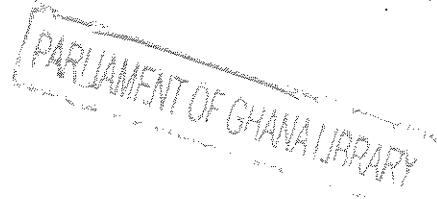


IN THE FOURTH SESSION OF THE SEVENTH PARLIAMENT OF THE FOURTH REPUBLIC
OF GHANA



REPORT OF THE FINANCE COMMITTEE ON THE SECURITIES INDUSTRY
(AMENDMENT) BILL, 2020

1.0 INTRODUCTION

The Securities Industry (Amendment) Bill, 2020 was first presented to Parliament and read the first time on Friday, 18th December, 2020.

Rt. Hon. Speaker referred the Bill to the Finance Committee for consideration and report in accordance with the 1992 Constitution and the Standing Orders of Parliament.

The Committee met with a team of officials from the Ministry of Finance and the Securities and Exchange Commission.

1.1 Urgency of the Bill

The Committee determined that the Bill is of an urgent nature and therefore certifies that it must be taken through all the stages of passage in one day in accordance with 1992 Constitution and Order 119 of the Standing Orders of Parliament.

2.0 DOCUMENTS REFERRED TO

The Committee referred to the following documents in order to consider the Bill:

1. The 1992 Constitution;

2. The Securities Industry Act, 2016 (Act 929)
3. The Standing Orders of Parliament.

3.0 OBJECT OF THE BILL

The Object of the Bill is to amend the Securities Industry Act, 2016 (Act 929) to provide for the conduct of an investigation by the Commission when the Commission is assisting other domestic or foreign regulatory authorities and the procedure for dealing with a request for assistance from a foreign securities regulatory authority.

4.0 STRUCTURE OF THE BILL

The Bill contains four (4) clauses.

Clause 1 amends Section 35 of Act 929 to enable the Commission conduct an investigation that the Commission considers appropriate where the Commission has reason to suspect that a person has committed an offence under Act 929 or the Companies Act, 2019 (Act 992), has been found guilty of fraud or dishonesty in relation to dealing in securities and the business of an issuer or is assisting other domestic or foreign regulatory authorities in their investigation.

Clause 2 amends section 37 of Act 929 by repealing subsections (3), (4) and (5) of Section 37 and thus makes it clear that where the Commission is to request from information from the primary regulator of the Banking Sector, that is the Bank of Ghana, the Commission does not require a court order.

Clause 3 outlines the procedures that the Commission is to follow in the case of a request for assistance from a foreign securities regulatory authority.

Clause 4 amends Section 209 of Act 929 to enable the Commission take an action set out in Section 112, 118 or 123 or impose an administrative penalty of not less than Fifty penalty units and not more than Twenty Thousand penalty units or apply both sanctions where the Commission considers necessary.

5.0 OBSERVATIONS

5.1 Rationale for the Bill

The Committee observed that Ghana has been on the watch list of the International Organisation of Securities Commissions. In order to address this challenge, Parliament passed the Securities Industry Act, 2016 (Act 929) in order to make Ghana eligible to sign the International Organisation of Securities Commissions Multilateral Memorandum of Understanding and become a member of the International Organisation of Securities Commissions.

During the passage of the law however, few changes were made to the bill which were contrary to the standards of the International Organization of Securities Commissions thereby denying Ghana the opportunity to sign the Multilateral Memorandum of Understanding. As a result, Ghana remains on the watch list till date.

In order to address these deficiencies and ensure that Ghana signs the International Organisation of Securities Commissions Multilateral Memorandum of Understanding and become a member of the Organisation, the Securities Industry Act, 2016 (Act 929) is being amended to comply with the standards of the International Organisation of Securities Commissions.

5.2 Impact of the “Watch List”

The Committee enquired about the implications of being on the watch list of the International Organisation of Securities Commissions. The Ministry explained that being on the watch list serves as a caution to international portfolio investors that they ought to be wary of the securities market of the country. Potential investors therefore turn to shy away from such countries. This negatively impacts on foreign direct investments flow.

5.3 Plea Bargaining

The Committee observed that the Bill makes provision for plea bargaining for settlement of disputes. It was explained that some of the infractions of the law were trivial and therefore using an Alternative Dispute Resolution mechanism would quickly help address those issues

6.0 RECOMMENDATIONS

The Committee, having carefully scrutinised the Bill, proposes the following amendments for the consideration of the House:

AMENDMENTS

1. Clause 1- **Amendment Proposed** - delete "(Act 926)" and insert "(Act 929)"
2. Clause 3- **Amendment Proposed** - Subclause 1, *delete* and *insert* the following:
"(1) Despite subsection (1) of section 37, the Commission may apply to the Court pursuant to a request for assistance from a foreign securities regulatory authority".
3. Clause 3- **Amendment Proposed** - Subclause 4, line 2, *delete* "institution"
4. Clause 3- **Amendment Proposed** - Subclause (4), line 3, *delete* "assess" and *insert* "access".
5. Clause 4- **Amendment Proposed** - Paragraph (b), section (5) line 4, *delete* "commensurate with the non-compliance and" and *insert* "necessary or".

6. Clause 4- **Amendment Proposed** - Paragraph (b), section (6) line 2, *delete* “any part of”

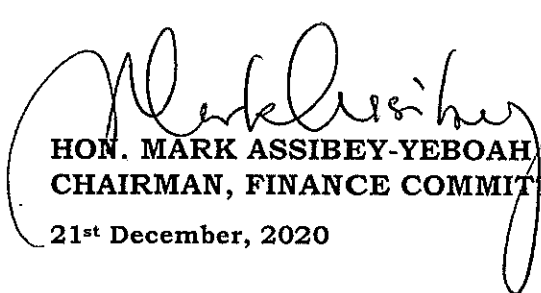
7. Clause 4- **Amendment Proposed** - Paragraph (b), section (6) line 4, *delete* “through the Attorney-General”

8. Clause 4- **Amendment Proposed** - Paragraph (b), section (9) *delete* and *insert* the following:
“(9) The Commission shall treat the admission of an offence under this Act or Regulations as a conviction of the same offence.”

7.0 CONCLUSION

After careful consideration, the Committee is of the view that the Bill will go a long way to sanitize the securities industry and help attract foreign direct investment into the country and therefore recommends to the House to adopt its Report and pass the Securities Industry (Amendment) Bill, 2020 in accordance with the 1992 Constitution and the Standing Orders of the House.

Respectfully submitted.


HON. MARK ASSIBEY-YEBOAH (DR)
CHAIRMAN, FINANCE COMMITTEE

21st December, 2020


EVELYN BREFO-BOATENG
CLERK TO THE COMMITTEE