



Trust Deed Checklist

Minimum Requirements for Trust Deeds relating to Debt Security Transactions

Note

- i. The Trust Deed checklist is a guide for issuers of debt securities and their advisers, outlining the expectations of the Commission on the minimum content of a Trust Deed for Debt Securities.
- ii. The responsibility for ensuring completeness and enforceability or otherwise of Trust Deed lies solely with the Solicitors;
- iii. In preparing the Trust Deed, Trustees and their Solicitors are to bear in mind the objective of the Trust and ensure the protection of the interest of the investors takes priority;
- iv. When completing the checklists or cross-reference lists advisers must ensure that the name of the company, nature of transaction and date the checklist was completed is clearly captured;
- v. A transaction will not be deemed properly filed until a checklist which cross-references accurate page numbers is submitted;
- vi. An updated checklist will be required with each updated draft of the Trust Deed;
- vii. For final approval, we require a final signed copy of the checklist. The signatory must be duly authorised to sign on behalf of the Trustees and the Solicitor.

When completing the checklist or cross-reference list, please only use these options:

Option	When to use it
Page reference	This page reference should correspond with the notes on the document e.g. Page 140 reference may be made to a corresponding document such as a security trust deed only where applicable
N/A	If an item is either non-applicable, or there is no information to be disclosed within the document at this point
Variation	If a derogation is sought for an item
N/R	If an item is not relevant
Omission	If you want to omit an item

Where items are N/A, N/R or omission, please explain why in the comments section.

This checklist is currently restricted to Trust Deeds accompanying prospectuses for the issuance of debt securities targeted exclusively at QIBS and HNIs. The checklist will be updated often, please confirm that you are using the right checklist.

Trust Deed - Checklist

Minimum Requirements for Trust Deeds on issuance of Debt Securities

Name of Issuer:

Nature of Transaction:

Name of Trustee (s):

Date Submitted:

Ref.	Content	Page/Clause	Comment (where applicable)*
	Cover page and Introductory Part		
	Name of Issuer, Trustee(s), and RC Numbers of each entity		
	Type of Bond, Aggregate principal amount, Coupon Rate		
	Emboldened disclosure “The Trustees shall be liable for breach of their duties where they fail to carry out their responsibilities under this Trust Deed or to report any breach of the Terms to the Securities and Exchange Commission”		
	i. Table of Contents		
	ii. List of Definitions and Interpretation of all capitalised and material terms in Trust Deed		
	Commencement and Parties		
	Clear description of parties including RC Numbers and Registered Address		
	Chronological Recital with authorizations duly referenced		

*Refer to instructions on the cover page.

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Creation of the trust		
	Declaration of Trust a declaration of trust and or initial vesting of assets in the trustee by the issuer of the bonds to constitute the fund to be held on trust for the beneficiaries;		
	Duration of the trust		
	Trust expressed to be binding on the Trustee, Bondholders and the issuer		
	Trust deed subject to the provisions of the Investments and Securities Act 2007, SEC Rules and Regulations, and Trustee Investments Act		
	Terms of the trust;		
	Statement that the bond has been authorized by the Issuer.		
	Appointment and Remuneration of Trustee		
	Provision appointing the trustees to act on behalf of the bondholders		
	Fees to be paid to the Trustees and method of calculation if any		
	Trustee's entitlement to fees and to receive reimbursement or charge expenses and costs to the trust;		
	A clear and unqualified statement of the trustee's fiduciary role and obligations to the bond holders as beneficiaries of the trust and its discretions		
	An acknowledgement by the trustee that it is bound by the terms of the trust deed, the Act and the Regulations.		

**Refer to instructions on the cover page.*

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Duties of the Trustees : <i>Trust Deed shall provide for the duties of the Trustees which shall include but not be restricted to:</i>		
	Retain, control and manage the payment account/sinking fund, including the security where the bond is secured by an asset		
	Prompt payment of principal and coupon to the bondholders		
	Segregation of Assets and Acknowledgement that the Trustee has no claim on the Assets - Specific Acknowledgment by Trustee of its fiduciary obligations including the following:		
	Obligation to ensure segregation of the assets of the trust from the assets of the trustee and the assets of any other trusts administered by the trustee.		
	Obligation to clearly identify those funds/ assets which are held on trust for the bonds holders as beneficiaries of trust.		
	Prohibition from charging or pledging or dealing with any fund/ asset of the trust except in a manner authorized by the trust deed, the Act and the Regulations.		
	Ensuring that the accounts of the trustee do not include any assets of the trust.		
	The Bonds		
	Maximum amount of Bonds which may be issued pursuant to the Deed and constitution of the Bond		
	Obligations created by the Bonds on the Issuer, whether unconditional or conditional, irrevocable or otherwise and ranking		

**Refer to instructions on the cover page.*

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Listing or Tradability and restrictions on transferability		
	Tenor of Bonds		
	Status of the Bonds, whether convertible, senior or subordinated, secured, etc		
	Provision on conflicts between a Programme Trust Deed and Series Trust Deed where applicable		
	Form of Bond – whether the bond will be issued in a dematerialized form or otherwise		
	Conditions of the Bond		
	Provisions on Joint Bondholders		
	Purpose of the Bond – provision on the purpose for which the proceeds of the Bond will be utilised		
	Establishment of Account (s) – Trust Deed to provide;		
	Creation of Separate Sinking Fund/payment account to be managed and controlled by the trustee;		
	Purpose of creating the account e.g. payment of the principal amount and the coupon rate;		
	Sources of fund to service the debt		
	Amount to be credited into the account on a monthly basis (where applicable);		
	Timeframe within which the payment account shall be credited before the payment due date;		

**Refer to instructions on the cover page.*

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Investments by Trustees		
	Provision on investment of Funds in accounts managed by Trustees in accordance with Trustee Investment Act		
	Investments Policy and Restrictions of the Trustee		
	Covenants of the Issuer (Affirmative and Restrictive) – which should include the covenant to repay and specify appropriate actions, notices and (or) prohibitions on matters which may affect the interest of bondholders such as mergers and acquisitions, establishment of accounts, taxation, restricted payments etc. and covenant to procure the investment rating of the bonds to be reviewed annually.		
	Trustees Covenants (Affirmative and Restrictive) – which should include covenants to:		
	i. Act continuously as trustee, act in the best interest of the bond holders,		
	ii. Take custody and control of all assets, open a separate trust account		
	iii. Act at all times in the best interests of the bond holders		
	iv. to act honestly, prudently and in good faith in the performance of its duties and the exercise of discretions and to exercise all due care, skill, diligence and vigilance in carrying out its functions and duties as a trustee and in safeguarding the rights and interests of the bond holders		

**Refer to instructions on the cover page.*

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	v. Open a separate trust account or accounts in the name of the trustee and designating the bond investment trust to which it relates, appoint authorized signatories and ensure that the trust accounts are only used for the purposes of the trust and as contained in the offer document;		
	vi. Take all necessary steps to ensure that the assets of the trust are adequately protected and insured in the name of the trustee and issuer (as applicable and enforceable)		
	vii. When due, make all authorized payments in accordance with the terms of the offer documents		
	<p>Power of the Trustee</p> <p>Clear provisions on powers of the Trustee to enforce the provisions of the Trust Deed (subject to the right of bondholders who feel dissatisfied to personally initiate legal action to enforce his rights under the trust deed irrespective of the legal duty of the trustee to take such action).</p> <p>Should clearly empower Trustees to institute proceedings for repayment of the bonds in the event of default, and act on any resolution of bondholders passed at any meeting which minutes have been made and signed;</p>		
	<p>Principal and Coupon</p>		
	Provisions regarding repayment of principal amount, coupons, early redemptions and maturity with specific and measurable timelines;		

**Refer to instructions on the cover page.*

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Nature of Issuer's payment obligation, specifying whether payment obligation will be on a bullet or amortization basis and specifying the existence or otherwise of a moratorium period		
	Events of Default		
	Clearly defined Trigger Events		
	Procedure following default including communication of notice of default to the Issuer, timeframe to remedy default		
	Action to be taken for failure to remedy the default by the issuer.		
	Provisions on Issuers Call, Investors Put, Call on Security		
	Terms and Conditions of the Bond		
	Negative Pledge and Security		
	A clear provision of any negative covenant that prevents the issuer from pledging any assets, or issuing other bonds on different terms and conditions attached (if any)		
	Clear provisions on credit enhancements, security interests, guarantees, over-collateralization; etc (where applicable) and how these may be triggered and applied		
	Retirement, Removal and Replacement of Trustee		
	The retirement and removal of the trustee subject to the approval of the Commission;		

**Refer to instructions on the cover page.*

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Vesting of the assets of the trust in a successor trustee (subject to the approval of the Commission) and the transfer of all books, accounts, documents, reports and records including access to all required software and electronic records;		
	Amendments to the Trust Deed		
	<p>Provision on the processes and procedures to be adopted for the amendment of the trust deed. Subject to the following</p> <ul style="list-style-type: none"> i. modifications shall be subject to the prior review and approval of the Commission. ii. material amendments with a potential impact on the rights of the bondholders shall not be carried out without notification and consent of the bondholders. iii. For Sukuk transactions, modifications shall be subject to obtaining the consent of the Shariah Adviser. 		
	Meetings of Bondholders		
	<p>Provisions regarding:-</p> <p>Convening meetings, notices, quorum, service of notice, resolutions, voting, power of general meeting and power to adjourn. (Note that provisions on meetings are to reflect basic principles and provisions of law)</p>		
	Registrars		
	The appointment of the Registrars who shall keep and maintain a register of the bondholders.		

*Refer to instructions on the cover page.

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Timelines for receipt of funds from Trustees and payment by Registrar		
	Provision regarding details, location and content of the register		
	Period within which the register of the bondholders shall be closed		
	<i>Termination and Winding up of the Trust</i>		
	i. Circumstances under which the trust may be terminated or wound up;		
0	ii. Requirements for calling of meetings and voting rights;		
	iii. Distribution of the assets and priority of distribution; and		
	iv. Payment of expenses and provision of indemnities.		
	Dispute Resolution		
	Dispute Resolution Clause which includes notification to the Commission of any dispute, modalities on resolving dispute including reference to arbitration, composition of arbitration panel and mode of appointment of members and appeals to the Commission.		
	H- Miscellaneous		
	Governing Law		
	Notices		
	Force Majeure		

*Refer to instructions on the cover page.

Ref.	Disclosure requirement	Page/Clause	Comment (where applicable)*
	Conditions of the Bond		

Declaration

We hereby confirm that the Trust Deed complies with the minimum requirements of the law and shall be enforceable to protect the interest of bondholders. We accept liability for any mis-statement or untrue statement in this checklist and or accompanying Trust Deed.

Trustees

Name:

Designation:

Solicitors to the Offer

Name:

Designation:

Trustees

Name:

Designation:

Trustees

Name:

Designation:

**Refer to instructions on the cover page.*