

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



**REPORT OF THE
FINANCE COMMITTEE**

ON THE

**GHANA DEPOSIT PROTECTION
(AMENDMENT) BILL, 2018**

14TH MARCH, 2018

PARLIAMENT OF GHANA LIBRARY

1.0 INTRODUCTION

The Ghana Deposit Protection (Amendment) Bill, 2018 was presented to Parliament and *read the first time* on Friday 9th March, 2018. The Bill was subsequently *referred* to the Finance Committee for consideration and report in accordance with articles 103 and 106 of the 1992 Constitution and Order 169 of the Standing Orders of the House.

The Minister for Finance, Hon. Ken Ofori-Atta, Deputy Ministers for Finance, Hon. Kwaku Kwarteng and Hon. Charles Adu Boahene, the Governor of the Bank of Ghana, Dr. Ernest Addison and officials from the Ministry of Finance, the Bank of Ghana and the Attorney General's Department attended upon and assisted the Committee in its deliberations on the Bill.

The Committee is grateful to the Hon. Minister and his Deputies, the Governor and officials from the Ministry of Finance, the Bank of Ghana and the Attorney-General's Department for attending upon the Committee.

2.0 REFERENCES

The Committee referred to the following documents *among others* during its deliberations on the Bill:

- a. The Constitution of the Republic of Ghana, 1992.
- b. The Standing Orders of the Parliament of Ghana (2000 Revised).
- c. Banks and Specialized Deposit Taking Institutions Act, 2016 (Act 930)

d. The Ghana Deposit Protection Act, 2016 (Act 931)

3.0 URGENCY OF THE BILL

Pursuant to article 106 (13) of the 1992 Constitution and Order 119 of the Standing Orders of the House, the Committee determined and hereby certifies that the Bill is of an urgent nature and should therefore be taken through all stages of passage in one day.

In coming to this determination, the Committee considered the recent bank failures in the country and the need to put in place urgent measures to assure the saving population that their deposits with licensed institutions would be safe and assured should the deposit-taking institution go down.

4.0 BACKGROUND

The Ghana Deposit Protection Act, 2016 (Act 931) was enacted to provide a legal framework for banks and specialized deposit-taking institutions to insure depositors under a Scheme operated by the Ghana Deposit Protection Corporation. Though section 54 of Act 931 requires the Ghana Deposit Protection Corporation established under the Act to insure depositors of existing banks and specialized deposit-taking institutions within six months after the commencement of the Act, The Bank of Ghana has signaled that it needs a little more time to do so. This is because concerns that have been raised by stakeholders and development partners on the Act require immediate attention and resolution before depositors are insured.

Key among the concerns raised by key stakeholders is the need to give eligible institutions the needed time to address any prudential deficiencies so as to ensure that as many eligible institutions as possible are included in the Ghana Deposit Protection Scheme. This will help preserve the stability of the financial system.

Again, some sections of the Act need to be re-couched for clarity and smooth implementation of the law. There is also the need to exclude from the governance structure of the scheme, representation from the groups of banks and specialized deposit-taking institutions in order to comply with best practice as espoused by the Basel Core Principles for Effective Deposit Insurance Systems and endorsed by the International Association of Deposit Insurers (IADI).

5.0 PURPOSE OF THE BILL

The object of the Bill is to amend the Ghana Deposit Protection Act, 2016 (Act 931) to address the shortcomings in the Act before its implementation.

6.0 CONTENTS OF THE BILL

The Ghana Deposit Protection (Amendment) Bill, 2018 contains a total of fifteen (15) clauses.

Clause 1 amends section 2 of Act 931 which deals with the establishment of the Scheme by providing a subsection (2) which states that the mandate of the Scheme is to be a pay-box.

Clause 2 amends section 3 of the Act which deals with the objects of the Scheme by substituting for paragraph (b), a new paragraph that gives clarity to the original provision. The words “by ensuring prompt payouts to insured depositors on the occurrence of an insured event” are added to the original provision to make the provision clearer.

Clause 3 amends section 6 of the Act which deals with cessation of membership of the scheme. Four amendments substitute paragraph (a) of subsection (1). The substituted provision corrects the sequence of actions to be taken by the Bank of Ghana on the occurrence of an insured event.

Clause 4 amends section 7 of the Act which deals with the effect of cessation of membership of the Scheme by substituting section 7 with a new section. The new section corrects errors in the numbering of the subsections of the previous section 7. The new section also excludes the requirement of a bank or specialised deposit-taking institution to indemnify the Corporation in the event of a payment made by the Corporation to depositors of the bank or specialised deposit-taking institution in respect of deposits transferred or acquired by another bank or specialised deposit-taking institution. This requirement to indemnify the Corporation is no longer useful or needed.

Clause 5 amends section 10 of the Act which deals with the sources of money for the Protection Fund. Two amendments are

made to this section. The first amendment substitutes paragraph (c) of subsection (1). The substituted provision mandates the Corporation to pay into Fund 'A', returns on investment less an amount not exceeding twenty percent of the income for the year which may be appropriated to meet operational expenses of the Corporation. The second amendment substitutes paragraph (d) of subsection (1). The substituted provision mandates the Corporation to pay into Fund 'B', returns on investment less an amount not exceeding twenty percent or the income for the year which may be appropriated to meet operational expenses of the Corporation. The amendments are necessary because there is no explicit clause in the Act that deals with how the operational expenses of the Corporation may be funded, although the understanding is that income accruing from investments may be used. The amendments therefore make provision for the Corporation to be able to spend a given percentage of the income accruing on the Protection Funds.

Clause 6 amends section 13 of the Act which deals with insurable deposits by substituting section 13 with a new section. The new section limits the number of exclusions under the section. This is because the exclusions under the previous section were too numerous and cumbersome to collate especially with regard to the definition for 'member of family' in the Act, and were likely to hinder a fast pay-out procedure. Another reason for the amendment is that, article 5 of the European Union Directive (June 2014) no longer requires those exclusions from deposit insurers.

Clause 7 amends section 15 of the Act which deals with annual premium by substituting subsection (2). The substituted subsection provides that the level of premium to be determined by the Corporation under subsection (1) ranges from zero-point-three to one-point-five percent of the total deposits less the exceptions stated in section 13 of the Act at the end of the preceding year and may be different for Fund 'A' and Fund 'B'. The rationale for the amendment is to broaden and simplify the base on which the premium is levied.

Clause 8 amends section 21 of the Act which deals with periodic reporting by inserting a new subsection after subsection (1). The new subsection empowers and employee of the Corporation to enter the premises of a bank or specialised deposit-taking institution for the purpose of inspecting deposit-related records and activities of that bank or specialised deposit-taking institution.

Clause 9 amends section 24 of the Act which deals with functions of the Corporation. It is worthy of note that the only provision that is new is paragraph (m) of subsection (1). The new paragraph mandates the Corporation to promote and undertake a sustained communication and public awareness of the deposit insurance system using various communication strategies, tools and outlets. The rationale for the amendment is that, the core principles of the International Association of Deposit Insurers make it the responsibility of the deposit insurer to promote public awareness of the deposit insurance system. Although section 50 of the Act, which deals with public information, places a responsibility on the

banks and specialised deposit-taking institutions to explain the Scheme and its operations to the public, in order to achieve an effective campaign and a successful implementation of the Scheme, it is necessary to legally place the responsibility to educate the public on the Corporation, with section 50 of the Act being supplementary to the efforts of the Corporation. This is important because the expenditure for public awareness creation is very high and it is prudent that the basis for expending such huge sums of money is grounded in the Act.

Clause 10 amends section 25 of the Act which deals with the Governing body of the Corporation by substituting for paragraphs (d) and (e) of subsection (1), new paragraphs. The amendment substitutes representatives from the Chartered Institute of Bankers and the Association of Ghana Industries.

Clause 11 amends section 38 of the Act which deals with information access, use and exchange by inserting a new subsection after subsection (2) of that section. The new provision enables the Corporation to collaborate with the Bank of Ghana and other members of the Scheme for examination to verify depositor records on-site.

Clause 12 amends section 39 of the Act which deals with confidentiality by substituting subsection (1). It is worthy of note that the only provision that is new is paragraph (f). The new paragraph allows a person to disclose information in the knowledge of that person, made to the Bank of Ghana, a

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