description of the types/categories of projects identified and selected or eligible for financing or refinancing, with a clear presentation of anticipated environmental benefits.
- (b) The methodology of selection put in place by the issuer, with a presentation of the criteria and elements that will enable the qualitative evaluation and, if possible, the number of the projects;
- (c) The methodology for evaluating and financing projects;
- (d) The methodology for identifying and managing environmental risks potentially associated with financed projects, particularly in the case of infrastructure financing projects.
- (e) where all or part of the proceeds of the issuance is used for the refinancing of eligible projects, the Green Bond Framework shall indicate the share of the issuance intended for refinancing and clarify which projects or portfolios of projects are affected by the refinancing.

10. Mandatory Declarations

- (1) An issuer shall comply with the mandatory declarations contained in L.I. 1728.

PART FOUR: CONTINUOUS DISCLOSURE OBLIGATIONS

11. Periodic information

- 1) An issuer shall comply with the disclosure obligations applicable to issuers of bonds, as well as the additional reporting commitments it made during the issuance of green bonds, as detailed in the Green Bond Framework including:
- 2) The use of funds raised indicating projects or types of funded projects, amounts allocated to those projects, schedule for issuances, unused balances.
- 3) The environmental impacts of funded or refinanced projects, in measurable and understandable terms, based on predetermined, relevant and commonly accepted indicators as described in the Green Bond Framework. The impacts achieved by projects financed or refinanced and compared to:
 - a) The expected impacts during the evaluation phase of those projects and;
 - b) the eligibility criteria set out in the Green Bond Framework.

12. Immediate disclosure of information:

An issuer of green bonds shall immediately disclose to the Commission, the bondholders and the Securities Exchange on which it is listed, any information regarding a major event such as:

- (a) A delay in the timing of the use of the funds raised as presented in the Green Bond Framework;
- (b) A significant negative difference between the expected environmental impacts and the actual environmental impacts of funded projects (individual or global);
- (c) Any change of external provider designated for the purpose of reviewing the issuer's procedures or conducting an independent review of the issuance;
- (d) Any event that could have an impact on the environmental performance of the projects, or on the feasibility of the projects;
- (e) Any change in the commitments made by the issuer at the time of the issuance which must obtain prior approval from the SEC in accordance with current legislation.

13. Penalties

- (1) Where a person breaches or fails to comply with a code, directive, guideline or circular issued by the Commission, the Commission may
 - a) take action set out in Section 118, 122 or 123;
 - b) impose an administrative penalty of not less than fifty penalty units and not more than twenty thousand penalty units; or
 - c) apply paragraphs (1) (a) and (b) where the Commission considers necessary.
- (2) The Commission may, in addition to the actions taken above, impose any administrative penalty that the Commission considers necessary or take any other remedial action that the Commission considers appropriate in the interests of protecting investors and the integrity of the securities market.
- (3) Where the breach or non-compliance constitutes a criminal offence under any part of the Act or the Regulations, and the accused voluntarily makes an offer of compensation or restitution and reparation in writing to the Commission, the Commission shall, without instituting criminal proceedings under section 207, settle the offence in accordance with this section.
- (4) Sections 209 (6) to (12) of the Act shall also apply in addition to the above in dealing with offences.

- (5) A person ordered to pay an administrative penalty shall pay the penalty to the Commission within seven days, or such further period as the Commission may specify by notice, after the order has taken effect.

14. Interpretation

“Act” refers to the Securities Industry (2016) Act 929 as amended by the Securities Industry Amendment Act, 2021 (Act 1062);

“Commission or SEC” means the Securities and Exchanges Commission;

“Certification” means an assurance provided by an external third party on the compliance of the issuance with an external reference/best practice;

“Green bond” means any type of bond instruments where the proceeds or an equivalent amount will be exclusively applied to finance or re-finance, in part or in full, new and/or existing eligible green projects and that are aligned with the Green Bond Principles (GBP) of ICMA;

“Green Washing” or **“Green Wash”** means green securities labeled as “green” despite having exaggerated or no environmental benefits, or whose proceeds have not been appropriately allocated to green projects;

“Green bond scoring/rating” means evaluation of the Green Bond Framework according to the methodology of a rating agency or an external third party;

“Issuer” shall have the same meaning as in the Securities Industry Act, 2016 (Act 929);

“Issuing House” shall have the same meaning as in the Securities Industry Act, 2016 (Act 929);

“Lead Manager” means an Issuing House licensed by the Commission and responsible for arranging the issuance of a security and managing the entire issue process, as well as advising the issuer on the structure and timing of the issue;

“L.I. 1728” means Securities and Exchange Regulations, L.I. 1728;

“Prospectus” means any prospectus, notice, offer circular, material, advertisement, publication or other invitation offering to the public (or any section of the public however selected) for subscription or purchase any shares or Notes of an issuer.

SCHEDULE 1: ELIGIBLE GREEN BOND PROJECTS

- (a) Renewable energy: including production, transmission, equipment and products;
- (b) Energy efficiency: such as in new or renovated buildings, energy storage, smart grids, appliances and products;
- (c) Pollution prevention and control: including reducing air emissions, controlling greenhouse gases, preventing, reducing and recycling waste, soil remediation, etc.;
- (d) Environmentally sustainable management of living natural resources including: environmentally sustainable agriculture, animal husbandry, fishery and aquaculture, climate smart farm inputs such as biological crop protection or drip irrigation.
- (e) Environmentally sustainable land use including , sustainable forestry afforestation or reforestation and preservation or restoration of natural landscapes;
- (f) Terrestrial and aquatic biodiversity conservation: including the protection of coastal and marine environments;
- (g) Clean transportation: such as electric or hybrid vehicles, public or multi-modal transport, clean energy vehicle infrastructure and reduction of harmful emissions;
- (h) Sustainable water and wastewater management: including sustainable infrastructure for clean or drinking water, wastewater treatment, sustainable urban drainage and flooding mitigation;
- (i) Adaptation to climate change: including information support systems such as climate observation and early warning systems;
- (j) Circular economy adapted products, production technologies and processes: such as the development and introduction of sustainable products, with eco-label or environmental certification, resource-efficient packaging and distribution;

Green buildings: meeting national, regional or internationally recognized standards or certifications.

SCHEDULE 2 SAMPLE EXCLUSION LIST

- (1) The Exclusion List include projects such as:
 - (a) Production or trade in any product or activity deemed illegal under the laws or regulations of the Republic of Ghana, or international conventions and agreements, or subject to international bans, such as pharmaceuticals, pesticides/herbicides, ozone depleting substances, Polychlorinated Biphenyls (PCBs), wildlife or products regulated under Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
 - (b) Production or trade in weapons and munitions.
 - (c) Production or trade in alcoholic beverages (excluding beer and wine).
 - (d) Production or trade in tobacco.
 - (e) Gambling, casinos and equivalent enterprises.
 - (f) Production or trade in radioactive materials. This does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where the radioactive source is considered trivial and/or adequately shielded.
 - (g) Production or trade in unbonded asbestos fibers. This does not apply to purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.

- (h) Drift net fishing in the marine environment using nets in excess of 2.5 km. in length.
- (i) Production or activities involving harmful or exploitative forms of forced labor/harmful child labor.
- (j) Commercial logging operations for use in primary tropical moist forest.
- (k) Production or trade in wood or other forestry products other than from sustainably managed forests.
- (l) Coal, oil and gas power generation.
- (m) Industrial processes related to fossil fuels (e.g. coal/oil/gas mining/extraction, coal washing & processing, oil refinery, associated supply chain infrastructure).
- (n) Landfills.

SCHEDULE 3 STRUCTURE OF A GREEN BOND FRAMEWORK

- (1) The structure highly depends on the level of sustainability sophistication and the strategy of the issuer. A Green Bond Framework should include the following sections:
 - (a) Preamble;
 - (b) Introduction, including Country and Issuer's sustainability strategy and overview;
 - (c) Development of a sustainability strategy and adoption of ICMA's Green Bond Principles and SEC Green Bond Guidelines;
 - (d) Green Bond definitions;
 - (e) Use of Proceeds (types and categories);
 - (f) Process for project evaluation and selection, including decision process flow chart;
 - (g) Management of Proceeds;
 - (h) Reporting and Disclosure;
 - (i) Annex 1 - Exclusion list;
 - (j) Annex 2 - Environmental and Social Management System.
- (2) A Green Financing Framework can be utilized to cover both green certified senior loans and bonds.
- (3) The format and structure of a Green Financing Framework is the same as that to be used for a Green Bond Framework, however it will be more general in scope, as it will cover other financial instruments used by the issuer in addition to bonds, such as senior loans, sub-debt and equity.