customised mining rehabilitation solutions

Helping you efficiently manage your environmental rehabilitation obligations
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introduction

For mines and quarries, the challenge has never been greater: how will you efficiently manage your environmental rehabilitation obligations under the stringent new NEMA regulations?

NEMA (the National Environmental Management Act) governs the mining industry’s rehabilitation obligations and specifies the permissible funding vehicles for this purpose. There are a lot of uncertainties facing the industry with regard to the interpretation and implementation of this act as it restricts the type of financial vehicles that can be used to finance this rehabilitation process. NEMA’s revised provisions will have significant implications for mining houses and how they approach their environmental rehabilitation obligations going forward.

As a business that is involved in mining and associated operations, one of your biggest challenges is how to satisfy the exacting requirements of the DMR (Department of Mineral Resources) while remaining economically viable.
These mining rehabilitation guarantees can be structured to meet the particular needs of mining or exploration companies. Cenviro Solutions is both underwritten by, and also a subsidiary of, Centriq Insurance Company Limited (“Centriq”). Centriq is 100% owned by Santam Insurance Limited, while Sanlam Insurance Limited owns 60% of Santam.

Both Centriq and Santam are on the list of approved providers of mining rehabilitation insurance guarantees to the Department of Minerals and Resources (DMR).

Regulatory Requirements (MPRDA and NEMA)
The legislative provisions which govern the mining industry’s rehabilitation obligations have recently been removed from the Mineral & Petroleum Resources Development Act (MPRDA) and transferred to the National Environmental Management Act (NEMA). The changes brought about by NEMA are significant and impact mining companies on various levels. One of the key changes is that the financial vehicles used to make financial provision for the annual and final rehabilitation liability have been amended. NEMA also includes an additional requirement to make provision for the remediation of latent or residual environmental impacts, which may only become known in the future. Apart from changes to the financial vehicles, it appears that more involvement is now required from both auditors and environmental specialists to ensure compliance with the new regulations. This will result in additional costs being incurred by the mining company.

Impact of NEMA on mining companies
One of the most significant challenges faced by companies operating in the mining industry, is how to make adequate financial provision for the associated rehabilitation costs without compromising the financial sustainability and cash flow of the mine and still complying with regulations. It is therefore of the utmost importance that mining companies make informed decisions when considering which funding vehicle to utilise when making provision for the mining rehabilitation liability.

Mining Rehabilitation Insurance Guarantees
The financial provisions that mining companies have to make to cover the cost of their rehabilitation liabilities can be excessive. It is therefore important that clients only consider rehabilitation solutions that take into account the unique challenges they face in their business. For example, solutions that tie up cash and result in the utilisation of credit lines are not beneficial and impact negatively on the company’s financial statements. Cenviro Solutions issues the insurance guarantee to the DMR upfront and provides the company with an efficient funding vehicle to build up and grow the necessary funds over the required period.
Cenviro Solutions are specialists in the development of mining rehabilitation guarantee solutions.
To develop the appropriate structured solution for you, we will consult with you on various aspects, which will include:

- The company’s cash-flow position (availability of cash);
- Tax position – optimisation of positive tax implications on solutions;
- Optimisation of the balance sheet position of the company;
- Degree of flexibility that is required, taking into account various financial factors;
- Possibility of utilising a cell captive structure;
- Availability of immovable property or other financial assets to assist in the structuring of a cash-flow and cost-sensitive solution; and
- 37A Trust Funds, where asset liability matching strategies and top-up guarantees are required.

### 37A Trusts

Previously, 37A Trusts were a popular funding vehicle providing for the mining rehabilitation liability as they allowed for favourable tax treatments. The underlying investments are prescribed by Section 37A of the Income Tax Act, No. 58 of 1962. Investments made in accordance with the Act, will result in tax benefits. However, NEMA now impacts significantly on the use of trusts as a funding vehicle to provide for the mining rehabilitation liability.

NEMA only allows for the usage of trusts for latent or residual environmental impact which may only become known in the future. NEMA also requires that the underlying investments in this trust be of a capital guaranteed nature. There are a limited number of funding vehicles allowed to make financial provision for the annual and final rehabilitation, decommissioning and closure liabilities.

These include bank or insurance guarantees, or alternatively an upfront deposit that can be made with the DMR. This limited range effectively does away with 37A Trusts as a permissible funding vehicle for future purposes.

Cenviro Solutions, together with industry leaders in tax and legislation, have the knowledge and expertise to assist mining companies with strategies to optimise current 37A trust structures.

### Investments Expertise

Cenviro Solutions, as part of the Sanlam Group, offers the complete solution. The guarantees are issued to the DMR, while the underlying funds that are built up to cover the mining rehabilitation liability, are invested in portfolios that will optimise investment returns and mitigate any unnecessary risks. Sanlam Investments has significant experience in managing and growing customised mining rehabilitation funds (including trust funds) and optimising investment returns. Sanlam Investments can assist clients with tailor-made investment solutions that will take into account asset liability matching strategies.

The funds in the trust can be invested in active income or absolute return portfolio ranges, taking into account NEMA’s regulatory requirements, which specify the underlying investments allowed. Sanlam’s investment solutions will enhance the investment returns on the underlying assets, contributing to the financial viability of the mine.

For mines and quarries, the challenge has never been greater: how will you efficiently manage your environmental rehabilitation obligations under the stringent new NEMA regulations?
Cenviro Solutions develops customised solutions based on the needs of our mining clients. If correctly structured, the solution will have a positive impact on the financial statements of the mining company.

the benefits

Our solutions cover all the factors that should be considered by a company in structuring their mining rehabilitation provisions:

• The required guarantee is provided to and accepted by the DMR.
• We provide 100% underwriting by Santam and offer the backing, assurance and investment expertise of the bigger Sanlam group.
• The solution ensures full compliance with the DMR.
• We have the capacity to customise and structure the most cost-effective, tax-efficient solution to meet the mining company’s specific requirements, while still meeting the DMR’s requirements.
• We provide agility and flexibility in terms of how we develop the right solution for you.
• We structure lower, scalable premiums prior to the commencement of mining initiatives, where required.
• We offer the investment expertise to build up your capital reserves and grow the underlying investment, through our partners, Sanlam Investments.
our solutions

expert

Leentie Smit is a Chartered Accountant (SA) and Certified Financial Planner (CFP®) with more than ten years’ experience in the financial services sector, with specialisation in the insurance industry. She has extensive skill in structuring corporate liability solutions, with particular focus on mining rehabilitation guarantees. This skill distinguishes her as an expert in this complex field.

Centriq Insurance Company Limited have confidently placed her at the helm of their mining rehabilitation insurance guarantee Underwriting Managing Agency.

Leentie and her team of legal, investment, environmental and mining specialists, are able to structure optimal solutions for mining clients. The Cenviro Solution is backed by the combined expertise held in Centriq, Santam and Sanlam. Sanlam’s Investment specialist team, working closely with Leentie on the structuring of investment solutions, ensure that the Cenviro Solution is an all-encompassing packaged solution.

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SA Retail: life insurance, investment & other financial services

Sanlam Emerging Markets
Emerging markets ex-SA: life insurance, general insurance, investments, credit & banking

Sanlam Investments
SA & Developed markets: investment management, wealth management, credit & structuring

Sanlam Corporate
SA & EM corporate: employee benefits, health

Santam
General insurance in SA & co-investor in SEM general insurance businesses
Sanlam is a leading broad-based financial services group in South Africa. In nine decades Sanlam has set benchmarks for wealth creation, innovation and empowerment in South Africa. Sanlam has offices throughout South Africa as well as business interests elsewhere in Africa, Europe, India, Malaysia, Australia and the USA. The Group’s international footprint is illustrated above.

Sanlam provides financial solutions to individual and institutional clients. These solutions include individual, group and short-term insurance, personal financial services such as estate planning, trusts, home and personal loans, savings and linked products, investment, asset management, property asset management, stockbroking, risk management and capital market activities. Sanlam provides these solutions to various segments of the markets where it operates and offers the solutions from a number of mutually dependent business entities in the Group. From a life insurance company established in 1918, Sanlam has grown into a diversified one-stop financial services group, offering its clients a journey for life for their financial needs.
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