

BANK OF GHANA



THE BANKING BUSINESS - CORPORATE GOVERNANCE DIRECTIVE 2018

*FOR BANKS AND SPECIALISED DEPOSIT-TAKING INSTITUTIONS
REGULATED UNDER THE BANKS AND SPECIALISED DEPOSIT-TAKING
INSTITUTIONS ACT 2016 (ACT 930)*

FEBRUARY 2018

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PART I - PRELIMINARY

Title

1. These Directives may be cited as the Banks and Specialised Deposit-Taking Corporate Governance Directive, 2018.

Application

2. These Directives are issued under the powers conferred by Section 92(1) of the *Banks & Specialised Deposit Taking Institutions Act 2016 (Act 930)* and shall apply to Banks and Specialised Deposit-Taking Institutions (SDIs) licensed or regulated under the Banks and Specialised Deposit-Taking Institutions Act 2016 (Act 930).

Interpretation

3. In these Directives, unless the context otherwise requires—
4. **“Act 930”** means the *Banks & Specialised Deposit Taking Institutions Act 2016 (Act 930)*);
5. **“Alternate director”** refers to a person appointed by an existing director to act in his/her absence from the jurisdiction for a period not exceeding six (6) months or unable for any other reason to act as a director. Such a director shall have the same powers to attend, speak and vote at meetings as the principal director would have had.
6. **“corporate governance”** from a banking industry perspective, refers to the manner in which the business and affairs of a bank, SDI or Financial Holding Company (FHC) are governed by its board and senior management, including how they set the regulated financial institution, strategy and objectives; determine the regulated financial institution’s risk tolerance/appetite; operate the regulated financial institution’s business on a day-to-day basis; protect the interests of depositors, meet shareholder obligations, and take into account the interests of other recognised stakeholders; and align corporate activities and behaviour with the expectation that the regulated financial institution will operate in a safe and sound manner, with integrity and in compliance with applicable laws and regulations;
7. **“Duty of care”** means to act in an informed and prudent basis in making decisions;

8. “Duty of loyalty means to act in the interest of the *regulated financial institution* and shareholders and to prevent pursuing one’s own individual interest or that of another individual or group at the expense of the *regulated financial institution* and its shareholders.
9. “**executive directors**” refers to directors who have definable management responsibilities in addition to their functions as directors;
10. “**independent directors**” refers to non-executive directors who have the ability to exercise objective, independent judgment after fair consideration of all relevant information and views without undue influence from management or from inappropriate external parties or interests however, non-executive directors who may represent the interests of the bank’s, SDI’s or FHC’s (regulated financial institution’s) shareholders or have some form of connection with the regulated financial institution will not be considered as independent directors;
11. “**key management personnel**” refers to the chief executive officer, deputy chief executive officer, chief operating officer, chief finance officer, board secretary, treasurer, chief internal auditor, the chief risk officer, the head of compliance, the anti-money laundering reporting officer, the head of internal control functions, the chief legal officer, the manager of a significant business unit of the bank, a specialised deposit taking institution, or a financial holding company or any person with similar responsibilities;
12. “**non-executive directors**” refers to directors other than executive directors, i.e., they are not employees of the regulated financial institution and do not hold any other office in the institution in conjunction with their office as directors;
13. “**regulated financial institutions**” refers to banks, specialised deposit-taking institution and financial holding companies licensed or regulated under the Banks & Specialised Deposit Taking Institutions Act 2016 (Act 930)
14. “**related persons**” includes spouse, son, daughter, step son, step daughter, brother, sister, father and mother, cousin, nephew, niece, aunt, uncle, step sister and step brother of an insider;
15. “**Significant shareholders**” refers to a shareholder with a direct or indirect holdings which represents 5% (five percent) or more of the capital or of the voting rights.

Objectives

16. The objectives of these Regulations are —
 - a) to require *regulated financial institutions* to adopt sound corporate governance principles and best practices to enable them to perform their role in enhancing economic growth in Ghana;

- b) to promote and maintain public trust and confidence in *regulated financial institutions* by prescribing sound corporate governance standards which are critical to the proper functioning of the banking sector and the economy as a whole; and
- c) Minimise the possibility of regulated *financial institution* failures that are usually rooted in poor corporate governance practices.

PART II— RELEVANT LEGAL REQUIREMENTS

Disqualification of Directors, Employees and Key Management Personnel+

17. Section 58 of Act, 930 prohibits a person from being appointed or elected or from accepting an appointment or election as a director, chief executive officer or key management personnel of a *regulated financial institution* if that person
- a) has been adjudged to be of unsound mind or is detained as a person with a mental disorder under any relevant enactment ;
 - b) has been declared insolvent, has entered into any agreement with another person for payment of that person’s debt and has suspended payment of the debt;
 - c) has been convicted of an offence involving fraud, dishonesty or moral turpitude;
 - d) has been a director, key management personnel associated with the management of an institution which is being or has been wound up by a court of competent jurisdiction on account of bankruptcy or an offence committed under an enactment,;
 - e) is a director or key management personnel of another bank, specialised deposit taking institution or financial holding company in the country,
 - f) is under the age of eighteen years (18 years),
 - g) does not have the prior written approval of the Bank of Ghana ; or
 - h) has defaulted in the repayment of the financial exposure of that person.

Disclosure of Interest by Directors

18. Section 59 of Act 930 requires a person, before assuming office as a director or key management personnel of a *regulated financial institution* , to declare to the board of directors of that *regulated financial institution* and the Bank of Ghana;

- a) the professional interests of that person or the office that person holds as manager, director, trustee or by any other designation; and
 - b) the investment or business interests of that person in a firm, company or institution as a significant shareholder, director, partner, proprietor or guarantor, with a view to prevent a conflict of interest with the duties or interests of that person as a director, or key management personnel of the bank, specialised deposit-taking institution of the financial holding company.
19. The same section requires that: a director of a *regulated financial institution* who has an interest in a proposed credit facility to be given to a person by the *regulated financial institution* or a transaction that is proposed to be entered into with any other person, shall declare the nature and the extent of that interest to the board of directors whether directly or indirectly and shall not take part in the deliberations and the decision of the board with respect to that request.

Intervention of the Bank of Ghana in Appointments

20. Section 60 of Act 930 prescribes, among others, the following:
- a) A bank or specialised deposit-taking institution shall seek prior written approval of the Bank of Ghana before it appoints a Chief Executive Officer or a Deputy Chief Executive Officer of the bank or specialised deposit-taking institution each of whom shall be ordinarily resident in the country;
 - b) A bank or specialised deposit-taking institution shall not appoint a key management personnel without the prior written approval of the Bank of Ghana
 - c) The Bank of Ghana shall not grant approval for a person to be appointed as a Chief Executive or Deputy Chief Executive of a *regulated financial institution*, if in the opinion of the Bank of Ghana that person is not “fit and proper” to be appointed in that capacity.
 - d) Where the Bank of Ghana considers that director or key management personnel is not a fit and proper person, to act in that capacity, the Bank of Ghana shall direct the removal of such person(s) from the board of the regulated financial institution one (1) month after hearing representations made by that regulated financial institution.

PART III— SOUND CORPORATE GOVERNANCE STANDARDS

Board's Overall Responsibility

21. The board of directors shall have overall responsibility for the regulated financial institution, including approving and overseeing the implementation of the *institution's* strategic objectives, risk strategy, corporate governance and corporate values. The board shall be responsible for appointing providing oversight of senior management. These responsibilities should be set out in the formal charter of the board.
22. The board shall ensure that a well - structured and rigorous selection system is in place for the appointment of key management personnel of the regulated financial institution.

Annual Certification

23. Annually, within 120 days of the end of each financial year, the Board shall provide a certification to the Bank of Ghana as to the compliance of the regulated financial institution or otherwise with the contents of this Directive. Additionally, the certification should state that,
 - (i) The Board has independently assessed and documented whether the corporate governance process of the bank, SDI or FHC is effective and has successfully achieved its objectives or otherwise.
 - (ii) Directors are aware of the responsibilities to the regulated financial institution per persons charged with governance.

The Board shall report any material deficiencies and weaknesses that have been identified in the course of the year, along with action plans and timetables for corrective action by the board to the Bank of Ghana.

Business Strategy

24. (1) Pursuant to this overall responsibility, the board shall approve and monitor the overall business strategy of the *regulated financial institution*, taking into account long-term financial interest of the regulated financial institution, its exposure to risk, and its ability to manage risk effectively.(2) The Board shall approve and oversee the formulation and implementation of the following in relation to the *regulated financial institution's*;

- a) overall risk strategy, including its risk tolerance/appetite;
- b) policies for risk, risk management and compliance, including anti-money laundering and combating the financing of terrorism (AML/CFT) risk;
- c) internal controls system;
- d) corporate governance framework, principles and corporate values including a code of conduct or comparable document; and
- e) compensation system.

Duty of Care and Loyalty

The members of the board shall exercise their “duty of care” and “duty of loyalty” to the *regulated financial institution*.

Corporate culture and values

25. The board shall establish the corporate culture and values of the bank, SDI or FHC that promote and reinforces norms for responsible and ethical behaviour in terms of the regulated financial institution’s risk awareness, risk-taking and risk management.

To promote sound corporate culture in the regulated financial institution, the board shall take the lead in establishing the “tone at the top” by;

- (i) Setting and adhering to corporate values for itself, key management and employees that create expectations that business should be conducted in a legal and ethical manner at all times
- (ii) Ensuring that appropriate steps are taken to communicate throughout the bank, SDI or FHC, the corporate values, professional standards it sets together with supporting policies and appropriate sanctions for unacceptable behaviours.

Related Party Transactions

26. The board shall ensure that transactions with related parties (including internal group transactions) are reviewed to assess risk and are subject to appropriate restrictions (e.g., by requiring that such transactions be conducted on non-preferential terms/basis) and applicable legislation and other requirements such as those prescribed under sections 67 to 70 of the Banks and Specialised Deposit-Taking Institutions Act, 930 regarding exposure limits for loans to related parties and staff.

Plan for Succession

27. The board shall select, subject to approval by the Bank of Ghana where applicable, and replace, where necessary, key management personnel and put in place an appropriate plan for succession. The succession plan shall focus on developing human resources to enable the *regulated financial institution* to retain a pool of qualified candidates who are ready to compete for key positions

and areas when they become vacant to ensure effective continuity of the banking business.

Key Management Oversight – Board

28. The board shall provide oversight of senior management as part of the *regulated financial institution* checks and balances and shall;
- a) monitor and ensure the actions of senior management are consistent with the strategy and policies approved by the board, including the risk tolerance/appetite and risk culture;
 - b) meet regularly with senior management;
 - c) question and review critically explanations and information provided by senior management;
 - d) ensure that the knowledge and expertise of senior management remain appropriate given the nature of the business and the *regulated financial institution* risk profile.
 - e) Oversee the implementation of appropriate governance framework for the *regulated financial institution*
 - f) Ensure that appropriate succession plans are in place for senior management positions
 - g) Oversee the design and operation of the *regulated financial institution*, *compensation system*, *monitor and review the system to ensure that it is aligned with the desired risk culture and risk appetite of the regulated financial institution*
 - h) Have the responsibility to approve the overall internal control framework of the regulated financial institution and monitor its effectiveness

Separation of Powers

29. There shall be a clear division of responsibilities at the top hierarchy of the *regulated financial institution*. The positions of the Board Chair and the Managing Director/Chief Executive Officer shall be separate. No one individual shall have unfettered powers of decision in any *regulated financial institution* and therefore no one person shall combine the two (2) top positions in any *regulated financial institution* at the same time.

The two (2) top positions of Board Chair and Managing Director (MD)/CEO in a *regulated financial institution* shall not simultaneously be occupied by foreigners. One of these positions shall be occupied by a Ghanaian national.

30. No two (2) related persons shall occupy the positions of Chair and MD/CEO or Executive Director and Chairman in a *regulated financial institution*.

Independent Director

31. An independent director shall be non-executive and shall not;
 - a) have more than 5% (five percent) equity interest directly or indirectly in the regulated financial institutions or in its related companies;
 - b) be employed in an executive position in the bank, SDI or FHC or its related company at least two (2) years prior to his appointment date;
 - c) have relatives employed by the bank, SDI or FHC or any of its related companies as 'key management personnel' in the last two (2) years;
 - d) have engaged in any transaction within the last two (2) years with the regulated financial institution on terms that are not less favourable to the regulated financial institution than those normally offered to other persons;
or
 - e) have served as a director in the regulated financial institution continuously for more than two (2) terms unless the director can affirm that his/her independence is not impaired.
 - f) be related to persons with significant shareholding in the regulated financial institution or have any business or employment connections to a significant shareholder.
 - g) hold cross directorship position(s) with another director(s) on the Board of other institutions

Board Qualifications and Composition

32. Board members shall be and remain qualified, including through training, for their positions. They shall have a clear understanding of their role in corporate governance and be able to exercise sound and objective judgement about the affairs of the regulated financial institution. They shall possess, individually and collectively, appropriate experience, competencies and personal qualities, including professionalism and integrity.
33. The competencies of Board of Directors shall be diverse to facilitate effective oversight of Management and shall ideally cover a blend of the following fields: Banking, Law, Finance, Accounting, Economics, Information Technology, Business Administration, financial analysis, Entrepreneurship, Risk

Management, Strategic planning and Corporate Governance and other areas that the Bank of Ghana deems fit.

34. The board shall collectively have a reasonable knowledge and understanding of local, regional and where appropriate, global economic market forces as well as legal and regulatory environment in which it operates.
35. Ghanaian Nationals shall constitute at least 30% (thirty percent) of the board composition of every bank, SDI or FHC and shall be ordinarily resident in the country.
36. Independent Directors shall constitute at least 20% (twenty per cent) of the composition of the board of every bank, SDI or FHC
37. No *regulated financial institution* shall have more than two (2) members serving on its board that are related persons.

Board Size and Structure

38. The board shall have at least five (5) members including the Chairperson and a maximum of thirteen (13) members, the **majority** of which must be independent and **non-executive** and ordinarily resident in Ghana. There shall be an appropriate balance of power and authority on the board between the executive and non-executive directors such that no one individual or group shall dominate the board's decision-making process of the Board.
39. Where a bank or SDI is a member of a financial holding company, NOT more than two (2) related persons shall be allowed to serve on the boards of the bank and the financial holding company.
40. Where a bank or SDI is a member of a financial holding company, no director shall be allowed to serve on the Boards of a bank, SDI or the FHC within the Group at the same time.

Directors' Appointments, Tenure and Age Limit

41. The tenure of the Managing Director/Chief Executive Officer (MD/CEO) of a bank, SDI or FHC shall be in accordance with the terms of engagement with the regulated financial institution which shall be subject to a maximum of twelve (12) years. Such tenure may be split into three (3) terms not exceeding four (4) years per term.
42. With the exception of the MD/CEO, directors shall have a maximum tenure of three (3) terms of three (3) years per term. Retired executive directors may be appointed as MDs/CEOs of banks, SDI's or FHC but such appointments shall be

subject to a maximum tenure of fifteen (15) years inclusive of the term already served in the earlier capacity.

43. The procedure for appointment to the board shall be formal and transparent and shall conform to the guidelines issued by the Bank of Ghana on fit and proper persons.

Appointment of Key Management Personnel

44. Every bank, SDI or FHC shall submit to the Bank of Ghana before it appoints a key management personnel, a comprehensive report on the due diligence conducted on nominees pencilled for appointment as key management personnel. This submission shall be made in conjunction with the dictates of Section 60 of Act 930.
45. Where a director or key management personnel associated with the management of an institution whose licence has been revoked by the Bank of Ghana is to be appointed by a bank, SDI or FHC, the Bank of Ghana may exercise its discretion on whether to approve such appointment after hearing representations have been made by the appointee.

Alternate Director

46. A director may in respect of any period not exceeding six (6) months in which he/she is absent from Ghana or unable to for any reason to act as a director, appoint another director or any person approved by a resolution of the board of directors, as an alternate director. Such a director shall not be required to hold any share qualification and shall be appointed in accordance with section 188 of the Companies Act, 1963 (Act 179)

Board Chairperson

47. (a) The Chairperson of the board shall be an independent non-executive director and shall be ordinarily resident in Ghana unless it can be demonstrated to the Bank of Ghana that the position can be held effectively by a non-resident who is able to attune the strategic direction of the bank, SDI or FHC with the developments in Ghana. The Chairperson shall provide leadership to the Board and ensure that board decisions are taken on a sound and well-informed basis. He/she should encourage and promote critical discussion and ensure that dissenting views can be expressed and discussed within the decision-making process.
 - (b) The Board Chair shall encourage constructive relationship with the Board and between the Board and Management.
 - (c) To promote checks and balances in the governance structure of regulated financial institutions, the board chair shall be a **non-executive** member and shall not serve as a chair of any board sub-committee.

48. The Board Chair shall be proposed for re-election within the maximum tenure of two (2) terms consisting of three (3) years per term.

Role of Board Secretary

49. The board secretary shall serve as an interface between the Board and Management and shall support the Board chair in ensuring the smooth functioning of the Board. The Board Secretary shall advise the Board on matters relating to statutory duties of the directors under the law, disclosure obligations, and company law regulations as well as on matters of corporate governance requirements and effective board processes.

The Board Secretary shall ensure that directors are provided with complete adequate and timely information prior to Board meetings.

The Secretary shall be appointed by the directors for such term and remunerations they may think fit, and may be removed by the board, but without prejudice to any claim for damages for breach of any contract of service with the regulated financial institution.

Board Meetings

50. Banks, SDIs or FHC shall hold at least four (4) board meetings per financial year
51. A director has a duty to attend board meetings regularly and to effectively participate in the conduct of the business of the Board. Each regulated financial institution shall have a policy that requires the board to meet at least once every quarter and any member to resign if he fails to attend Board meetings regularly. Board meetings can also be arranged and conducted via teleconference.
52. A member of the board shall attend at least 50% (fifty percent) of the board meetings of the bank, SDI or FHC in any financial year. This is to ensure that every board member discharges his or her duties and responsibilities effectively and to qualify for re-election. In the event that a member of the board does not attend the meetings regularly in a financial year, the board chairperson may recommend the removal of such persons from the board based on non-performance subject to shareholders approval.
53. A director is deemed to have attended a board meeting if he/she participates in the meeting via teleconference for the entire duration of the meeting.
54. The board shall disclose in the corporate governance section of its annual report, the total number of board meetings held in the financial year and the attendance by each director.
55. The Board shall discuss the business affairs of the regulated financial institution through reports as submitted by management in writing. The reports should include among others:

- a) a summary of financial statements and performance review against the approved budget, business plan, peers and industry;
- b) the extent to which the bank is exposed to various risks such as credit, liquidity, interest rate, foreign exchange, operational and other risks;
- c) review of non-performing loans, related party transactions and credit concentration;
- d) activities of the regulated financial institution in the financial market and in its “nostro” accounts;
- e) effectiveness of internal control systems and human resource issues;
- f) outstanding litigations and contingent liabilities; and
- g) Compliance with AML/CFT policies, laws and regulations.

Other Engagements of Directors

56. To ensure that directors give greater time commitment to their oversight function in the regulated financial institution, no director: shall
- a) hold more than five (5) directorship positions at a time in both financial and non-financial companies (including off-shore engagements) subject to the restriction against concurrent directorships in banks under section 58(1)(e) of Act 930. Directors’ other engagements shall be disclosed in the annual accounts of the regulated financial institution.
 - b) hold cross directorship position(s) with another director(s) on the board of other regulated financial institutions.

Board Performance Evaluation

57. The board shall carry out regular evaluation or self-assessment of its performance as a whole, including its sub-committees, and of individual board members in order to review the effectiveness of its own governance practices and procedures including on AML/CFT issues, determine where improvements may be needed and make any necessary changes.
58. The board shall in addition to the above, undertake a formal and rigorous evaluation of its performance with external facilitation of the process every two (2) years.

Report on Board Evaluation

59. An in-house performance evaluation of the Board shall be conducted annually and a copy of the results shall be submitted to the Bank of Ghana not later than **30th June** of each year.
- a) A separate in-house performance evaluation of the Board on AML/CFT issues shall be submitted to the Bank of Ghana and the Financial Intelligence Centre for June and December each year before the end of the quarter following the evaluation period.
 - b) A statement on the external evaluation of the board shall be included as a separate section of the annual report of regulated financial institution and a detailed copy of the report submitted to the Bank of Ghana.

Board Sub-Committees

60. The board shall establish certain specialized board sub-committees, the number and nature of which depends on the size and complexity of the bank, SDI or FHC and its board and risk profile.

At a minimum, a regulated financial institution shall have two (2) board sub-committees, namely: an **Audit Committee** and a **Risk Committee** both of which shall be chaired by **independent** directors.

61. Other board sub-committees may be established on optional basis per size, complexity, business lines and risk profile of the regulated financial institution. Such committee(s) shall be chaired by a **non-executive** director(s) with the requisite qualification and experience in the specific functions of the committee.
62. The board chairperson shall not head or chair any of the board sub-committees and is only permitted to serve on one (1) board sub-committee as a member.
63. The board shall issue in writing the terms of reference for each sub-committee which shall be contained in a charter which sets out the committee's mandate, scope and procedures of the committee. A copy of the charter shall be submitted to the Bank of Ghana.

Audit Committee

64. The Audit Committee shall comprise **solely of independent directors** who are competent in accounting, auditing and finance and shall have oversight of the regulated financial institution's internal and external audit functions, among others as may be prescribe by the board.

Risk Committee

65. The Risk Committee should be responsible for advising the board on the regulated financial institution's overall current and future risk tolerance/appetite and strategy of the regulated financial institution for various risks including AML/CFT risk and for overseeing senior management's implementation of the risk strategy. The committee shall be chaired by an experienced **independent**

director who is knowledgeable in risk management, finance, accounting, economics and other business skills. The Bank of Ghana's minimum requirement for risk governance structure is set out in Appendix 1.

66. Each of the two (2) sub-committees shall have at least 30% (thirty percent) of its members being Ghanaians who are ordinarily resident in Ghana.
67. The Chief Risk Officer and the Chief Internal Auditor shall report directly to the Risk Sub-Committee and Audit Sub-Committee of the board respectively

Other Committees

68. The board may establish on an optional basis other committee such as:
 - a) Remuneration committee to oversee the design and operation of the compensation system, and ensures that compensation is appropriate and consistent with the culture, long-term business interest and risk strategy of the bank, SDI or FHC.
 - b) Nominations/human resources/governance committee to recommend new members of the board or senior management, to undertake assessment of board and senior management.
 - c) Ethics/compliance committee to ensure that the regulated financial institution has the appropriate means for promoting proper decision making and compliance with laws, regulations and internal rules.

Conflicts of Interest

69. The board should have formal written conflicts of interest policy and an objective compliance process for implementing the policy. The policy should at the minimum include:
 - a) the duty of the director to avoid possible activities that could create conflicts of interest;
 - b) a review or approval process for directors to follow before they engage in certain activity so as to ensure that such activity will not create a conflict of interest;
 - c) the duty of the director to disclose in addition to section 59 of the Act, any matter that may result, or has already resulted in a conflict of interest;
 - d) the responsibility of the director' to abstain from voting as prescribed under section 59 of the Act and on any matter where the director may have conflict of interest.

- e) adequate procedures for transactions with related parties to be made on a non-preferential basis; and
 - f) the way in which the board will deal with any non-compliance with the policy.
- (ii) The board shall ensure that appropriate public disclosure is made in the annual accounts and information relating to the policies of the regulated institution on conflict of interest and potential material conflicts of interest as provided to the Bank of Ghana on quarterly basis.
- (iii) The Board shall maintain an up-to-date register for documenting and managing conflict of interest situations in the regulated financial institution.

Group Structures

70. The board of a banking group (parent bank or financial holding company) shall have the ultimate responsibility for the adequate corporate governance across the group and. The board shall ensure that there are governance policies and mechanisms appropriate to the structure, business and risk of the group and its entities.

Senior Management Duties

71. Under the direction of the board, senior management shall:
- a) ensure that the regulated activities of the regulated financial institution are consistent with the business strategy, risk tolerance/appetite and policies approved by the board;
 - b) establish a management structure that promotes accountability and transparency; and
 - c) Implement appropriate systems for managing risks – both financial and non-financial - to which the bank, SDI or FHC is exposed.
 - d) Engage skilled and competent staff and provide training and development opportunities to sustain the delivery of short and long-term business objectives, the risk management framework and protect the reputation of the regulated financial institution.

Risk Management and Internal Controls

72. The board shall ensure that the bank, SDI or FHC has effective internal controls systems and a risk management function (including chief risk officer or

equivalent) with sufficient authority, stature, independence, resources and access to the board.

Risk Management Function

73. The board shall establish the risk management function as set out in Appendix 1 which shall be responsible for: identifying key risks to the regulated financial institution; assessing those risks and the bank, SDI or FHC's exposure to the identified risks; monitoring the risk exposures and determining the corresponding capital needs on an on-going basis; monitoring and assessing decisions to accept particular risks, risk mitigation measures and whether risk decisions are in line with the board approved risk tolerance/appetite and risk policy; and submitting risk management reports to senior management and the board.

Chief Risk Officer

74. A bank shall have a chief risk officer (CRO) as set out in Appendix 1 who shall be an independent key management personnel (who has no involvement in the operations of the bank) with distinct responsibility for the risk management function and the comprehensive risk management framework of the bank across the entire organization. The independence of the CRO is paramount and his/her role shall be distinct from other executive functions and business line responsibilities. While the CRO may report to the chief executive officer or other senior management, the CRO shall also report and have direct access to the board and its risk committee. Interaction between the board and the CRO shall occur regularly and documented adequately.

Internal Controls

75. Internal controls shall be designed to ensure that each key risk has a policy, process or other measure, as well as a control to ensure that such policy, process or other measure is being applied and works as intended. Internal controls shall help provide comfort that financial and management information is reliable, timely and complete and that the regulated financial institution is in compliance with its various obligations, including applicable laws and regulations.

Internal Auditor

76. Every bank, SDI or FHC shall have an internal auditor (IA) as set out in Appendix 1 who shall be an independent key management personnel who has no involvement in the audited activities and business line responsibilities of the regulated financial institution. The IA shall be competent to examine all areas in which the bank, SDI or FHC operates and shall;
- (i) have the professional competence to collect and analyze financial information as well as evaluate audit evidence

and to communicate with the stakeholders of the internal audit function.

- (ii) possess sufficient knowledge of auditing techniques and methodologies.

The IA shall report directly to the board sub-committee on audit or the full board (depending on size and complexity) and shall have direct access to the board and its audit committee. Interaction between the board and the IA must be regular and comprehensively documented.

Group-wide and Bank-wide Risk Management

- 77. Risks shall be identified and monitored on an on-going group-wide and bank-wide basis, and the sophistication of the risk management and internal control infrastructure - including, in particular, a sufficiently robust information technology infrastructure— shall keep pace with developments such as balance sheet and revenue growth, increasing complexity of the banking business or operating structure and introduction of new business lines.

Risk management in Subsidiary Banks

- 78. The board and senior management of parent banks or financial holding companies shall conduct strategic, group-wide risk management and prescribe group risk policies. The board and senior management of subsidiary banks and SDIs shall have appropriate input into the group-wide risk management policies and assessments of local risks. Adequate stress-testing of subsidiary portfolios shall be done based on both the economic and operating environment of the subsidiary and on potential stress of the parent bank or FHC. The results of stress tests and other risk management reports shall be communicated to the board and senior management.

Internal and External Audit Functions

- 79. The board and senior management shall effectively utilize the work conducted by the internal audit functions, external auditors and internal control functions. The board should recognize and acknowledge that independent, competent and qualified internal and external auditors, as well as other internal control functions, are vital to the corporate governance process and shall engage the auditors to judge the effectiveness of the risk management function and the compliance function.

Compensation System

- 80. In terms of compensation:

- a) The board shall actively oversee the design and operation of the compensation system. The board shall monitor and review the compensation system to ensure that it is effectively aligned with prudent risk taking.
- b) Levels of remuneration shall be sufficient to attract, retain and motivate executive officers of the bank and this shall be balanced against the interest of the bank in not paying excessive remuneration.
- c) Where remuneration is tied to performance, it shall be designed in such a way as to prevent excessive risk taking.
- d) A committee of independent directors shall determine the remuneration of executive directors.
- e) Executive directors shall not be entitled to sitting allowances and directors' fees.
- f) Non-executive directors' remuneration shall be limited to directors' fees, sitting allowances for board and committee meetings and shall not be performance-related.
- g) Where share options are adopted as part of executive remuneration or compensation, it shall be tied to performance and subject to shareholders' approval at an annual general meeting (AGM).
- h) Banks shall disclose in the annual reports, details of shares held by directors and related parties.

“Know Your Structure”

- 81. The board and senior management shall understand the structure and the organization of the group including the aims of its different units/entities and the formal and informal links and relationships among the entities and with the parent company. This includes understanding the legal and operational risks and constraints of the various types of intra-group exposures and transactions and how they affect funding, capital and risk profile under normal and adverse circumstances of the group.

Disclosure and Transparency

- 82. A bank, SDI or FHC shall submit a list of its significant shareholders, directors and key management personnel as at 31st of December of every year to the Bank of Ghana by **15th January** of the following year. The governance of the bank shall also be adequately transparent to its shareholders, depositors, other relevant stakeholders and shall be disclosed in its annual report. The disclosure shall include, but not be limited to, material information on the organizational and governance structures and policies, (in particular the content of any corporate governance code or policy and the process by which it is implemented), major share ownership and voting rights and related parties transactions of the regulated financial institution..

Ethics and Professionalism

83. Regulated financial institutions shall establish a code of conduct which shall be made available to all persons to whom it applies. The code shall be reviewed regularly when necessary and shall contain among others:
- a) practices necessary to maintain confidence in the integrity of the regulated financial institution;
 - b) commit the bank, SDI or FHC, its employees, management and board to the highest standards of professional behaviour, business conduct and sustainable business practices; and
 - c) establish a policy to govern trading in the shares of the regulated financial institution by directors, key management personnel and employees.
 - d) Sign off by directors and employees that they understand the Code and sanctions for breaching the policy;

Cooling-off Period

84. A person shall not be appointed as a director of a bank, SDI or FHC if that person was a director of a regulated financial institution and less than one (1) year has passed since that person ceased to serve as a director of that institution unless, in the opinion of the Bank of Ghana, special circumstances require that the person be appointed as a director of that regulated financial institution.
- a) Former Bank of Ghana officers or directors/senior executives shall not be eligible for appointment as a director of a bank, SDI or FHC until after a period of two (2) years have passed following the expiration or termination of contract of employment or service of such person as an officer or director/senior executive of the Bank.
 - b) A practicing audit professional or partner who is rendering services or had rendered auditing services in the banking industry shall not be appointed as a director of a bank until one (1) year has elapsed since last engagement with any regulated financial institution by that person.

PART V – REMEDIAL MEASURES AND SANCTIONS

Relevant Provisions of the Act 930

85. The following remedial measures and sanctions under Act 930 shall apply in addition to any other corrective measures and specific directives that the Bank of Ghana may require:

- a) Under section 58 of Act 930 where a person is disqualified to be elected or appointed as a director, chief executive officer or employee of a bank or SDI, that person shall immediately cease to hold office and the bank or SDI shall immediately terminate the appointment of that person, otherwise the bank or SDI or that person shall be subject to fine or imprisonment as provided for in Act 930.;
- b) Under section 59 of Act 930, a person who contravenes the required disclosure of interest shall cease to be a director of the bank;
- c) Any non-compliance by a bank or SDI with the requirements under section 60 of Act 930 shall make that bank or SDI liable to a payment of a fine of One Thousand penalty units (1,000) penalty units to the Bank of Ghana;
- d) A bank or SDI which fails to comply with the Bank of Ghana directives is liable to pay to the Bank of Ghana under section 92(8) of Act 930, an administrative of not less than two thousand (2,000) penalty units and not more than ten thousand (10,000) penalty units ; and
- e) Under section 102(3) of Act 930, the Bank of Ghana may, amongst others, suspend or remove from office the chief executive of that bank or SDI or restrict the powers of the chief executive, or recommend the removal from any or all of the directors on the board of the bank or SDI or restrict their powers if it is satisfied that bank or SDI has, failed to comply with a provision of the Act or rules or directives issued under Act 930, or if a bank or SDI has been conducting its affairs in a manner detrimental to the interests of its depositors and creditors, or if a bank no longer possesses sufficient net own funds or is unlikely to fulfil its obligations towards its depositors and creditors.

APPENDICES

Appendix 1: Risk Governance Structure

1. The risk management governance structure of an institution shall comprise the following:
 - a) Board of Directors
 - b) Board of Credit Committee;
 - c) Board Risk Committee;
 - d) Board Audit Committee;
 - e) Senior/Executive Management;
 - f) Chief Risk Officer;
 - g) Chief Internal Auditor;

- h) Compliance Officer; and
- i) Operational Management.
- j) Company Secretary (legal & reputational risk)

A. *Board of Directors' Oversight Responsibilities*

- 2. The board of directors shall show concern for and set the tone for risk management in the institution. The overall responsibility for risk management including that of AML/CFT risk within the institution shall rest with the board of directors.
- 3. The board of directors shall approve all significant policies relating to the management of risks including AML/CFT risk throughout the institution, as well as discuss and approve the organizational arrangement for managing and controlling the overall exposure to risks of the institution. The risk management policies shall be consistent with broader business strategies, capital strength, management expertise and the overall willingness to take risk or risk appetite of the institution.
- 4. The board shall regularly re-evaluate its approved policies and procedures with special emphasis on those that define the risk tolerance limits of the institution including AML/CFT for significant activities.
- 5. The board of directors shall discuss and grade the risks, and set acceptable limits for exposures in the various activity segments after considering the quality of the existing tools for managing and controlling every type of risk in each significant activity of the institution.
- 6. The board shall receive and review reports on risk exposures in respect of:
 - a) the nature and level of the exposure as against the approved limit,
 - b) controls and mitigation actions for the exposure (s),
 - c) deviations, reasons for deviations and action taken,
 - d) results of scenario analysis and stress tests and the responses of management to the results, and
 - e) any other information that the board may from time to time determine.
- 7. The board of directors shall ensure that it approves every new activity of the institution (e.g. new products that are significantly different from existing ones, creation of new types of exposure, new markets, etc.) after it has:
 - a) considered all the risks involved in the new activity;
 - b) checked the mechanisms which the institution will use to measure and control the risks;
 - c) set quantitative limits required as a result of the risks inherent in the activity; and
 - d) ascertain that the institution has the necessary manpower, sources of finance, and the technological infrastructure to ensure the proper absorption and management of the activity and its consistency with the business strategy of the institution.
- 8. The board of directors shall also conduct and encourage discussions between its members and senior management, as well as between senior management and others in the institution, in respect of risk management process and risk exposures of the institution.

B. Board Risk Committee

9. The Board Risk Committee shall be responsible for advising the board on the overall current and future risk tolerance/appetite of the institution and strategy including on AML/CFT and for overseeing implementation of that strategy by senior management. The objective of the Board Risk Committee shall be to provide an independent review and critique of:
 - a) the risk management policies and procedures regulated financial institution;
 - b) the composition of the risk portfolios and concentrations;
 - c) the risk-taking decisions of the institution covering all aspects of risk exposures including credit, market, liquidity, operational and country risks; and
 - d) perform any other assignments relating to the management of risk in the institution as may be delegated by the board.
10. The Board Risk Committee shall be chaired by an experienced independent non-executive director who is knowledgeable in risk management, finance, accounting and economics. The members of the Board Risk Committee shall comprise of both categories of directors and shall exclude the Chairman of the board.
11. Appointment to the Board Risk Committee shall be for a period of up to three (3) years, which may be extended by not more than two (2) additional years.
12. The Chairman of the Board Risk Committee shall be appointed by the Board. In the absence of the Risk Committee Chairman and/or an appointed deputy, the remaining members present shall elect one of themselves to chair the meeting.
13. The Board Risk Committee shall operate under a charter.
14. The Board Risk Committee shall meet at least quarterly and their meeting shall be attended by the head of finance, chief risk officer, chief internal auditor, head of credit or corporate banking and head of business promotion.
15. The chairman of the Board, chief executive officer, and heads of departments or their representatives may also be invited to attend all or part of any meeting as and when appropriate.
16. The Board Risk Committee shall at minimum, on annual basis or more frequently as deemed fit, review, establish and recommend to the board the risk appetite as well as assess the appropriateness of the corporate plan in the context of the risk appetite of the regulated financial institution.
17. The Board Risk Committee shall annually or more frequently as deemed appropriate, review and make recommendations on the risk management of the regulated financial institution (i.e. policies, processes, models and limits) to manage and mitigate risk within the approved strategy and risk appetite to the board for approval.
18. The Board Risk Committee shall also:
 - a) challenge the assessment and measurement of key risks of the institution;

- b) provide advice, oversight and the encouragement necessary to embed and maintain a supportive risk culture throughout the institution;
 - c) provide high level oversight and critique of the day-to-day risk management and oversight arrangements of senior management;
 - d) provide high level oversight and critique of the design and execution of the scenario analysis and stress-testing of the institution;
 - e) review the internal capital adequacy assessment and internal liquidity adequacy assessment of the institution;
 - f) review the external risk information disclosures including annual report and accounts and quarterly disclosures of the institution ; and
 - g) provide oversight and critique of due diligence on risk issues relating to material transactions and strategic proposals that are subject to approval by the board.
19. The Board Risk Committee shall also monitor the risk exposures of the regulated financial institution through the:
- a) review of the risk profile of the institution(i.e. performance indicators) against the risk appetite, approved limits and risk trends;
 - b) review of management report on the nature and extent of risk exposures of the institution;
 - c) review of key performance indicators on risk, controls and compliance; and
 - d) review of current risk exposures and future risk strategy, considering the macro-economic environment.
 - e) Review the litigation portfolio of the institution.

C. *Board Audit Committee*

20. The Board Audit Committee is responsible for overseeing the financial reporting process including the establishment of accounting policies and practices by the regulated financial institution, providing oversight of the internal and external audit functions, the appointment, compensation and removal of auditors, reviewing and approving the audit scope and frequency, receiving key audit reports and ensuring that senior management is taking necessary corrective actions in a timely manner to address control weaknesses, non-compliance with policies, laws and regulations and other problems identified by auditors as well as any other relevant matter referred to the committee by the board.

D. *Senior Management*

21. Senior management shall have the responsibility of transforming the strategic direction set by the board into policies and procedures and to institute an effective structure to execute those policies. Senior management is also responsible for oversight of the day-day management of risk.
22. Senior management must ensure that policies relating to risk management are clear and communicated down the line and that these policies are embedded in the culture of the institution.
23. Risk tolerance levels for quantifiable risks shall be communicated as limits to operational management, while those relating to qualitative risk may be communicated as guidelines.

24. Senior management shall have appropriate committees which shall review among others, reports on market and liquidity risks, credit risk, operational risk, country risk and legal/regulatory risk.
25. Senior management shall be responsible for ensuring that there are adequate policies and procedures for carrying out the significant activities of the institution on both long-term and day-to-day basis. This responsibility includes ensuring that there are:
 - a) clear lines of responsibility for managing risk;
 - b) adequate systems for measuring risk;
 - c) appropriately planned limits on risk-taking;
 - d) effective internal controls; and
 - e) comprehensive risk-reporting process.
26. Senior management shall regularly evaluate the procedures in place to manage risk to ensure that those procedures are appropriate and sound. Senior management shall also foster and participate in active discussions with the board and with staff of the risk management functions regarding procedures for measuring and managing risk.
27. Senior management shall also ensure that the significant activities of the institution are allocated sufficient resources and staff to manage and control inherent risks.

E. Management Committees

28. Senior management shall have the following committees for the management of the risk exposures of the institution:
 - a) Credit Committee - The credit committee shall have clearly defined mandate, membership and delegated authority which shall be reviewed at least annually. The responsibilities of the credit committee shall include:
 - i. exercising credit governance oversight;
 - ii. recommending credit risk appetite;
 - iii. establishing credit counterparty and portfolio risk limits;
 - iv. setting concentration limits relating to industry, market, product, customer segment, and maturity;
 - v. approving and overseeing credit risk mitigation; and
 - vi. reviewing and taking action on watch list and non-performing accounts.
 - b) Assets-Liability Management Committee (ALCO) - The ALCO shall be responsible for managing and overseeing the asset/liability management procedures of the institution.
 - c) Management Risk Committee - The management (or executive) risk committee shall be responsible for:
 - i. reviewing amongst others, summaries of market and liquidity, credit, operational, country and regulatory risks; and
 - ii. reviewing the appropriateness and effectiveness of mitigation actions taken.

- d) Business Strategy Committee - The business strategy committee shall have the responsibility to:
 - i. control implementation of the strategic plan;
 - ii. initiate timely corrective actions in case of deviation from the plan in order to address the situation;
 - iii. report detailed progress of implementation of the plans and objectives, including comparison of actual performance against the business plan and budget; and
 - iv. constantly review internal and external conditions with the view to designing alternative strategies for unusual circumstances and to respond appropriately to unexpected changes in the environment.

- e) Executive Management Committee (EXCO) – The EXCO Committee will support the CEO/MD to guide and steer the direction of the institution and to facilitate the flow of information between the Board of directors and its Senior Management staff

F. Independent Risk Management Oversight Function (RMOF)

- 29. An important aspect of the risk management philosophy is the concept of independent oversight review, i.e., those who take or accept risk shall not be the people to measure, monitor, and evaluate the risks and report to management and board.

- 30. The RMOF which collectively renders independent oversight reviews comprises risk management oversight, internal audit, compliance and financial analysis.

- 31. For effectiveness, the risk management oversight reviews shall have sufficient authority, expertise and management status so that their functions and reporting of their findings will be accomplished without any hindrance. The findings of their reviews shall be reported to business units, senior management and where appropriate, the board.

- 32. To the extent warranted by the size and scope of activities of the institution, risk management oversight shall be done independently of individuals conducting the activities up to the senior management level of the institution and shall include an independent system for reporting exposures to both senior management and board of directors.

- 33. Where the size of the institution does not support a separate structure to carry out this independent risk management oversight function, senior management shall be responsible for the performance of this function.

- 34. The personnel of the independent risk management oversight functions shall have a thorough understanding of the risks associated with all the significant activities.

G. Chief Risk Officer

35. The independent risk management oversight function shall be headed by a Chief Risk Officer (CRO) who is an independent senior executive with distinct responsibility for the risk management function and the comprehensive risk management framework across the entire organization. The independence of the CRO is paramount and his role shall be distinct from other executive functions and business line responsibilities, and there generally shall be no “dual hatting”, i.e., the chief operating officer, chief auditor or other senior management should not serve as CRO.
36. The board shall appoint the CRO and the CRO shall report directly to and be assessed by the Board Risk Committee.
37. The CRO shall advise board and senior management on the control and measurement of risks, develop and implement best practices in the management of risks. He may also advise board and management on issues relating to risk exposures, prior to decision making.
38. The independent risk management oversight function shall:
 - a) Oversee and direct the enterprise-wide management of risk exposures;
 - b) Formulate policies and measurement models for the various units involved in carrying out the significant activities that create exposures in the various activity segments in the institution;
 - c) Make recommendations to the board of directors and senior management on the type and level of exposures in each activity segment permitted by policy;
 - d) Advise and recommend to the board of directors and senior management on all matters relating to risk exposure management;
 - e) Regulate, monitor, review control procedures and report on matters relating to exposures management and report deviations from set limits and exception to policy to the board and senior management for their appropriate actions;
 - f) Perform monthly stress-tests on risk portfolios and at least on a quarterly basis, review and approve the appropriateness of the stresses applied at the business levels;
 - g) Incorporate the results of the stress-tests (which will inform management of the expected risk tendency of the portfolio as against the approved risk appetite of the institution) into the risk governance structure of the institution;
 - h) Be empowered where appropriate, to initiate management action to contain the potential risk levels within the approved risk appetite to ensure discipline in the risk management process of the institution; and
 - i) In addition to the monthly stress tests, perform semi-annual reverse stress-testing to examine the impact of selected scenarios from a ‘bottom up’ perspective.

H. Internal Audit

39. A bank, SDI or FHC shall have an internal audit function which shall be headed by a person of the status of a member of the senior management of the bank, SDI or FHC appointed and assessed by the Board Audit Committee, and who reports directly to such committee.
40. The Internal Audit shall operate under a charter approved by the board and in compliance with International Standards for the Professional Practice of Internal Audit.
41. Internal audit shall incorporate in its annual work program an assessment of the overall procedures that the institution follows in the management of its risk exposures.
42. Internal Audit shall examine and review:
 - a) the extent to which policies of the board of directors are carried out;
 - b) the extent to which board decisions and instructions regarding the management, estimation and control of risks are implemented;
 - c) the extent to which the units comply with the limits imposed;
 - d) the adequacy and reliability of management information, financial and operational reports to the board of directors and senior management; and
 - e) the adequacy of risk management activities at the operational levels and the scope and effectiveness of the independent risk management oversight function in terms of its mandate and their responsibilities.

I. Compliance Function

43. A bank, SDI or FHC shall appoint a Compliance Officer who is competent, experienced, and knowledgeable enough to discharge his/her duties and responsibilities.
44. The Compliance Officer must be of the status of a member of the senior management of the institution or directly subordinate to such a member, appointed by the CEO subject to the approval of the board of directors or board audit committee.
45. The Compliance Officer shall be responsible for monitoring and reporting on the adherence or otherwise to various obligations incumbent upon the institution in its business relations with customers.
46. The Compliance Officer shall assist management and the board in meeting the responsibilities of the institution with regard to:
 - a) the requirements of the law and other regulatory and ethical demands in respect of customer relations and anti-money laundering;
 - b) reducing the likelihood of violations of the laws and regulations;
 - c) reducing the exposure of the institution and its management to claims, including those pertaining to the obligation to exercise caution; and
 - d) preventing any breach of confidence by office-holders to prevent financial losses to the institution.

J. Operational Management

47. Regulated Financial Institutions shall have in place the following components of sound operational management processes which are fundamental to all significant activities:
- a) a comprehensive risk measurement approach;
 - b) a detailed structure of limits,
 - c) a set of Guidelines or operating manuals and other parameters to govern risk-taking relating to each activity; and
 - d) a strong management information system for controlling, monitoring and reporting risks.
48. The risk management activities for each significant activity shall be documented in a work manual and integrated into the overall risk management system of the institution, to enable the institution manage its risk exposures more effectively, since the various individual risks involved in an activity are often interconnected and transcend specific activities.
49. The management of business units shall by policy have the responsibility of ensuring that the requirements of risk governance standards, policies and procedures are implemented within the business units and independently monitored by the designated risk management teams of the unit.
50. Business units shall have in place a system to self-assess their compliance with the risk standards and policies of the institution at least annually.