

**Petroleum Revenue Management
Act, 2011**

Act 815

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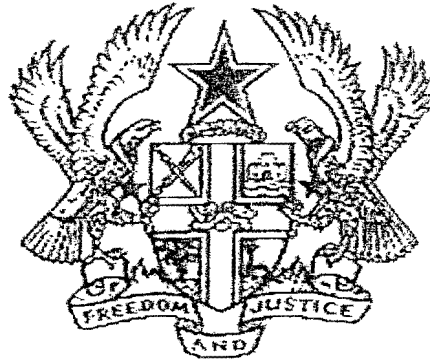
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Act 815



THE EIGHT HUNDRED AND FIFTEENTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED

PETROLEUM REVENUE MANAGEMENT ACT, 2011

AN ACT to provide the framework for the collection, allocation and management of petroleum revenue in a responsible, transparent, accountable and sustainable manner for the benefit of the citizens of Ghana in accordance with Article 36 of the Constitution and for related matters.

DATE OF ASSENT: *11th April, 2011.*

PASSED by Parliament and assented to by the President:

Preliminary matters

Application

1. (1) This Act shall regulate the collection, allocation and management by government of petroleum revenue derived from upstream and midstream petroleum operations.

(2) Where there is any conflict between the provisions of this Act and

(a) any other enactment, or

(b) the terms, conditions and stipulations in a petroleum authorisation,

on the collection, allocation and management of petroleum revenue, the provisions of this Act shall prevail.

Establishment of Petroleum Holding Fund

2. (1) A Petroleum Holding Fund is hereby established as a designated public fund at the Bank of Ghana to receive and disburse petroleum revenue due the Republic.

(2) The petroleum revenue shall be deposited in the Petroleum Holding Fund for subsequent transfers in accordance with the provisions of this Act.

Payment into Petroleum Holding Fund

3. (1) Petroleum revenue due the Republic derived from whatever source shall be assessed, collected and accounted for by the Ghana Revenue Authority.

(2) The petroleum revenue assessed as due in each month shall be paid by direct transfer into the Petroleum Holding Fund by the fifteenth day of the ensuing month by the entities obliged to make the payment.

(3) The entity shall notify the Ghana Revenue Authority in writing of the payment into the Petroleum Holding Fund.

(4) Where the liability of an entity to make a payment is not discharged on or before the due date, the entity shall pay as a penalty, an additional five percent of the original amount for each day of default or the default rate established under any other law, whichever is higher.

(5) For the purposes of this Act, petroleum revenue paid into the Petroleum Holding Fund shall not be

- (a) treated as part of the normal tax revenue for purposes provided for in relevant laws of the Republic; and
- (b) used as the basis for the determination of any statutorily earmarked funds.

Payment with petroleum in place of cash

4. (1) Where government elects for payment in petroleum instead of cash, the value of the petroleum in US Dollars on the day the petroleum is received by or on behalf of the government shall be reported and recorded by the Ghana Revenue Authority as the payments for the Petroleum Holding Fund.

(2) The proceeds of the sale of the petroleum shall be credited to the Petroleum Holding Fund within sixty calendar days after the receipt of the petroleum.

(3) Where payments are made in petroleum, the US Dollar equivalent of the payment on the date of receipt shall be shown as a receipt into the Petroleum Holding Fund for the purpose of reporting.

Prohibited use of Petroleum Holding Fund

5. (1) The amount in the Petroleum Holding Fund earmarked for transfer into the Ghana Petroleum Funds, shall not be used

- (a) to provide credit to the government, public enterprises, private sector entities or any other person or entity, and
- (b) as collateral for debts, guarantees, commitments or other liabilities of any other entity.

(2) In order to preserve revenue streams from petroleum and ensure the object of this Act, there shall not be any borrowing against the Petroleum Holding Fund.

Petroleum Holding Fund receipts

6. The following shall constitute the gross receipts of the Petroleum Holding Fund:

- (a) royalties from oil and gas, additional oil entitlements, surface rentals, other receipts from any petroleum operations and from the sale or export of petroleum;
- (b) any amount received from direct or indirect participation of the government in petroleum operations;
- (c) corporate income taxes in cash from upstream and mid-stream petroleum companies;
- (d) any amount payable by the national oil company as corporate income tax, royalty, dividends, or any other amount due in accordance with the laws of Ghana; and
- (e) any amount received by government directly or indirectly from petroleum resources not covered by paragraphs (a) to (d) including where applicable, capital gains tax derived from the sale of ownership of exploration, development and production rights.

Other petroleum receipts

Carried and participating interest

7. (1) Revenue due from the direct or indirect participation of the Republic in petroleum operations, including the carried and additional participating interests shall be paid into the Petroleum Holding Fund.

- (2) The payment into the Petroleum Holding Fund shall be net of
- (a) the equity financing cost, including advances and interest of the carried and participating interests of the Republic; and
 - (b) the cash or the equivalent barrels of oil that shall be ceded to the national oil company out of the carried and participating interests recommended by the Minister and approved by Parliament.
- (3) For a period not exceeding fifteen years after the commencement of this Act, the cash or the equivalent in barrels of oil ceded to a national oil company shall
- (a) not exceed fifty-five percent of the net cash flow from the carried and participating interests after deducting the equity financing cost under paragraph (a) of subsection (2); and
 - (b) be reviewed every three years by Parliament, but Parliament shall in each year approve the programme of activities of the national oil company.

Transparency and accountability of petroleum receipts

8. (1) For the purpose of transparency and accountability, the records of petroleum receipts in whatever form, shall simultaneously be published by the Minister in the *Gazette* and in at least two state owned daily newspapers, within thirty calendar days after the end of the applicable quarter.

(2) The information required to be made public shall also be published online on the website of the Ministry and presented to Parliament on the date of the *Gazette* publication.

(3) The Minister shall publish the total petroleum output lifted and the reference price in the same manner as provided in subsections (1) and (2).

Allocations and disbursements

Establishment and object of the Ghana Stabilisation Fund

9. (1) A Ghana Stabilisation Fund is hereby established.

(2) The object of the Ghana Stabilisation Fund is to cushion the impact on or sustain public expenditure capacity during periods of un-anticipated petroleum revenue shortfalls.

(3) The Ghana Stabilisation Fund shall receive from the Petroleum Holding Fund a percentage of petroleum revenue which is determined by Parliament as savings for the purpose of this Act.

Establishment and object of the Ghana Heritage Fund

10. (1) A Ghana Heritage Fund is hereby established.

(2) The object of the Ghana Heritage Fund is to

(a) provide an endowment to support the development for future generations when the petroleum reserves have been depleted; and

(b) receive excess petroleum revenue.

(3) The Ghana Heritage Fund shall receive from the Petroleum Holding Fund a percentage of petroleum revenue which shall be determined by Parliament as savings for the purpose of this Act.

(4) Despite section 20, Parliament may by a resolution supported by the votes of a majority of members of Parliament at intervals of fifteen years from the date of commencement of this Act, review the restriction on transfers from the Ghana Heritage Fund and authorise a transfer of a portion of the accrued interest on the Ghana Heritage Fund into any other fund established by or under this Act.

Ghana Petroleum Funds

11. (1) The Ghana Stabilisation Fund and the Ghana Heritage Fund are collectively to be known as the Ghana Petroleum Funds.

(2) The Ghana Petroleum Funds shall both receive from the Petroleum Holding Fund, petroleum revenue in excess of the Annual Budget Funding Amount.

Withdrawals from the Ghana Stabilisation Fund

12. (1) Where petroleum revenue collected in any quarter falls below one quarter of the Annual Budget Funding Amount for that financial year, withdrawals may be made from the Ghana Stabilisation Fund.

(2) The allowable amount to be withdrawn shall be the lesser of

(a) seventy-five percent of the estimated amount of the shortfall for that quarter; or

(b) twenty-five percent of the balance standing to the credit of the Ghana Stabilisation Fund at the beginning of the financial year.

(3) In the event of petroleum revenue shortfalls in the second and third quarter of the same financial year, the amount to be withdrawn at the end of the third quarter from the Ghana Stabilisation Fund shall be double the allowable amount of the third quarter shortfall.

(4) If there are successive shortfalls in any of the preceding quarters in the same financial year, the fourth quarter withdrawal from both the Petroleum Holding Fund and the Ghana Stabilisation Fund shall be enough to meet the Annual Budget Funding Amount approved in the Appropriation Bill for that financial year, subject to section 19 (2).

(5) Transfer out of the Ghana Stabilisation Fund shall only be done for the purpose of alleviating shortfalls in actual petroleum revenue in accordance with subsections (1), (2), (3) and (4).

Withdrawals from the Ghana Heritage Fund

13. Withdrawals from the Ghana Heritage Fund shall be in accordance with the transfer procedures in section 20.

Finality of payments

14. An obligation to make a payment into the Petroleum Holding Fund, the Ghana Stabilisation Fund or the Ghana Heritage Fund shall not be discharged until the entire amount has been deposited integrally and unconditionally into the respective earmarked funds.

Reconciliations of Petroleum Holding Fund

15. (1) Not later than the end of the first quarter of each year after the commencement of this Act, the Minister shall reconcile the actual total petroleum receipts and the Annual Budget Funding Amount of the immediately preceding year and shall submit a written report to Parliament.

(2) The report shall include the following information:

- (a) the Annual Budget Funding Amount for the immediately preceding two years;
- (b) the actual inflows and outflows of the Petroleum Holding Fund for that year;
- (c) the balance of actual receipts for the year being reconciled over the Annual Budget Funding Amount; and
- (d) recommendations for the reconciliations and adjustments needed to account for any deviations so that the inflows and outflows related to the Ghana Petroleum Funds match the

actuals of the year.

(3) The report shall be published in the *Gazette* and at least two state owned daily newspapers not later than April 30th of the year in which the reconciliation is carried out.

Disbursement from the Petroleum Holding Fund

16. Disbursements from the Petroleum Holding Fund shall be made only

- (a) to the Consolidated Fund in support of the national budget;
- (b) to the Ghana Petroleum Funds for purposes of savings and investments, and
- (c) for exceptional deductions according to the provisions of this Act.

Benchmark Revenue

17. The Minister shall not later than September 1st of each year estimate and certify the Benchmark Revenue using the formula set out in the First Schedule.

The Annual Budget Funding Amount

18. (1) The Annual Budget Funding Amount from petroleum revenue shall not be more than seventy percent of the Benchmark Revenue.

(2) The exact percentage of the Benchmark Revenue which shall be allocated annually to the Annual Budget Funding Amount shall be guided by a medium-term development strategy aligned with a long term national development plan, absorptive capacity of the economy and the need for prudent macroeconomic management.

(3) For each financial year, the percentage of the Benchmark Revenue allocated for the Annual Budget Funding Amount shall be approved by Parliament as part of the national budget.

(4) The spending allocation determined under subsection (1) shall be reviewed every three years with the first review to occur before the commencement of the 2014 financial year.

(5) The review shall be conducted by the Minister taking into account the development needs as well as the absorptive capacity of the economy and cognisant of the need to maintain macroeconomic stability.

(6) Any proposed changes following the review shall be subject to ratification by a resolution of Parliament supported by the votes of not less than two-thirds of the members of the Parliament.

(7) The Annual Budget Funding Amount may be used as collateral for debts and other liabilities of Government for a period of not more than ten years after the commencement of this Act.

Transfers into the Consolidated Fund

19. (1) Transfer of the Annual Budget Funding Amount from the Petroleum Holding Fund into the Consolidated Fund

- (a) shall be in quarterly instalments of an amount not more than one-quarter of the Annual Budget Funding Amount; and
- (b) shall only take place after publication of the Annual Budget in the *Gazette* confirming the appropriation amount approved by Parliament for that financial year.

(2) The total amount withdrawn from the Petroleum Holding Fund for budget funding for any financial year shall not exceed the Annual Budget Funding Amount approved by Parliament for that financial year.

Consolidation of Ghana Stabilisation Fund and Ghana Heritage Fund

20. (1) Within one year after petroleum reserves are depleted, the moneys held in both the Ghana Stabilisation Fund and Ghana Heritage Fund shall be consolidated into a single Fund to be known as the Ghana Petroleum Wealth Fund after which the Ghana Stabilisation Fund and the Ghana Heritage Fund shall cease to exist.

(2) After petroleum reserves are depleted, the Annual Budget Funding Amount shall not exceed the sum of dividends from the national oil company and the earnings on the Ghana Petroleum Wealth Fund.

Use of Annual Budget Funding Amount

21. (1) The Annual Budget Funding Amount is part of the national budget and its use and expenditure are subject to the same budgetary processes that are necessary to ensure efficient allocation, responsible use and effective monitoring of expenditure.

(2) The use of the annual allocation of the Annual Budget Funding Amount shall be

- (a) to maximise the rate of economic development;
 - (b) to promote equality of economic opportunity with a view to ensure the well-being of citizens;
 - (c) to undertake even and balanced development of the regions;
- and

- (d) guided by a medium-term expenditure framework aligned with a long-term national development plan approved by Parliament.

(3) Where the long-term national development plan approved by Parliament is not in place, the spending of petroleum revenue within the budget shall give priority to, but not be limited to programmes or activities relating to

- (a) agriculture and industry;
- (b) physical infrastructure and service delivery in education, science and technology;
- (c) potable water delivery and sanitation;
- (d) infrastructure development in telecommunication, road, rail and port;
- (e) physical infrastructure and service delivery in health;
- (f) housing delivery;
- (g) environmental protection, sustainable utilisation and the protection of natural resources;
- (h) rural development;
- (i) developing alternative energy sources;
- (j) the strengthening of institutions of government concerned with governance and the maintenance of law and order;
- (k) public safety and security; and
- (l) provision of social welfare and the protection of the physically handicapped and disadvantaged citizens.

(4) For any financial year, a minimum of seventy percent of the Annual Budget Funding Amount shall be used for public investment expenditures consistent with the long-term national development plan or with subsection (3).

(5) In order to maximise the impact of the use of the petroleum revenue, the Minister shall prioritise not more than four areas specified in subsection (3) when submitting a programme of activities for the use of the petroleum revenue.

(6) The programme shall be reviewed every three years after the initial prioritisation, except that in the event of a national disaster, the Minister may make a special request to Parliament for a release of revenue.

Extra budgetary activities and statutory earmarking prohibited

22. Outside of the allocation of the Petroleum Holding Fund, extra budgetary activities or statutory earmarking of petroleum revenue for any consideration is prohibited.

Transfers into the Ghana Heritage Fund and Ghana Stabilisation Fund

23. (1) Commencing in the year 2011 until the year when petroleum production ceases, the following rules shall apply:

- (a) where petroleum revenue collected in each quarter of any financial year exceeds one-quarter of the Annual Budget Funding Amount of the financial year, as determined in section 18, the United States Dollar equivalent of the excess revenue collected shall be transferred from the Petroleum Holding Fund into the Ghana Petroleum Funds, and
- (b) a minimum of thirty percent of the excess revenue determined in subsection (1) (a) shall be transferred into the Ghana Heritage Fund and the balance shall be transferred into the Ghana Stabilisation Fund each quarter.

(2) The split in subsection (1) (b) of the excess revenue shall be reviewed every three years, exclusive of the year of revision, with the first revision to occur in 2014.

(3) The accumulated resources of the Ghana Stabilisation Fund shall not exceed an amount recommended by the Minister and approved by Parliament and the amount shall be reviewed from time to time as necessitated by macroeconomic conditions.

(4) Once the amount is attained, subsequent transfers into the Ghana Stabilisation Fund shall be allocated as transfers into the Contingency Fund or for debt repayment approved by Parliament.

(5) The transfer and any subsequent transfers shall be made not later than the end of the month after the quarter in respect of which the excess revenue was calculated.

Transfers for exceptional purposes

24. (1) Where a transfer is made from the Petroleum Holding Fund for exceptional purposes to refund tax overpayment and to pay management fees, the transfer amount shall represent a reduction of the Petroleum Holding Fund receipts and shall not be considered as part of the allowable transfer under the relevant Appropriation Act.

(2) Where petroleum operations are carried out on-shore, appropriate royalties shall be paid in accordance with relevant laws.

(3) Where petroleum operations adversely affect a community, appropriate compensation shall be paid for the benefit of the community in accordance with the relevant laws.

Management and investment of Ghana Petroleum Funds

Obligations of the Minister

25. The Minister shall

- (a) develop an investment policy for the investment of the Ghana Petroleum Funds,
- (b) be responsible for the overall management of the Ghana Petroleum Funds and shall oversee the transfers into and disbursements from the Ghana Petroleum Funds,
- (c) make decisions in relation to the investment strategy or management of the Ghana Petroleum Funds after seeking the advice of the Investment Advisory Committee and the Governor, subject to the provisions of section 38, and
- (d) enter into an Operations Management Agreement with the Bank of Ghana for the operational management of the Ghana Petroleum Funds, in form and substance similar to the format in the Second Schedule.

Management obligations of the Bank of Ghana

26. (1) The Bank of Ghana is responsible for the day-to-day operational management of the Petroleum Holding Fund, the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund under the terms of the Operations Management Agreement.

(2) The Bank of Ghana shall manage the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund prudently within the framework of the operational and management strategy provided by the Minister, taking cognisance of

- (a) investment guidelines used by the Bank of Ghana for investments of a similar nature,
- (b) established and internationally recognised principles of good governance for the benefit of the Republic of Ghana, and
- (c) the need to support the national currency against destabilising factors in accordance with national monetary and foreign exchange policies.

Investment rules

27. (1) The resources of the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund shall be invested in qualifying instruments prescribed by Executive Instrument.

(2) The range of instruments designated as qualifying instruments shall be reviewed every three years or sooner by the Minister on the advice of the Investment Advisory Committee.

Reports on the Ghana Petroleum Funds

28. (1) The Bank of Ghana shall present to the Minister and to the Investment Advisory Committee, quarterly reports on the performance and activities of the Ghana Stabilisation Fund and the Ghana Heritage Fund not later than the end of the month following the end of each quarter.

(2) The Bank of Ghana shall publish semi-annual reports on the Ghana Stabilisation Fund and the Ghana Heritage Fund not later than the 15th of February and the 15th of August of each year and shall present the report to Parliament and publish it in two state owned national dailies and on the website of the Bank.

Investment Advisory Committee

Establishment of Investment Advisory Committee

29. There is hereby established an Investment Advisory Committee to advise the Minister and for the general performance monitoring of the management of the Ghana Petroleum Funds.

Functions of the Investment Advisory Committee

30. (1) The functions of the Investment Advisory Committee are to
- (a) formulate and propose to the Minister the investment policy and management of the Ghana Stabilisation Fund and the Ghana Heritage Fund and the Minister shall submit it for approval by Parliament;
 - (b) advise the Minister on the broad investment guidelines and overall management strategies relating to the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund that the Minister shall provide to the Governor, taking cognisance of international best practice of investments of a similar nature; and

- (c) develop for the Minister as part of the investment guidelines, the benchmark portfolio, the desired returns from and the associated risks of the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund taking into consideration the investment guidelines used by the Bank of Ghana for investments of a similar nature.

(2) Any advice given by the Investment Advisory Committee on investment strategy or the management of the Ghana Stabilisation Fund and the Ghana Heritage Fund shall take into account:

- (a) the overall consideration that the Ghana Petroleum Funds are funds from the exploitation of non-renewable petroleum resources and the overall objective that they are for the benefit of current and future generations of citizens of Ghana;
- (b) the current economic conditions, opportunities and constraints in investment markets and the constraints under which the Bank of Ghana and other key institutions in Ghana operate; and
- (c) the need to ensure that sufficient funds are available when needed for transfers to meet unanticipated petroleum revenue shortfalls.

Appointment of members of the Investment Advisory Committee

31. (1) The Investment Advisory Committee comprises seven members, at least one of whom is a woman, who shall be persons of proven competence in finance, investment, economics, business management or law or similar disciplines.

(2) A person is not qualified to be a member of the Investment Advisory Committee if that person

- (a) is not a citizen;
- (b) has been convicted of a felony or an offence involving dishonesty;
- (c) is adjudged to be a person of unsound mind;
- (d) in the case of a person in possession of a professional qualification is disqualified or suspended from practising the profession of that person by order of a competent authority made in respect of that person.

(3) The Minister in consultation with the Governor shall nominate the members of the Investment Advisory Committee for appointment by the President.

(4) The President shall appoint the chairperson of the Investment Advisory Committee.

Tenure of office of members

32. (1) A member of the Investment Advisory Committee shall hold office for two or three years and is eligible for re-appointment, but a member shall not be appointed for more than two consecutive terms.

(2) Despite subsection (1), a member appointed for a three-year term is not eligible for re-appointment.

(3) A member appointed for a two-year term is eligible for one re-appointment but only for another two year term.

(4) The President shall appoint three of the members for three years and four of the members for two years.

(5) A member of the Investment Advisory Committee may at any time resign from office in writing addressed to the President through the Minister.

(6) A member who is absent from two consecutive meetings of the Investment Advisory Committee without sufficient cause ceases to be a member of the Investment Advisory Committee and shall be immediately replaced.

(7) The President may by letter addressed to a member revoke the appointment of that member.

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

(9) Where there is a vacancy

(a) under subsection (5), (6), (7) or section 34 (2),

(b) as a result of a declaration under subsection (8), or

(c) by reason of the death of a member,

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

Meetings of the Investment Advisory Committee

33. (1) The Investment Advisory Committee shall meet at least once every quarter as may become necessary for the performance of its functions.

(2) The chairperson shall at the request in writing by three or more members of the Investment Advisory Committee convene an extraordinary meeting of the Investment Advisory Committee within seven days after receipt of the request.

(3) The quorum at a meeting of the Investment Advisory Committee is five members of the Investment Advisory Committee.

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

(5) Matters before the Investment Advisory Committee shall be decided by a majority of the members present and voting and in the event of an equality of votes, the member presiding shall have a casting vote.

(6) The Investment Advisory Committee may co-opt a person with relevant technical expertise to assist in the performance of its functions.

(7) Co-opted members shall not vote on matters before the Investment Advisory Committee.

Disclosure of interest

34. (1) A member or co-opted member of the Investment Advisory Committee who has an interest in a matter for consideration by the Investment Advisory Committee shall

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

(b) not participate in the deliberations of the Investment Advisory Committee in respect of that matter.

(2) A member ceases to be a member of the Investment Advisory Committee, if that member has an interest in a matter before the Investment Advisory Committee and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the Investment Advisory Committee in respect of the matter.

Publication of membership of the Investment Advisory Committee

35. (1) The Minister shall cause the names of members of the Investment Advisory Committee to be published in the *Gazette*.

(2) The *Gazette* publication shall be updated each time that the membership of the Investment Advisory Committee changes.

Allowances

36. Members of the Investment Advisory Committee shall be paid allowances determined by the Minister.

Secretariat of the Investment Advisory Committee

37. (1) The Ministry responsible for Finance shall provide the secretariat for the Investment Advisory Committee and any other administrative support or technical staff required by the Investment Advisory Committee for the performance of its functions.

(2) A designated official of the Ministry responsible for Finance not below the rank of a Director shall be the Secretary to the Investment Advisory Committee.

Absence of advice from the Investment Advisory Committee

38. (1) Where the Investment Advisory Committee is unable to provide advice to the Minister within ten working days after a request or within a shorter period determined by the Minister, taking into account the nature of the advice sought, the Minister may take a decision in consultation with the Governor.

(2) Despite section 30 (1) (c), the Minister may take an urgent investment or overall management decision in consultation with the Governor where there is insufficient time to seek the advice of the Investment Advisory Committee.

(3) Where the Minister takes a decision without the advice of the Investment Advisory Committee, the Minister shall inform the Investment Advisory Committee in writing within forty-eight hours after taking the decision.

(4) The Investment Advisory Committee shall advise the Minister within five days after receipt of the information.

(5) The Minister shall re-examine the decision made within forty-eight hours having regard to the advice provided by the Investment Advisory Committee and take the necessary follow-up action.

Release of advice from the Investment Advisory Committee

39. (1) The Minister shall provide Parliament with any advice given by the Investment Advisory Committee within seven days.

(2) The Minister shall within seven days after the re-examination of the decision made under section 38 (5), inform Parliament of the decision.

Oversight of and reporting on the Ghana Petroleum Funds

40. (1) The Investment Advisory Committee shall submit quarterly information reports and analysis on the performance and activities of the Ghana Stabilisation Fund and the Ghana Heritage Fund to the Minister not later than thirty working days after the receipt of quarterly reports from the Bank of Ghana in accordance with the reporting requirements of the Bank of Ghana.

(2) The Investment Advisory Committee is responsible for reporting to the Minister on the performance and activities of the Ghana Stabilisation Fund and the Ghana Heritage Fund for the purpose of reporting in the annual budget and financial statements.

*Encumbrances, auditing and reporting***Encumbrances on the assets of the Petroleum Holding Fund and Ghana Petroleum Funds**

41. (1) The balance in the Petroleum Holding Fund and the assets of the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund shall remain the property of the Republic of Ghana.

(2) Any contract, agreement or arrangement, to the extent that it encumbers or purports to encumber the assets of the Petroleum Holding Fund and the Ghana Petroleum Funds whether by way of guarantee, security, mortgage or any other form of encumbrance is contrary to this Act and is null and void.

(3) A court shall not make an order for the attachment of moneys in the Petroleum Funds

*Audit of the Petroleum Funds***Public funds**

42. The Petroleum Holding Fund, the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund are public funds for the purpose of article 175 of the Constitution.

Books of the Petroleum Funds

43. The Bank of Ghana shall keep proper books of accounts and records on the Petroleum Holding Fund, the Ghana Petroleum Funds and subsequently the Ghana Petroleum Wealth Fund.

Internal audit

44. (1) The books of accounts, records, other documents, systems and procedures relating to the Petroleum Funds shall be audited by the Internal Audit Department of the Bank of Ghana.

(2) The Governor shall submit quarterly reports to the Minister and any other person required by law to receive the report.

External audit

45. (1) The Auditor-General is responsible for the external audit of the Petroleum Funds and shall audit those Funds each year.

(2) The Auditor-General may delegate responsibility as provided for by law.

(3) Where the Auditor-General delegates the duties, the appointment of the external auditor shall be for a period not exceeding three years and is not renewable.

Annual audit

46. (1) The Bank of Ghana shall not later than three months after the end of its financial year, submit to the Auditor-General the financial statements and relevant documents on the Petroleum Funds for audit.

(2) The Auditor-General shall, not later than three months after the receipt of the financial statements and other relevant documents referred to in subsection (1), submit the audited report to Parliament.

(3) The Auditor-General shall determine if

(a) the accounts have been properly kept;

(b) the payments due to and disbursements from the Petroleum Funds have been made; and

(c) the Petroleum Funds have been managed in accordance with the provisions of this Act.

(4) The Auditor-General shall publish the reports on the Petroleum Funds within thirty days after submission to Parliament.

(5) The Auditor-General shall draw attention in the report to any irregularities or any other matter which in the opinion of the Auditor-General ought to be brought to the notice of Parliament.

Special audit

47. In addition to the audit prescribed in section 45, the Auditor-General may carry out special audits or reviews of the Petroleum Funds in the public interest and shall submit to Parliament reports on the audits or reviews undertaken.

Annual report on the Petroleum Funds

48. (1) The Minister shall submit an annual report on the Petroleum Funds as part of the annual presentation of the budget statement and economic policies to Parliament.

(2) The annual report shall be prepared in a manner that makes it easy for dissemination to the public and shall include the following information for the financial year for which the report is prepared:

- (a) audited financial statements of the previous year comprising
 - (i) the receipts and transfers to and from the Petroleum Holding Fund,
 - (ii) the deposits into and withdrawals from the Ghana Stabilisation Fund and the Ghana Heritage Fund, and
 - (iii) a balance sheet, including a note listing the qualifying instruments of the Ghana Petroleum Funds;
- (b) a report from the Minister describing the stage of implementation of the programmed activities funded by and the expenditures incurred on the activities covered by the Annual Budget Funding Amount in the financial year of the report.;
- (c) a report signed by the Minister describing the activities of the Petroleum Funds in the financial year of the report, including the advice provided by the Investment Advisory Committee, any reports prepared by the Auditor-General drawing attention to particular issues or matters that may be of concern or interest to Parliament;
- (d) the income derived from the investment of the Ghana Stabilisation Fund and Ghana Heritage Fund during the financial year under review compared with the income of the previous two financial years;

- (e) a comparison of the income in paragraph (d) with
 - (i) the benchmark performance indices provided to the Minister, and
 - (ii) the income of the previous two financial years;
- (f) the liabilities of government borrowings; and
- (g) a list of persons holding positions required for the operation and performance of the Ghana Stabilisation Fund and the Ghana Heritage Fund, including
 - (i) the Minister,
 - (ii) the chairperson and members of the Investment Advisory Committee,
 - (iii) the Governor, and
 - (iv) the investment manager, if any.

(3) The sources of the information described in subsection (2) in whatever form including the reports and statements, shall be annexed to the annual report

Accountability, transparency and public oversight

Transparency as a fundamental principle

49. (1) The management of petroleum revenue and savings shall always be carried out with the highest internationally accepted standards of transparency and good governance.

(2) The duties concerned with ancillary matters of petroleum revenue and savings shall be discharged with the highest internationally accepted standards of transparency and good governance.

(3) Information or data, the disclosure of which could in particular prejudice significantly the performance of the Ghana Petroleum Funds may be declared by the Minister as confidential, subject to the approval of Parliament.

(4) The declaration of confidentiality shall provide a clear explanation of the reason for treating the information or data as classified, taking into account the principles of transparency and the right of the public to information.

(5) The declaration of confidentiality shall not limit access to information by Parliament and the Public Interest Accountability Committee established under this Act.

(6) Any information that is classified at the time when it could have been published, as well as the reason for it being treated as classified, shall be made available to the public upon request three years after the date on which it could have been published unless the reason for it being classified is still valid.

(7) Parliament, the Minister, the Bank of Ghana and the Investment Advisory Committee in the performance of their functions under this Act, shall take the necessary measures to entrench transparency mechanisms and free access by the public to information.

(8) The Minister shall ensure that this Act and any instructions related to the Ghana Petroleum Funds, the Operations Management Agreement and the annual reports are readily available to the public.

Non-compliance with an obligation to publicise information

50. A person who fails to comply with any obligation to publish information provided for in this Act, or causes another person to fail to comply with information, or in any manner hinders or causes another person to hinder the compliance with these obligations, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units.

Public Interest and Accountability Committee

51. A Public Interest and Accountability Committee is hereby established.

Objects of the Accountability Committee

52. The objects of the Accountability Committee are:

- (a) to monitor and evaluate compliance with this Act by government and other relevant institutions in the management and use of the petroleum revenues and investments as provided in this Act;
- (b) to provide space and platform for the public to debate whether spending prospects and management and use of revenues conform to development priorities as provided under section 21 (3); and
- (c) to provide independent assessments on the management and use of petroleum revenues to assist Parliament and the executive in the oversight and performance of related functions respectively.

Functions of the Accountability Committee

53. (1) To achieve its objects, the Accountability Committee shall
- (a) consult widely on best practice related to the management and use of petroleum revenues; and
 - (b) determine the rules of procedure under which it will operate.
- (2) The Accountability Committee shall have its own secretariat that will facilitate the performance of its functions.

Membership of the Public Interest and Accountability Committee

54. (1) The Accountability Committee consists of eleven members including
- (a) a member to represent independent policy research think tanks nominated by the think-tanks,
 - (b) a member to represent civil-society organisations and community-based organisations nominated by civil society,
 - (c) a member each nominated by the
 - (i) Trade Union Congress,
 - (ii) National House of Chiefs,
 - (iii) Association of Queen Mothers,
 - (iv) Association of Ghana Industries and Chamber of Commerce,
 - (v) Ghana Journalists Association,
 - (vi) Ghana Bar Association,
 - (vii) Institute of Chartered Accountants,
 - (viii) Ghana Extractive Industries Transparency Initiative; and
 - (ix) Christian groups namely the National Catholic Secretariat, the Christian Council and the Ghana Pentecostal Council on a rotational basis,
 - (x) the Federation of Muslim Councils and Ahmadiyya Mission on a rotational basis, and
 - (xi) Ghana Academy of Arts and Sciences.
- (2) The members of the Accountability Committee shall be appointed by the Minister.
- (3) A decision of the Accountability Committee shall only be binding if taken by a majority with a quorum of nine members.
- (4) The committee members shall elect their own chairperson from among the members at their first meeting.

Tenure of members and eligibility for appointment

55. (1) The tenure of office of a member of the Accountability Committee shall be two or three years.

(2) A member appointed for a two year tenure is eligible for re-appointment but not for more than two consecutive terms.

(3) A member appointed for a two-year term is only eligible to be appointed for another two year term.

(4) A member appointed for a three year term is not eligible for re-appointment.

(5) A person is not eligible for appointment if that person

(a) has been adjudged or otherwise declared,

(i) bankrupt under any law in force in Ghana and has not been discharged; or

(ii) to be of unsound mind or is detained as an offender with mental disorder under any law in force in Ghana; or

(b) has been convicted for

(i) high crime under the Constitution or high treason or treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or

(ii) any other offence punishable by death or by a sentence of not less than ten years; or

(iii) an offence relating to, or connected with election under a law in force in Ghana at any time; or

(c) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer acquired assets unlawfully or defrauded the State or misused or abused office, or wilfully acted in a manner prejudicial to the interest of the State, and the findings have not been set aside on appeal or judicial review; or

(d) is under sentence of death or other sentence of imprisonment imposed by any court; or

(e) is otherwise disqualified by a law in force at the time of the commencement of the Constitution which is not inconsistent with a provision of the Constitution.

(6) Members appointed to the Accountability Committee have security of tenure and unless otherwise provided for by law, or for medical reasons, may not be suspended, retired or removed from office.

Reporting

56. The Accountability Committee shall

- (a) publish a semi-annual report and an annual report in at least two state owned national daily newspapers by the 15th of September and 15th of March each year;
- (b) publish the reports on the Accountability Committee's website;
- (c) hold public meetings twice each year to report on its mandate to the the general public, and
- (d) submit a copy of its semi-annual report and annual report to the President and to Parliament.

Allowances

57. Members of the Accountability Committee shall be paid the allowances determined by the Minister and approved by Parliament.

Miscellaneous matters

Penalties

58. (1) A person who

- (a) misappropriates the Petroleum Funds;
- (b) defrauds, attempts to defraud or conspires with another person to defraud the Republic in relation to the Petroleum Funds;
- (c) uses, attempts to use or conspires with another person to use information on the Petroleum Funds or documents relating to the Petroleum Funds for personal benefit or advantage or for the personal advantage or benefit of another person;

commits an offence and is liable on summary conviction to a fine of not less than five hundred thousand penalty units or to a term of imprisonment of not less than fifteen years or to both.

(2) A person who abets in the commission of an offence is liable on summary conviction to a fine of not less than two hundred and fifty thousand penalty units or to a term of imprisonment of not less than seven years or to both.

(3) A person who unlawfully discloses the content of any document or information pertaining to the operations of the Petroleum Funds commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty thousand penalty units or to a term of imprisonment of not less than seven years or to both.

(4) Where the offence committed is by a body corporate, that body corporate is liable on summary conviction to a fine of not less than seven hundred and fifty thousand penalty units.

(5) A penalty imposed under this section that is not paid when it is due shall be subject to the default payment rate established under section 3 (4).

Transitional and final provisions

59. (1) The appointments necessary for the effective functioning of the Investment Advisory Committee and the Accountability Committee shall be made within three months after the commencement of this Act.

(2) The petroleum revenue that has accrued to the Republic including any accumulated interest on it shall at the commencement of this Act be transferred or deposited into the Petroleum Holding Fund established under this Act.

(3) The transferred or deposited revenue shall be accounted for by the Ghana Revenue Authority including reconciliations where necessary.

Regulations

60. (1) The Minister may by legislative instrument make Regulations for the effective performance of this Act.

(2) Regulations made by the Minister shall include the

- (a) reference pricing formula for purposes of taxation or of determining the payment obligations to the government of the petroleum licensed operators to the Republic;
- (b) measurement of the quantity of petroleum produced and calibrated for the purposes of determining the basis of royalty and any other payments due to the Republic; and
- (c) operational and management guidelines for the management of the Petroleum Funds.

Interpretation

61. In this Act unless the context otherwise requires,

“Accountability Committee” means the Public Interest and Accountability Committee established under section 51;

“additional oil entitlement” means the portion of a contractor’s share of petroleum produced to which the Republic is entitled to a share computed on the basis of the after tax inflation adjusted rate of return that the contractor achieved with respect to each field;

“Annual Budget Funding Amount” means the amount of petroleum revenue allocated for spending in the current financial year budget;

“Auditor” means the Auditor-General;

“basic services” includes education and healthcare;

“Benchmark Revenue” means the estimated revenue from petroleum operations expected by the Government for the corresponding financial year;

“business or working day” means any day, except Saturday, Sunday or a public holiday when banks are open for business in Ghana;

“carried interest” means an interest held by the Republic in respect of which the contractor pays for the exploration and development costs without any entitlement to reimbursement from the Republic;

“confidential information” means information that is designated or marked as “confidential”;

“Court” means a Court of competent jurisdiction;

“disaster” includes an occurrence by which there is a serious disruption of general safety endangering the life and health of many people or large material interests which requires co-ordinated action by services of different disciplines and floods, earthquakes, drought, rainstorm, war, civil strife industrial accidents;

“Ghana Heritage Fund” means the public fund established under section 10;

“Ghana Petroleum Funds” means the Ghana Stabilisation Fund and the Ghana Heritage Fund;

“Ghana Petroleum Wealth Fund” means the public fund established under section 20;

- “Ghana Revenue Authority” means the Ghana Revenue Authority established under Ghana Revenue Authority Act, 2009 (Act 791);
- “Ghana Stabilisation Fund” means a public fund established under section 9;
- “Governor” means the governor of the Bank of Ghana;
- “Investment Advisory Committee” means the Committee established under section 29;
- “investment manager” means the Bank of Ghana or any person or entity appointed as investment or portfolio manager for purposes of this Act;
- “manager of the Ghana Petroleum Funds” means a person appointed by the Bank of Ghana to act as a financial intermediary for the proper management of the Ghana Petroleum Funds including fund managers, brokers and dealers;
- “midstream petroleum company” means a licensed company engaged in petroleum operations between the wellhead and a refinery, transportation and the storage of petroleum;
- “Minister” means the Minister responsible for Finance;
- “Ministry” means the Ministry responsible for Finance;
- “National Development Plan” means a plan prepared by the National Development Planning Commission;
- “national oil company” means the Ghana National Petroleum Corporation and any other national oil or gas company that may be established by the government to participate directly in petroleum activities;
- “non-renewable petroleum resources” means finite and exhaustible petroleum resources;
- “participating interest” means the interest held in petroleum operations by a party to a Petroleum Agreement;
- “payer” means any person or entity on whom there is an obligation in accordance with this Act or any other Act or legal instrument to make a payment into the Petroleum Holding Fund;
- “petroleum” means crude oil or natural gas or a combination of both;
- “petroleum authorisation” means
- (a) an access authorisation whether on-shore or off-shore, a petroleum contract, a prospecting authorisation or a seepage authorisation, or any agreement made in respect of the authorisation or

contract, granted or entered in under the Petroleum Exploration and Production Act, 1984 (P.N.D.C.L. 84) or

- (b) an authorisation or production sharing contract, or any agreement made in respect of an authorisation or contract, granted or entered into under the Petroleum Exploration and Production Act, 1984 (P.N.D.C.L. 84)

“Petroleum Funds” means the Petroleum Holding Fund, the Ghana Stabilisation Fund, the Ghana Heritage Fund and subsequently the Ghana Petroleum Wealth Fund;

“petroleum operations” means authorised activities under a petroleum authorisation;

“Petroleum Holding Fund” means the transitory Fund established under section 2;

“petroleum reserves” means the petroleum that can be economically extracted from petroleum resources and which is anticipated to be commercially recoverable by the application of a development project to known discoveries from a future date;

“petroleum resources” means petroleum in its natural state that has either been discovered or that has the potential of being discovered;

“petroleum revenue” includes

- (a) royalty in cash or in equivalent barrels of oil or equivalent units of gas, payable by a licensed producer, including the national oil company or a company under a Production Sharing Agreement or other agreement;
- (b) corporate income taxes payable by licensed upstream and midstream operators;
- (c) participating interest;
- (d) additional oil entitlements;
- (e) dividends from the national oil company for Government’s equity interest;
- (f) the investment income derived from accumulated petroleum funds;
- (g) surface rentals paid by licensed producers; or

(h) any other revenue determined by the Minister to constitute petroleum revenue;
derived from upstream and midstream petroleum operations;
“public funds” has the meaning ascribed to it under Article 175 of the Constitution;

“qualifying instrument” means

- (a) a debt instrument denominated in internationally convertible currency that bears interest or a fixed amount equivalent to interest,
 - (i) that is of an investment grade security, and
 - (ii) that is issued by or guaranteed by the International Monetary Fund, World Bank or by a sovereign State other than the Republic of Ghana, if the issuer or guarantor has investment grade rating; or
- (b) an internationally convertible currency deposit with, or a debt instrument denominated in any internationally convertible currency that bears interest or a fixed amount equivalent to interest issued by
 - (i) the Bank for International Settlements;
 - (ii) the European Central Bank;
 - (iii) the Central Bank of a sovereign State, other than the Republic of Ghana, with a long-term investment grade rating; or
- (c) a derivative instrument
 - (i) that is solely based on an instrument that satisfies the requirements of paragraphs (a) and (b); and
 - (ii) where its acquisition reduces the financial exposure to the risks associated with the underlying instruments prescribed by the Minister;

“real rate of return on investment” means the nominal return on investment less the inflation or purchasing power adjustment that is necessary to preserve the real value of the accumulated funds;

“surface rental” means fees paid based on the area of the licence held;

“tax revenue” means any tax or duty imposed by or under an Act of Parliament;

“upstream petroleum company” means a licensed company engaged in the exploration, development and production of petroleum; and

“withdrawal” includes transfers to and from the Petroleum Holding Fund established under this Act.

SCHEDULES

FIRST SCHEDULE

(Section 17)

Determining the Benchmark Revenue and Annual Budget Funding Amount from Petroleum Revenues

Benchmark Revenue from Petroleum Operations

(1) For the purposes of this section the Annual Benchmark Revenue from petroleum operations shall be calculated on the basis of actual and expected average unit price for crude oil and natural gas derived from a seven-year moving average, the seven years being the four years immediately prior to the current financial year, the current financial year itself and two years immediately following the current financial year.

(2) The expected quantity shall be calculated on the basis of expected average government take in gross oil over a three year horizon, the three years being the immediately preceding, the current financial year, and the one year ahead projection following the current financial year.

(3) Expected revenue from crude oil is the product of the unit prices and quantity data of crude oil defined in paragraphs (1) and (2).

(4) Expected gas royalty shall be calculated on the basis of anticipated royalties on associated gas derived from a seven-year moving average, the seven years being the four years immediately prior to the current financial year, the current financial year and two years immediately following the current financial year.

(5) Benchmark Revenue is the sum of the expected revenue from crude oil defined in paragraph (3), expected gas royalties defined in paragraph (4), and the expected dividends from the national oil company.

That is, for each financial year,

Benchmark Revenue = Expected current receipts from oil + Expected gas royalties + Expected dividends from the national oil company.

Annual Budget Funding Amount

(6) The annual allocation to the budget from petroleum revenue for current spending is determined as:

Annual Budget Funding Amount = Predetermined percentage of Benchmark Revenue.

(7) The predetermined percentage shall be determined on year-to-year basis.

(8) For the purposes of this section “quarter” means a three-month period ending March 31, September 30 and December 31.

(9) Assumptions upon which the calculations are made pursuant to paragraphs 1,2,3 and 4 above shall be clearly identified and explained, and any changes made in these assumptions in subsequent calculations shall be clearly pointed out.

(10) Assumptions made shall be prudent, reflect international best practice of price forecasts and be based upon internationally recognised standards.

(11) The forecasts and the amounts determined in accordance with the formula in paragraphs 1,2, 3 and 4 above shall be certified by a reputable independent expert appointed in accordance with the Public Procurement Act, 2003 (Act 663).

SECOND SCHEDULE

(Section 13, 25)

Operations Management Agreement

This Agreement is made on [date] between the Minister of Finance and Economic Planning (“Minister”) representing the Government of Ghana and the Bank of Ghana hereinafter referred to as the “Parties”.

Whereas

(1) In accordance with section 25 of the Ghana Petroleum Revenue Management Act, 2011 (Act.....) (“Law), the Minister is required to enter into an Operations Management Agreement with the Bank of Ghana for the operational management of the Ghana Stabilisation Fund and the Ghana Heritage Fund, which collectively shall be referred to as Ghana Petroleum Funds.

(2) The Minister shall exercise the key functions and competencies of the Government, which has been assigned overall responsibility for the management of the Ghana Petroleum Funds.

(3) The Bank of Ghana has been assigned the responsibility for the efficient operational management of the Ghana Petroleum Funds.

Now therefore it is agreed between the parties as follows:

1. The Bank of Ghana shall undertake the daily operational management of the Ghana Petroleum Funds and shall be accountable for its operational management to the Minister.

Obligations of the Minister

2. The Minister is responsible for the overall management of the Ghana Petroleum Funds, which shall include the following functions to be exercised by the Minister:

- (a) to formulate broad policy for the management of the Ghana Petroleum funds;
- (b) not less than fifteen days prior to the commencement of each calendar quarter, to provide a forecast of the cash requirements of Government for that quarter, including the projected timings and amounts to be transferred to and from the Ghana Petroleum Holding Fund and the applicable Ghana Petroleum Funds;
- (c) to provide by Legislative Instrument the Regulations for the management of the Ghana Petroleum Funds and to consult with the Governor and the Investment Advisory Committee concerning any changes that may be proposed to the regulatory framework;
- (d) to ensure that requests by the Bank of Ghana for guidance on ad-hoc policy decisions to enable it to implement the operational management of the Ghana Petroleum Funds are responded to clearly and in a timely manner; and
- (e) to consult with the Governor and the Investment Advisory Committee, as appropriate, concerning information to be released to the public;

Obligations of the Bank of Ghana

3. The Bank of Ghana shall be responsible for the operational management of the Ghana Petroleum Funds, which shall include the following functions:

- (a) the investment of the capital of the Ghana Petroleum Funds in financial instruments as set out in this Agreement, including exercising all the rights and complying with all

- obligations associated with the ownership of the Ghana Petroleum Funds' assets;
- (b) receiving and accounting for the investment income and other revenues of the Ghana Petroleum Funds;
 - (c) maintaining a register of the payments made as Ghana Petroleum Holding Fund's receipts without limiting the responsibilities of the proper authorities for administering tax and royalty payments;
 - (d) maintaining the books of account for the Ghana Petroleum Funds on behalf of the Minister;
 - (e) appointing and dismissing banking correspondents, dealers, brokers, custodians and other financial intermediaries necessary for the proper management of the Ghana Petroleum Funds;
 - (f) acquiring and maintaining the information necessary to construct benchmark indices and construct notional portfolios for policy development and reporting purposes;
 - (g) evaluating the performance of external fund managers appointed to manage the Ghana Petroleum Funds' investments;
 - (h) supplying information to the Minister and the Investment Advisory Committee necessary for the drafting of reports and statements relevant to the management of the Ghana Petroleum Funds, including all reports relating to the management of the Petroleum Holding Fund and the Ghana Petroleum Funds required by law, with the information being available to the recipients at least fifteen working days before any legislated publication date unless otherwise agreed between the parties;
 - (i) meeting the operational expenses relating to the management of the Ghana Petroleum Funds, which shall be compensated for from the annual management fee as established in the Operations Management Agreement;
 - (j) implementing systems, procedures risk management practices and development of human resources to minimize the risk of operational loss to the Ghana Petroleum Funds;
 - (k) advising the Minister of all significant events affecting the value of the Ghana Petroleum Funds and other matters

considered to be urgent or of importance relating the management of the Fund;

- (i) providing the members of the public with the information concerning the Ghana Petroleum Funds as required by the law; and
- (m) assisting the Investment Advisory Committee in the preparation of the Annual Report of the Ghana Petroleum Funds.

4. The Bank of Ghana shall implement the operational management of the Ghana Petroleum Funds through the adoption of the following principles:

- (a) the assets of the Ghana Petroleum Funds shall be maintained in the name of the Bank of Ghana, but shall at all times be segregated from the assets of the Bank of Ghana in such a manner to allow the beneficial ownership of the assets and the income associated with those assets to be clearly determined at any time;
- (b) the books and records of the Ghana Petroleum Funds shall be maintained separately from the books and records of the Bank of Ghana to the maximum extent practicable;
- (c) the Bank of Ghana shall make the books and records relating to the operational management of the Ghana Petroleum Funds available at any time on request to the Minister, staff authorised in writing by the Minister and the auditors of the Ghana Petroleum Funds; and
- (d) the Bank of Ghana shall ensure that all staff associated with the management of the Ghana Petroleum Funds shall be bound by a code of ethics and rules to avoid conflicts of interest.

5. The Bank of Ghana shall be permitted to invest only in the qualifying instruments.

6. The performance of the Ghana Petroleum Funds shall be measured periodically against the benchmark developed by the Investment Advisory Committee and will be the subject of periodic reports.

7. The Minister shall give the Bank of Ghana at least four weeks' written notice before implementing any change to the mandate or benchmark, and the Bank of Ghana shall advise the Minister as to the anticipated length of time it will take to effect the new requirements.

8. The remuneration of the Bank of Ghana shall be as recommended by the Minister and shall be payable in monthly instalments from the assets of the Ghana Petroleum Funds.

9. The Bank of Ghana shall undertake the appointment of portfolio managers, under the following conditions:

- (a) the Bank of Ghana shall undertake the procurement process in a fair and transparent manner according to its internal procedures and relevant laws of Ghana;
- (b) the Bank of Ghana shall provide a report to the Minister on the appointment of Fund Managers detailing the services to be provided, the proposed level of fees, the proposed benchmark, the levels of insurance cover against exposures and the information concerning the procurement process that is necessary to inform the Minister that the process was undertaken in accordance with the Public Procurement Act, 2003 (Act 663); and
- (c) the Bank of Ghana shall enter into a contract with a Fund Manager in its own name.

10. Where the Bank of Ghana wishes to terminate the contract of a Fund Manager, the Bank of Ghana shall consult with the Minister as follows:

- (a) the Bank of Ghana shall provide a written report to the Minister on the termination of a portfolio manager's contract, with copy to the chairperson of the Investment Advisory Committee;
- (b) the Bank of Ghana shall define the grounds for termination of a Fund Manager in the Investment Guidelines; and
- (c) the Minister may, within five working days after receiving the recommendation, seek the advice of the Investment Advisory Committee concerning the proposed termination of a Fund Manager's contract.