

GHANA DEPOSIT PROTECTION ACT, 2016 Act 931

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THE NINE HUNDRED AND THIRTY-FIRST

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
GHANA DEPOSIT PROTECTION ACT, 2016

AN ACT to provide for the establishment of a Deposit Protection Scheme, a Deposit Protection Fund, a Deposit Protection Corporation and for related matters.

DATE OF ASSENT: *14th September, 2016.*

PASSED by Parliament and assented to by the President:

Preliminary Matters

Application

1. (1) This Act applies to banks and specialised deposit-taking Institutions licensed by the Bank of Ghana.

(2) Where a provision in this Act is inconsistent with the provisions of another enactment that deals with the insurance of deposits or matters relating to the insurance of deposits, the provision of this Act shall prevail.

Establishment and Membership of the Deposit Protection Scheme

Establishment of the Scheme

2. There is established by this Act, a Deposit Protection Scheme referred to in this Act as the "Scheme".

Object of the Scheme

3. The object of the Scheme is to
- (a) protect a small depositor from loss incurred by the depositor as a result of the occurrence of an insured event; and
 - (b) support the development of a safe, sound, efficient and stable market-based financial system in Ghana.

Membership of the Scheme

4. (1) Subject to section 54(3) and (4), a bank or a specialised deposit-taking institution that is licenced by the Bank of Ghana shall be a member of the Scheme.

(2) A bank or specialised deposit-taking institution becomes a member of the Scheme when the Bank of Ghana informs the Corporation that that bank or specialised deposit-taking institution has been granted a licence by the Bank of Ghana to commence operations.

(3) A bank or specialised deposit-taking institution that is established as a result of an amalgamation under paragraph (d) of subsection (4) of section 6, may be issued with a licence and after that become a member of the Scheme.

Membership certificate

5. (1) The Corporation shall issue a certificate of membership to a bank or a specialised deposit-taking institution that is a member of the Scheme.

(2) A bank or specialised deposit-taking institution shall display a copy of the certificate of membership at a conspicuous place at the main office of the bank or specialised deposit-taking institution, and at each branch office, agency or outlet of the bank or specialised deposit-taking institution.

Cessation of membership

6. (1) The Bank of Ghana shall, on the occurrence of an insured event,
- (a) inform the affected bank or specialised deposit-taking institution in writing of the revocation of the licence issued to that bank or specialised deposit-taking institution and request that bank or specialised deposit-taking institution to surrender the licence to the Bank of Ghana;
 - (b) after the revocation of the licence, immediately inform the Corporation, in writing, of the revocation and surrender of the licence; and

(c) appoint for the bank or specialised deposit-taking institution, a receiver or liquidator and the Corporation shall promptly commence the reimbursement of compensation to the insured depositors.

(2) Where a bank or specialised deposit-taking institution is involuntarily liquidated in accordance with subsection (1),

(a) the participation of that bank or specialised deposit-taking institution in the Scheme ends on the date compensation payments to depositors of that bank or specialised deposit-taking institution is finalised between the Corporation and the bank or specialised deposit-taking institution; and

(b) the obligation of that bank or specialised deposit-taking institution to pay an insurance premium to the Scheme ends on the date the insured event occurs.

(3) Where a bank or specialised deposit-taking institution is liquidated voluntarily in accordance with relevant laws on banks and specialised deposit-taking institutions,

(a) the participation of that bank or specialised deposit-taking institution in the Scheme, and

(b) the obligation of that bank or specialised deposit-taking institution to pay an insurance premium under the Scheme ends on the date the last payment of an insured deposit is made by the Corporation to an insured depositor.

(4) Membership of the Scheme, of a bank or a specialised deposit-taking institution, ceases if

(a) deposit liabilities in Ghana that belong to the bank or specialised deposit-taking institution are transferred by that bank or specialised deposit-taking institution to another bank or specialised deposit-taking institution;

(b) the bank or specialised deposit-taking institution

(i) becomes a member of another scheme of arrangement;

(ii) compounds with the creditors of the bank or the specialised deposit-taking institution; or

(iii) undergoes a reconstruction authorised by a competent authority and that reconstruction does not permit the acceptance of fresh deposits;

- (c) the bank or specialised deposit-taking institution is acquired by another bank or specialised deposit-taking institution;
- (d) as a result of an amalgamation, the banks or specialised deposit-taking institutions involved adopt a name and identity different from the name and identity which that bank or specialised deposit-taking institution had registered with the Scheme before the amalgamation; or
- (e) with the approval of the Bank of Ghana, the Corporation determines that the affairs of the bank or specialised deposit-taking institution is being conducted in a manner that is detrimental to the interest of that bank or specialised deposit-taking institution or to the interest of depositors in that bank or specialised deposit-taking institution.

(5) The Corporation shall, as soon as is reasonably practicable after a bank or specialised deposit-taking institution has ceased to be a member of the Scheme, cause the name of that bank or specialised deposit-taking institution to be published in the *Gazette* and in two daily newspapers of national circulation.

Effect of cessation of membership

7. (1) Where a bank or specialised deposit-taking institution ceases to be a member of the Scheme under section 6, that bank or specialised deposit-taking institution is not relieved from its obligations or liabilities that accrued to the Corporation before the cessation of its membership of the Scheme;

(2) Where a bank or specialised deposit-taking institution ceases to be a member of the Scheme under section 6, that bank or specialised deposit-taking institution shall

- (a) not assume, hold out or in any other way give the impression that the bank or specialised deposit-taking institution is a member of the Scheme;
- (b) surrender the membership certificate issued to that bank or specialised deposit-taking institution to the Corporation, and shall, in the prescribed manner, notify
 - (i) depositors of that bank or specialised deposit-taking institution, and
 - (ii) the general public of the cessation of its membership;

- (c) indemnify the Corporation in the event of a payment made by the Corporation to depositors of that bank or specialised deposit-taking institution in respect of deposits transferred or acquired by another bank or specialised deposit-taking institution.

(2) The Corporation shall revoke the certificate of membership of the Scheme issued to a bank or specialised deposit-taking institution that ceases to be a member of the Scheme and that bank or specialised deposit-taking institution shall surrender the certificate to the Corporation.

(3) A bank or specialised deposit-taking institution shall, from the date of revocation of the licence and cessation of membership, not accept deposits from the public.

(4) A bank or specialised deposit-taking institution that contravenes subsection (2), commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

Establishment of the Deposit Protection Fund and Reserve Fund

Establishment of a Deposit Protection Fund

8. (1) There is established by this Act for the Scheme, a Deposit Protection Fund referred to in this Act as the "Protection Fund".

(2) The Protection Fund is divided into Fund "A" and Fund "B".

(3) The Corporation shall open two special accounts with the Bank of Ghana, for the Protection Fund.

Object of the Protection Fund

9. The object of the Protection Fund is to provide the financial resources needed for the operation of the Scheme particularly for the reimbursement of the small depositors of a member of the Scheme on the occurrence of an insured event in respect of that member.

Sources of money for the Protection Fund

10. (1) The Corporation shall pay into

- (a) Fund "A", a premium paid by a bank that is a member of the Scheme and any other fee paid by that bank to the Scheme;
- (b) Fund "B", a premium paid by a specialised deposit-taking institution that is a member of the Scheme and any other fee paid by that specialised deposit-taking institution to the Scheme;

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- (c) Fund "A", returns on investment from that Fund;
- (d) Fund "B", returns on funds invested from that Fund; and
- (e) either Fund "A" or Fund "B", revenue from the claims of the Corporation in liquidation proceedings of a member of the Scheme.

(2) The Protection Fund constitutes the main assets of the Scheme.

(3) Where income or cost is not clearly allocated to any of the Funds specified in paragraph (a) or (b), the income or cost may be allocated to Fund "A" and Fund "B" in equal proportions.

(4) The Corporation shall use the Protection Fund only for the purpose of reimbursing depositors.

Management of the Protection Fund

11. The Corporation shall manage the Protection Fund.

Reserve Fund

12. (1) The Corporation shall establish and operate a Reserve Fund into which the Corporation shall transfer its operational results.

(2) The Board may withdraw money from the Reserve Fund to meet the obligations of the Scheme to insured depositors, if moneys in the Protection Fund are not sufficient.

Insurable Deposits, Premium and Payment of Compensation

Insurable deposits

13. With the exception of the following, a bank or specialised deposit-taking institution shall insure with the Scheme, deposits held at that bank or a specialised deposit-taking institution:

- (a) an account for which a depositor has not been identified;
- (b) an account that is frozen or that is about to be frozen, in compliance with an order of a court;
- (c) an account that belongs to
 - (i) a corporate person or a member of a corporate person, if the corporate person or the member of the corporate person has majority votes of twenty-five percent or more in the bank or specialised deposit-taking institution;
 - (ii) an individual who participates directly or indirectly in the capital or voting rights of a bank or specialised deposit-taking institution as a result of at least five percent shares in the capital of that bank or specialised deposit-taking institution;

- (iii) a family member of an individual described in subparagraph (ii) and the account of a person who has a related interest;
 - (iv) a director, a key management personnel or a person who has a related interest as defined under relevant laws on banks and specialised deposit-taking institutions; or
 - (v) an audit firm, a partner of that audit firm, and a manager of that audit firm who is in charge of performing the external audit of the financial statements of the bank or specialised deposit-taking institution for at least the three years preceding the initiation of liquidation proceedings;
- (d) a deposit held in a bank or specialised deposit-taking institution by a financial institution, pension fund, retirement fund, insurance company, collective investment undertaking, local government, central government and administrative authority;
- (e) a deposit held in a foreign branch of a bank or a specialised deposit-taking institution incorporated in Ghana, and a subsidiary of that bank or specialised deposit-taking institution operating in a foreign country; and
- (f) deposits denominated in foreign currency.

Initial premium

14. (1) A member of the Scheme shall pay to the Corporation, an initial one-off premium of zero-point-one percent of the required minimum paid-up capital as provided in relevant laws on banks and specialised deposit-taking institutions.

(2) The initial premium to be paid by a member of the Scheme shall be paid not later than thirty days after the Corporation has issued a demand notice to that member.

(3) Where a member of the Scheme changes its licence and its minimum capital requirement increases, that member shall pay the difference between the initial premium paid and the premium due as a result of the increase in the minimum capital requirement.

Annual premium

15. (1) The Corporation shall determine the level of annual premium payable by a member of the Scheme.

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(2) The level of premium to be determined by the Corporation under subsection (1) ranges from zero- point-three percent to one-point-five percent of the average deposits insured by the Scheme at the end of the preceding year and may be different for Fund “A” and Fund “B”.

(3) A member of the Scheme shall pay a prorated amount of the annual premium to the Corporation quarterly.

(4) An assessed premium shall be paid not later than thirty days after the end of the quarter to which it relates.

Differential premium

16. (1) The Corporation may, on the basis of an assessed risk level of a member of the Scheme, assess different premiums payable by that member under Fund “A” and Fund “B”.

(2) The Corporation shall, in assessing the differential premium of a member of the Scheme under Fund “A” and Fund “B”, apply among other things the Bank of Ghana supervisory instructions.

(3) The Corporation shall not assess differential premiums until three years after the coming into force of this Act.

Announcement of payment of compensation

17. Where an insured event occurs, the Corporation shall announce the modalities for payment of compensation for insured deposits and subsequent developments after commencement of payment of compensation by a publication

(a) on the website of the Corporation;

(b) in at least two daily newspapers of national circulation; and

(c) on television and radio.

Claim for payment of compensation

18. (1) An insured depositor may personally submit a claim for compensation to the Corporation and collect the compensation payable or submit that claim and collect the compensation payable through a person authorised in writing by that insured depositor.

(2) An insured depositor or the person authorised by that insured depositor shall attach evidence of ownership of the insured accounts, when submitting a claim for compensation to the Corporation.

(3) Where an insured depositor is unable to claim the compensation for an insured deposit within the period prescribed under section 19(2), that depositor shall make the claim at the registered office of the Corporation or at a location specified by the Corporation, within five years after the expiry of the period referred to in that section.

(4) An insured depositor who does not make a claim for compensation within the period specified under subsection (3) forfeits the right to that claim to the Corporation.

(5) The amount that is forfeited under subsection (4) shall revert to the Fund.

(6) Subsection (4) does not apply to a claim made by a personal representative of a deceased person or next friend.

Payment of compensation to depositors

19. (1) The Corporation shall commence the process of payment of compensation of insured deposits on the date of first publication of the modalities for the payment of the compensation in at least two daily newspapers of national circulation and on television and radio but not before the sixth day of the occurrence of an insured event.

(2) The process for payment of compensation shall last for thirty days after the date of announcement of modalities for commencement of payment.

(3) The Corporation may pay an insured deposit in a single payment or in a series of payments over a period of thirty days.

(4) The receiver or liquidator of a bank or specialised deposit-taking institution that is under liquidation shall, within five days after the occurrence of the insured event, submit to the Corporation a soft copy and hard copy of data and other documents necessary for the calculation and payout of insured deposits under this Act.

(5) The Corporation shall verify and determine the amount of an insured deposit primarily on the basis of the data and other documents submitted in subsection (4).

(6) The Corporation may use other means for paying compensation to insured depositors including employing the services of a payout agent, bank or specialised deposit-taking institution.

(7) Where an insured deposit is the subject of a charge to a third party, the Corporation shall payout compensation due in respect of that account to the secured party in accordance with the Borrowers and Lenders Act, 2008 (Act 773) or under the orders of a court of competent jurisdiction.

(8) The Corporation shall, after an insured depositor has been paid, subrogate the claim to the position of the insured depositor in accordance with relevant laws on banks and specialised deposit-taking institutions.

Coverage limits

20. (1) An insured depositor shall, on the occurrence of an insured event, be reimbursed for the insured deposit by the Corporation.

(2) The Corporation shall calculate the amount to be reimbursed by

(a) aggregating the deposit accounts of the insured depositor together with any accrued interests; and

(b) deducting from the sum obtained under paragraph (a),

(i) deposits that are exempt from insurance under section 13; and

(ii) the overdue portion of an amount owed by the insured depositor to the bank or specialised deposit-taking institution that is being liquidated.

(3) Despite subsection (2), the Corporation shall not pay to an insured depositor, an amount that is more than the maximum insured amount of

(a) six thousand, two hundred and fifty Cedis, in the case of a depositor of a bank; and

(b) one thousand, two hundred and fifty Cedis, in the case of a depositor of a specialised deposit-taking institution.

(4) The Corporation shall pay the amount to be reimbursed to a depositor from

(a) Fund "A", if the depositor is a customer of a bank; and

(b) Fund "B", if the depositor is a customer of a specialised deposit-taking institution.

(5) Where an account is jointly held by depositors and the bank or specialised deposit-taking institution has not been notified of the existence of any other contractual agreement between the depositors with respect to sharing of the moneys in the account, the Corporation shall divide equally among the depositors, the amount to be reimbursed to the depositors.

(6) Where a depositor is a trustee for the deposit account of a beneficiary, the Corporation shall in determining under this section the amount to be reimbursed to that beneficiary, add other deposit accounts in the name of the beneficiary to the deposit accounts held in trust.

(7) The Corporation shall reimburse a beneficiary of a trust account based on information provided by the trustee to the bank or specialised deposit-taking institution.

(8) The Corporation shall, not earlier than three years after the commencement of this Act, revise the coverage limits specified under subsection (3) to accord with economic conditions prevailing in the country and data concerning the development of insured deposits.

(9) Where the amount paid by the Corporation as compensation to an insured depositor is less than the amount credited to the account of the depositor, that depositor may recover the difference between the amount paid and the amount credited to the account of that depositor from the liquidator or receiver of the bank or specialised deposit-taking institution.

Periodic reporting

21. (1) A bank or specialised deposit-taking institution shall submit to the Corporation, information, data, statements and reports in a form and manner determined by the Corporation.

(2) A bank or specialised deposit-taking institution that

(a) does not submit information, data, statements or reports,

(b) submits

(i) incomplete information, data, statement or report, or

(ii) inaccurate information, data, statement or report, or

(c) delays in the submission of information, data statement or report

to the Corporation is liable to pay to the Corporation, an administrative penalty of not more than the monetary equivalent of five hundred penalty units.

Establishment, Object and Functions of the Ghana Deposit Protection Corporation

Establishment of the Corporation

22. (1) There is established by this Act a body corporate to be known as the Ghana Deposit Protection Corporation, referred to in this Act as the "Corporation".

(2) For the performance of its functions, the Corporation may acquire and hold movable and immovable property, dispose of property and enter into contract or any other transaction.

(3) Where there is a hindrance in the acquisition of property by the Corporation, the property may be acquired for the Corporation under the State Lands Act, 1962 (Act 125), and the cost of the acquisition shall be borne by the Corporation.

Object of the Corporation

23. The object of the Corporation is to manage the Scheme efficiently and effectively towards the attainment of the objects of the Scheme as specified in section 3.

Functions of the Corporation

24. (1) To achieve its object, the Corporation shall

- (a) require each member of the Scheme to submit to the Corporation, information or data relating to its operations;
- (b) determine details of the information required to be submitted by each member of the Scheme, the form in which the information is to be reported and the time or interval of time at which reporting is required;
- (c) determine the levels of insurance premium for members of the Scheme and collect the premium from the members for the purpose of insuring the deposits;
- (d) set the coverage limits for insured deposits;
- (e) subject to this Act, invest the assets of the Scheme either directly or indirectly through an external asset manager;
- (f) pay off insured depositors in accordance with this Act;
- (g) cooperate with the Bank of Ghana in exchanging information relevant to the attainment of the objects of the Scheme;
- (h) collaborate with international deposit insurance bodies;
- (i) invest the moneys of the Protection Fund in securities approved by the Board in the investments as specified in section 41 of this Act;
- (j) borrow money to ensure the attainment of the objects of the Scheme, where the Corporation has insufficient funds, but shall not borrow from members of the Scheme;
- (k) determine administrative sanctions to be imposed on a member of the Scheme in accordance with this Act;
- (l) borrow money to finance the reimbursement of insured depositors upon the occurrence of an insured event if Fund A and Fund B are not sufficient, but shall not borrow from members of the Scheme; and
- (m) do any other thing incidental to the efficient performance of the functions specified in the preceding paragraphs.

(2) Despite paragraph (m) of subsection (1), the Corporation shall not grant a credit or make a donation to any person.

Governing body of the Corporation

25. (1) The governing body of the Corporation is a Board consisting of

- (a) a chairperson who is the Governor of the Bank of Ghana or a representative of the Governor, not below the rank of a Deputy Governor;
- (b) one representative of the Ministry of Finance not below the rank of a Director;
- (c) the Chief Executive Officer of the Corporation;
- (d) one representative from the groups of banks, nominated by their respective associations;
- (e) one representative from the specialised deposit-taking institutions nominated by their respective associations;
- (f) one legal practitioner of not less than ten years standing at the Bar nominated by the Ghana Bar Association; and
- (g) one certified practicing accountant nominated by the Institute of Chartered Accountants, Ghana.

(2) A person qualifies to be nominated to serve on the Board if that person

- (a) is a fit and proper person and is ordinarily resident in the country;
- (b) is not an executive of a member of the Scheme or a member of the governing board of a member of the Scheme; and
- (c) ceased to be an executive of a member of the Scheme or a member of the governing board of a member of the Scheme, at least one year before the nomination of that member.

(3) Paragraph (c) of subsection (2) does not apply to the chairperson of the Board.

(4) The Board shall, with the exception of members of the Board specified under paragraphs (a) and (b) of subsection (1), prescribe rules and procedures for the nomination or re-nomination of a member of the Board.

(5) The President shall appoint members of the Board in accordance with article 70 of the Constitution.

(6) The Board shall ensure the proper and effective performance of the functions of the Corporation.

Functions of the Board of the Corporation

26. The Board shall

- (a) recommend the Chief Executive Officer of the Corporation for appointment by the President;
- (b) make rules and prescribe procedures for the management and operations of the Corporation;
- (c) approve the financial and operational plans, budget and financial statements of the Corporation;
- (d) approve the investment and other policies, and guidelines of the Corporation;
- (e) propose amendments to this Act based on operational experiences in the implementation of the Act;
- (f) approve payments for reimbursement of depositors on the occurrence of an insured event;
- (g) manage the Protection Fund;
- (h) approve emergency funding and borrowing for emergency purposes in accordance with section 46;
- (i) approve the number of staff as recommended by the Chief Executive Officer; and
- (j) approve international bodies of which the Corporation may become a member.

Tenure of members of the Board

27. (1) A member of the Board appointed otherwise than by reason of the office of that member shall hold office for a period of not more than three years and is eligible for re-appointment but a member shall not be appointed for more than two consecutive terms.

(2) The position of a member of the Board appointed otherwise than by the office of that member becomes vacant if the member, at any time, resigns from office in writing addressed to the President through the chairperson of the Board.

(3) A member who intends to resign shall, give three months notice in writing, of that intention to the chairperson.

(4) The President may, by a letter addressed to a member other than the Chief Executive Officer, revoke the appointment of that member if that member

- (a) fails to meet the criteria specified under subsection (2) of section 25 after appointment to the Board;

- (b) is convicted for a criminal offence involving fraud or dishonesty;
- (c) is adjudged or declared bankrupt by a court of competent jurisdiction, or is the owner or key management personnel of a company adjudged or declared bankrupt;
- (d) is disqualified or suspended by a competent authority from practising a profession on grounds of misconduct;
- (e) is adjudged by majority of the members to be engaged in a conduct inconsistent with the standards of integrity and the ethical code of the Corporation;
- (f) is unable to perform the functions of a member as a result of infirmity of mind or body, certified by a medical officer;
- (g) is absent from three consecutive meetings of the Board without sufficient cause; or
- (h) has an interest in a matter before the Board and
 - (i) fails to disclose that interest; or
 - (ii) is present at or participates in the deliberations of the Board in respect of that matter.

(5) The President may, on the recommendation of the Board, by a letter addressed to the Chief Executive Officer, revoke the appointment of the Chief Executive Officer for good cause as provided for in section 33(5).

(6) Where a member of the Board is for sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

- (a) under subsection (2) or (3) or section 29(3),
- (b) as a result of a declaration under subsection (6), or
- (c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Meetings of the Board

28. (1) The Board shall meet at least once every three months for the despatch of business at times and in places determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than three members of the Board, convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

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(3) The chairperson shall, in consultation with the Chief Executive Officer, propose the agenda for each meeting.

(4) The quorum at a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of a particular matter.

(5) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(6) Matters before the Board shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the person presiding shall have a casting vote.

(7) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

Disclosure of interest

29. (1) A member of the Board shall disclose in writing any personal interests or otherwise that the member has in the activities or practices regulated by the Corporation.

(2) A member of the Board who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not be present or participate in the deliberations of the Board in respect of that matter.

(3) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and

(a) fails to disclose that interest; or

(b) is present at or participates in the deliberations of the Board in respect of that matter.

Establishment of committees

30. (1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function.

(2) Without limiting subsection (1), the Board may have a Technical Committee which may be chaired by a person who is not a member of the Board.

(3) Section 31 applies to members of committees of the Board.

Advisors and consultants

31. (1) The Board may appoint consultants to carry out any of its functions under this Act.

(2) A consultant appointed under this section may, with the approval of the Board, co-opt other persons to assist in the carrying out of an assigned function.

(3) A person other than an employee of the Corporation co-opted by the Board shall, hold office in accordance with the terms of the letter by which the person is appointed.

(4) A person

(a) appointed by the Board as a consultant, or

(b) co-opted by a consultant under subsection (2),

shall disclose any interest in an activity or practice involving a bank or specialised deposit-taking institution.

(5) The appointment of a person who contravenes subsection (4) shall be revoked.

(6) The Chief Executive Officer shall notify the chairperson of the Board of any vacancy resulting from a revocation of appointment under subsection (5).

Allowances

32. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister.

Administration and Staff of the Corporation

Appointment of Chief Executive Officer

33. (1) The President shall, on the recommendation of the Board, appoint a Chief Executive Officer for the Corporation.

(2) A person qualifies for appointment as a Chief Executive Officer if that person has

(a) a relevant university degree;

(b) a minimum of five years work experience in the fields of finance, banking, or insurance at management level; and

(c) been recommended by the Board after selection by the Board through a transparent and competitive recruitment process.

(3) The Chief Executive Officer shall hold office in accordance with the terms and conditions specified in the letter of appointment.

(4) Except with the prior approval of the Board in writing, the Chief Executive Officer shall not hold any other office, be a director in any other establishment or corporate body whether for remuneration or not.

(5) The Chief Executive Officer shall be removed from office in accordance with the terms and conditions specified in the letter of appointment.

Functions of the Chief Executive Officer

34. (1) The Chief Executive Officer shall, subject to the directions of the Board on matters of policy and as provided for in this Act, be responsible for the day-to-day administration of the Corporation and in particular shall

- (a) execute the policies of the Board;
- (b) make regular reports to the Board on the administration of the Corporation;
- (c) provide data, statistics and advice necessary for the attainment of the objects of the Corporation; and
- (d) perform other functions as directed by the Board.

(2) The Chief Executive Officer is answerable to the Board in the performance of the functions of the Office.

Appointment of other staff

35. (1) The Board shall appoint other staff of the Corporation that are necessary for the proper and effective performance of its functions.

(2) Other public officers may, at the request of the Board, be transferred or seconded to the Corporation or may otherwise give assistance to it.

Secretary to the Board

36. (1) The Board shall designate a person from among the staff of the Corporation to be Secretary to the Board.

- (2) The Secretary
 - (a) is responsible for the secretariat of the Board and shall ensure the accurate recording of proceedings and decisions of the Board;
 - (b) shall, subject to the direction of the chairperson, communicate notice of a meeting of members of the Board, the agenda for the meeting, time and venue for the meeting to the members at least five working days before the date set for the meeting; and

(c) shall circulate working documents on topics to be discussed at a meeting of the Board to members at least three working days before the date set for the meeting.

(3) The Secretary may send the notice and documents relating to a meeting of the Board to members by electronic mail.

Business premises of the Corporation

37. The Corporation shall situate its Head Office in the capital city of Ghana and may

- (a) open offices in other parts of the country; and
- (b) appoint agents and correspondents.

Information access, use and exchange

38. (1) The Corporation and the Bank of Ghana shall enter into an agreement which shall be reduced into writing in the form of a Memorandum of Understanding which shall provide for the following:

- (a) the undertaking of examination on behalf of the Corporation;
- (b) exchange of information or data with respect to distressed financial institution;
- (c) sharing of information or data; and
- (d) any other matters considered necessary by the Corporation.

(2) In preparation for an insured event, the Corporation shall work with members of the Scheme to ensure that there are adequate systems for the prompt transfer of data.

Confidentiality

39. (1) A person who in the performance of a function or discharge of a duty comes into contact with confidential information concerning the business of the Corporation shall not disclose or permit the disclosure of that information, except where the disclosure is

- (a) with the express or implied consent of the Board;
- (b) required by law or by the order of a court of competent jurisdiction;
- (c) to the Auditors of the Corporation in the performance of their functions under the Act;
- (d) to the supervisory authorities of members of the Scheme or to public international financial institutions; and
- (e) for the purpose of a legal proceeding in the interest of the Corporation.

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(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than one thousand penalty units or to a term of imprisonment of not less than two years and not more than four years or to both.

Financial Provisions

Sources of funds for the Corporation

40. The sources of funds for the Corporation are

- (a) capital contributions from the Government and the Bank of Ghana;
- (b) withdrawals from the Reserve Fund;
- (c) grants received from the Government and donors;
- (d) borrowings including issuance of securities; and
- (e) other revenues payable to the Corporation in accordance with this Act.

Investments

41. (1) The Board shall formulate an investment policy to guide the deployment of the resources of the Fund.

(2) In formulating the investment policy, the Board shall adhere to the principles of safety and liquidity over returns.

(3) The Corporation may invest the Protection Fund in the following financial instruments:

- (a) securities issued or guaranteed by the Republic of Ghana; and
- (b) securities designated by the Bank of Ghana as qualified instruments.

Management of assets

42. (1) The Board shall manage the assets of the Fund “A” and Fund “B” in a manner consistent with its responsibility to protect the small depositor.

(2) The Board shall determine the target size of each Fund.

(3) The size of assets of Fund “A” or Fund “B” may exceed the target determined by the Board.

(4) The Corporation may reduce the premium payable in respect of Fund “A” or Fund “B”, when the respective size of assets of that Fund exceeds the target level as determined in subsection (2) but shall continue to collect premiums.

Financial reporting and external auditing

43. (1) The Corporation shall keep books of accounts and proper records in relation to them in a form approved by the Auditor-General and in accordance with International Financial Reporting Standards.

(2) The financial year of the Corporation shall begin on the first day of January and end on the last day of December.

(3) The accounts, records and financial statements of the Corporation shall be audited by an independent external auditor appointed by the Auditor-General and published not later than 31st March of the ensuing year.

(4) The Auditor shall be engaged by the Auditor-General in accordance with the Public Procurement Act, 2003 (Act 663).

(5) The Auditor engaged shall not hold office for more than five consecutive years and may be reappointed only after a period of five years after the previous engagement.

(6) The Board shall furnish the Minister and the Bank of Ghana with copies of audited financial statements not later than 31st March of the ensuing year.

(7) The Board shall publish the annual report and audited financial statements of the Corporation on its website and in at least two daily newspapers of national circulation not later than 31st March of the ensuing year.

Annual report and other reports

44. (1) The Board shall, within one month after receipt of the audit report, submit to the Minister an annual report covering the activities and the operations of the Corporation for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers appropriate.

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(4) The Board shall also submit to the Minister any other report in relation to the annual report which the Minister may require in writing.

Financial planning and budgeting

45. (1) Not later than 31st of October of each year, the Board shall cause to be prepared, estimates of revenue and expenditure for the Corporation for the ensuing year.

(2) The Board shall approve the annual estimates of the Corporation before the commencement of the financial year to which they relate.

Emergency or extraordinary funding

46. (1) Where upon the basis of a review of the financial plan or other supporting financial information, the Chief Executive Officer or the Board determines that Fund "A" or Fund "B" does not have sufficient financial resources to carry out its objectives, the Board shall approve a plan to undertake one or more of the following actions:

- (a) charge an additional, extraordinary premium to a member of the Scheme by increasing within one year, the level of the ongoing premium levied against insured institutions on a temporary basis up to two times its level at the time of the emergency, with the Board determining whether the emergency premiums will be credited against future premiums;
- (b) issue bonds in compliance with this Act and Bank of Ghana rules; or
- (c) subject to section 24 (1) (j) borrow funds, guaranteed in line with this Act or by the instructions of Bank of Ghana.

(2) Borrowings between the two Funds may be permitted by the Board where the likelihood of a failure in any of the members of the Scheme under Fund "A" or Fund "B" is not anticipated by the Board.

(3) Any borrowing under subsection (2) shall be repaid within six months.

Miscellaneous Provisions

Administrative sanctions

47. Administrative sanctions provided under this Act shall not preclude the application of other sanctions or criminal penalties as provided for under any other enactment.

Exemption from corporate income tax

48. The Corporation is exempted from the payment of corporate income tax.

Protection from liability and indemnification

49. (1) Action shall not lie against the Government, the Corporation, any officer of the Corporation or any person acting under the direction of the Corporation for anything done or omitted to be done in good faith in the administration of this Act, or in the performance of any function, exercise of a power or discharge of a duty authorised or required under any other enactment relevant to the attainment of the objects of this Act, unless it has been proven that the acts or omissions constitute intentional wrongful conduct or gross neglect.

(2) The Corporation shall indemnify a member of the Board, a staff of the Corporation or an agent of the Corporation against costs incurred in the defence of a legal action brought against that person in connection with the discharge or purported discharge of official tasks within the scope of employment or engagement of that member, staff or agent under this Act.

(3) Despite subsection (2), the Corporation shall not indemnify a member of the Board, a staff of the Corporation or an agent of the Corporation if that member, staff or agent is convicted of a crime arising out of the activities in respect of which legal action was instituted against the member, staff or agent.

Public information

50. (1) A bank or specialised deposit-taking institution shall openly display and make available brochures, leaflets and other educational materials to explain the Scheme and its operations.

(2) In providing educational materials on the Scheme to the public, a bank or specialised deposit-taking institution shall ensure that the materials do not contain false or misleading information.

(3) A bank or specialised deposit-taking institution that contravenes subsection (1) or (2), is liable to pay to the Corporation an administrative penalty of not more than the monetary equivalent of one thousand penalty units.

Penalty for non-payment of premium

51. (1) A bank or specialised deposit-taking institution that fails to pay a premium as specified under sections 14, 15 and 16 is liable to pay to the Corporation an administrative penalty of not more than the monetary equivalent of five thousand penalty units.

(2) Where a bank or specialised deposit-taking institution delays in the payment of a premium, the bank or specialised deposit-taking institution shall pay interest on the accrued premium to the Corporation at the rate assigned to a ninety-one-day Treasury Bill plus two per cent.

Regulations

52. The Minister, in consultation with the Corporation may, by legislative instrument, make Regulations for the effective implementation of this Act.

Interpretation

53. In this Act, unless the context otherwise requires,

“bank” means an entity licensed by the Bank of Ghana in line with the relevant laws on banks and specialised deposit-taking institutions;

“Board” means the governing body of the Corporation;

“compounds” means an agreement between a creditor and a debtor by which the creditor accepts a composition or smaller sum in discharge of the original debt owed;

“Corporation” means the Ghana Deposit Protection Corporation established under section 22;

“deposit” means a sum of money paid by a depositor to a bank or a specialised deposit-taking institution on condition that the money is to be repaid by the bank or specialised deposit-taking institution either on demand by the depositor or at an agreed time by that bank or specialised deposit-taking institution with or without interest or premium under applicable legal and contractual conditions, without the depositor providing property, giving a service or security;

“depositor” means a person that holds a deposit account in an insured institution;

“Deposit Protection Scheme” means the scheme established under section 2 and the legal, financial and organisational arrangements and operational activities undertaken by the Corporation in order to achieve the objects specified in section 3;

“distressed financial institution” means a financial institution that is subject to remedial measures, prompt corrective measures involving Administration or Receivership as specified in relevant laws on banks and specialised deposit-taking institution;

“eligible deposits” means the aggregated deposits of an insured depositor, together with any accrued interests minus overdue obligations and excluded deposits;

“financial institution” means a banking institution or a specialised deposit-taking institution;

“fit and proper person” means a person who is suitable to hold the particular position which that person holds or is to hold as regards to

- (a) that person’s probity, competence and soundness of judgment for fulfilling the responsibilities of the position;
- (b) the diligence with which that person fulfills or is likely to fulfill those responsibilities;
- (c) whether the interest of depositors or potential depositors of the deposit-taking industry is, or likely to be, in any way threatened by that person holding that position; and
- (d) whether the integrity of the person is established and the qualifications and experience of the person are appropriate for the position in light of the business plan and activities of the entity which the person serves, or going to serve, taking into account the size, nature and complexity of the responsibility;

“Fund “A”” means the Deposit Protection Fund “A”;

“Fund “B”” means the Deposit Protection Fund “B”;

“initial premium” means a one-off premium paid by a bank or specialised deposit-taking institution to the Corporation;

“insured depositor” means a person who owns an insured deposit account;

“insurable deposits” means the eligible deposits of an insured depositor minus the overdue obligations of that depositor in the insured bank or specialised deposit-taking institution;

“insured event” means an event that necessitates

(a) the revocation of the licence of a bank or a specialised deposit-taking institution; and

(b) the appointment of a receiver or a liquidator as specified in relevant laws on banks and specialised deposit-taking institutions;

“joint account” means an account opened in the names of two or more persons or over which two or more persons have rights as opposed to an individual account, which is an account opened in the name of only one person;

“main asset” includes core assets such as cash, Treasury Bills and other short-term investments of Fund A and Fund B, other than investment for operational purposes;

“member of family” means a spouse, child, parent, grandparent, parent’s child, brother’s child, sister’s child, grandchild, parent’s brother or sister, parent’s brother’s child, parent’s sister’s child, step brother or sister, step child, parents-in-law, brothers-in-law or sisters-in-law;

“Minister” means the Minister responsible for Finance;

“next friend” means a person who acts on behalf of another person who does not have the legal capacity to act on his or her own behalf under this Act;

“operational result” means balance available to the Corporation after paying for recurrent expenditure of the Corporation and satisfying any provisions determined by the Board in respect of depreciation of assets and other contingencies;

“ordinarily resident” means a person residing in Ghana for at least twelve months;

- “payout date” means the date on which the Corporation commences payment of compensation for insured deposits to insured depositors;
- “distressed financial institution” means an institution that is subject to remedial measures, prompt corrective measures involving Administration or Receivership as specified in the relevant laws on specialised deposit-taking institutions;
- “Protection Fund” means the Deposit Protection Fund;
- “Scheme” means the Deposit Protection Scheme established under section 2;
- “reconstruction” means a complete overhaul of the capital of a distressed company to save the company from liquidation and to enable the company to continue as a going concern by removal of the burden of immediate debt, attraction of additional capital and creation of a viable financial structure;
- “scheme of arrangement” means any change in the rights and liabilities of members, debenture holders or creditors of debenture holders and creditors in the Regulations of a company;
- “small depositor” means a person who has a level of account determined by the Board to be a small deposit;
- “specialised deposit-taking institution” means a body corporate that engages in the deposit-taking business and is issued with a specialised deposit-taking institution licence in accordance with the relevant laws on banks and specialised deposit-taking institutions;
- “supervisory instructions” means the outcome of an assessment of a bank or specialised deposit-taking institution; and
- “trust account” means a savings account established under a trust agreement whereby a trustee administers the funds for the benefit of one or more beneficiaries.

Transitional provisions

54. (1) The Government of Ghana and the Bank of Ghana shall each contribute towards the initial capital of the Corporation.

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(2) The Corporation shall insure depositors of existing banks and specialised deposit-taking institutions not otherwise excluded under section 13 six months after the coming into force of this Act.

(3) The Bank of Ghana shall, four months before the commencement of the Scheme, notify the Corporation of any bank or specialised deposit-taking institution that the Bank of Ghana has classified as

- (a) distressed financial institution; or
- (b) not fulfilling the minimum capital requirements as stipulated by the Bank of Ghana.

(4) An ineligible bank or specialised deposit-taking institution may be admitted into the Scheme when the conditions of ineligibility are remedied.

(5) A bank or specialised deposit-taking institution that at the coming into force of this Act does not meet the standards required for admission into the Scheme shall comply with the required standards within twelve months from the date of coming into force of this Act.

(6) A bank or specialised deposit-taking institution that does not comply with the standards required under this Act by the time specified in subsection (5) shall undertake a mandatory merger or amalgamation with a stronger institution or be closed down by the Bank of Ghana.

(7) A member of the Scheme shall pay the required initial premium, before the commencement of the Scheme.

(8) In addition to subsection (7) each institution shall pay a quarterly premium as specified in subsection (3) of section 15.

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