REGULATORY ROLE OF THE BANK OF GHANA IN THE FINANCIAL INTERMEDIATION INDUSTRY

Introduction

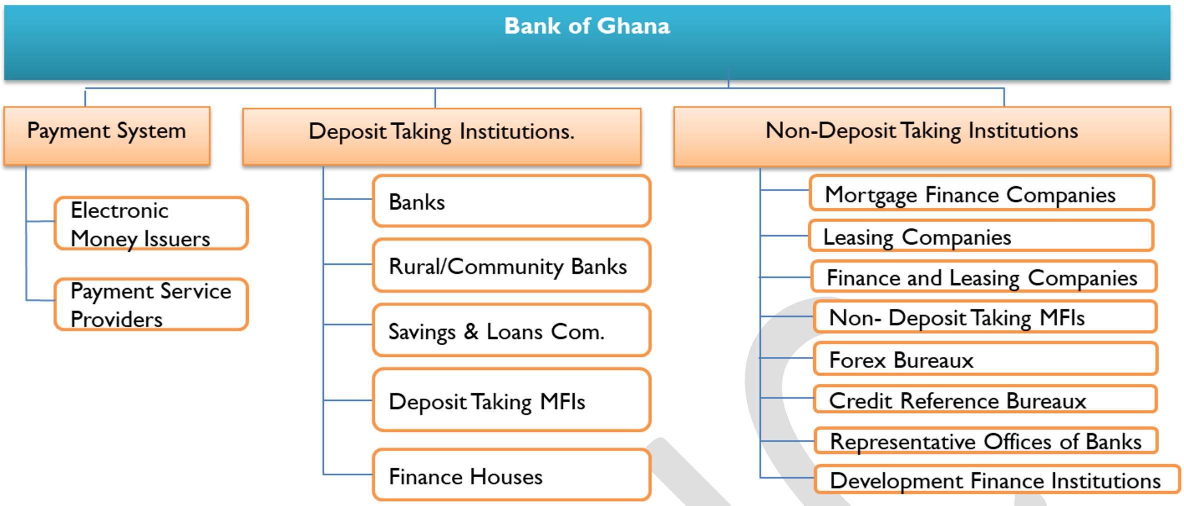
The Bank of Ghana is mandated to regulate, supervise, and direct the banking and credit systems to ensure the smooth operation of a safe and sound banking system. The Bank's mandates are enshrined in the Constitution of Ghana and the Bank of Ghana Act, 2002 (Act 612) as amended.

The Bank of Ghana has overall supervisory and regulatory authority in all matters relating to deposit-taking business, non-depositing business, payments as well as clearing and settlement systems. The regulatory and legal framework that governs institutions involved in the above-mentioned activities include, but not limited to the following:

i. Bank of Ghana Act, 2002 (Act 612);
ii. Bank of Ghana (Amendment) Act, 2016 (Act 918);
iii. Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930);
iv. Ghana Deposit Protection Act, 2016 (Act 931);
v. Non-Bank Financial Institutions Act, 2008 (Act 774);
vi. Development Finance Institutions Act, 2020 (Act 1032);
vii. Payment Systems and Services Act, 2019 (Act 987);
viii. Credit Reporting Act, 2007 (Act 726);
ix. Credit Reporting Regulations, 2020 (L.I. 2394);
x. Borrowers and Lenders Act, 2020 (Act 1052);
xi. Anti-Money Laundering Act, 2020, (Act 1044);
xii. Foreign Exchange Act, 2006 (Act 723);
xiii. Companies Act, 2019 (Act 992); and
xiv. Bank of Ghana Notices / Directives / Guidelines/ Circulars.

These statutes are used together with a number of Directives, Regulations and Rules issued under an authority conferred on the Bank of Ghana by the statutes.

Structure of the Banking Industry



Bank of Ghana's regulatory and supervisory functions is aimed at providing for transparent framework for entry and orderly exit of the Regulated Financial Institutions (RFIs) as well as assessing on an-going basis the safety and soundness of the supervised institutions. The promotion and maintenance of Financial Stability is facilitated through Micro and Macro-Prudential Supervision under the following supervisory structures of the Bank of Ghana:

i. Banking Supervision Department – Responsible for the regulation and supervision of banks, development finance institutions, savings and loans companies, finance houses, finance and leasing companies, leasing companies, mortgage companies and Representative Offices of foreign banks;
ii. Other Financial Institutions Supervision Department – Responsible for the regulation and supervision of Microcredit institutions, Deposit-taking Microfinance institutions, Financial NGOs, Foreign Exchange bureaux and Rural and Community banks;
iii. Payment Systems Department – Responsible for digital products rolled out by Regulated Financial Institutions, supervision of GHIPSS and cheque printing institutions;
iv. Fintech and Innovations Office – Responsible for the regulation and supervision of Payment Services Providers, Dedicated Electronic Money Issuers, Payment and Financial Technology Service Providers; and the

v. Financial Stability Department – Responsible for the regulation and supervision of Credit Reference Bureaux, addressing consumer protection issues of Regulated Financial Institutions and addressing financial stability issues as they relate to all Regulated Financial Institutions.

Functions of the Bank of Ghana

The Bank of Ghana formulates and implements monetary policy to achieve price stability, contribute to the promotion and maintenance of financial stability, and ensure a sound payment system.

In furtherance to the mandate, the Bank of Ghana undertakes a number of functions including the following:

i. Promote economic growth and development, and effective and efficient operation of the banking and credit system;
ii. Support the general economic policy of the Government;
iii. Contribute to the promotion and maintenance of financial stability in the country;
iv. Promote, by monetary measures, the stabilisation of the value of the currency within and outside Ghana;
v. Licence, regulate, supervise, and direct the banking, non-banking, and credit system and to ensure the smooth operation of the financial sector;
vi. Promote, regulate, and supervise payment and settlement systems;
vii. Issue and redeem the currency notes and coins;
viii. Promote and maintain relations with international banking and financial institutions, and subject to the Constitution or any other relevant enactment, implement international monetary agreements to which Ghana is a party; and
ix. Pursue actions that are incidental or conducive to the efficient performance of its functions under the Act and any other enactment.

Regulatory and Supervisory Developments within the Banking Industry

The Bank of Ghana's regulatory and supervisory function and requirements are aligned with international standards namely, the Basel Committee on Banking Supervision (BCBS), the global standard setter for the prudential regulation of banks and the International Accounting Standards Board (IASB), a global accounting standard setter. The BCBS issued the Basel Core Principles for Effective Banking Supervision (BCPs) as the global standard for establishing a sound foundation for the regulation, supervision, governance and risk management of banking systems as well as the Basel Capital Accord which ensures that banks hold adequate capital commensurate with their risk profile and sets the global standard for the computation of capital adequacy ratio for international active banks.

The passage of the Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930), was largely informed by the BCPs.

1. Regulatory Requirements

The Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930) is the legal framework for regulating and supervising deposit-taking institutions.

The passage of Act 930 was aimed at the following:

i. To address gaps and inconsistences in Act 673 and deepening cooperation with regional counterparties to improve the regulation and supervision of foreign banks;
ii. To address emerging risks and weaknesses identified within the banking system post 2007/08 Global financial crisis;
iii. Amend and Consolidate the laws relating to deposit-taking, and to regulate institutions which carry deposit-taking business;
iv. Put in place more stringent criteria for licensing, mergers and changes in controls;
v. Prescribe more stringent procedures for dealing with unauthorized banking or deposit-taking activities;

vi. Apply consolidated supervision to banks, banking groups and financial holding companies;
vii. Take prompt corrective actions to safe the banking system;
viii. Enhancing the performance of the banking system;
ix. Empower the Bank of Ghana as the Resolution Authority of banks and the specialised deposit-taking institutions.

In light of the standards issued by these international standard-setting bodies, the Bank of Ghana has issued a series of regulatory requirements aimed at promoting the safety and soundness of the regulated financial institutions and ensuring the stability of the banking industry.

It is also key to note that following the clean-up exercise on the banking industry that began in 2017, the Bank of Ghana rolled out a number of regulatory interventions in response to lessons learnt from the exercise. These interventions include:

i. **<u>Strengthening of minimum paid-up capital requirement</u>**

The Bank of Ghana, as part of its efforts to enhance the resilience of the banking systems has over the years reviewed the minimum capital requirements to position the banks to contain the impact of unexpected losses in the banking sector.
The evolving banking landscape is primarily attributable to the increasing use of sophisticated products/services, advances in technology as well as globalization which has led to the integration of financial markets in determining the appropriate level of capital that should be held within the industry.

A number of factors have exposed Ghanaian banking system to risks leading to the upward revision in capital requirement. The minimum paid-up capital requirement has been implemented in phases as follows:

- The Bank, in March 2003, raised the minimum paid-up capital requirement of banks to GH¢7.0 million from GH¢ 2.5 million;

- In 2008, the minimum paid-up capital requirement was increased to GH¢ 60 million;
- In 2013 the minimum paid capital requirement was revised upwards to GH¢ 120 million;
- In 2017, Bank of Ghana increased the minimum paid-up capital requirement for banks to GH¢ 400 million from GH¢ 120 million in 2013. Banks were to comply to the new minimum paid-up capital requirement by the 31st December, 2018.

ii. **Capital Requirement Directive**

The Bank of Ghana issued the Capital Requirement Directive (CRD) in 2018, which requires banks to hold adequate capital to absorb unexpected losses that may arise from banks' business. The CRD defines regulatory capital and prescribes the BCBS standardised methodologies for the measurement of pillar 1 risks used in determining the Capital Adequacy Ratio (CAR) of banks. The CAR is a key solvency measure used by supervisors around the world to determine the financial strength of banks. It seeks to protect depositors as well as the stability of the banking sector.

The CRD is based on Basel's Capital Framework and focuses on Pillar 1 of Basel II/ III Capital Framework. Under the CRD, banks are required to comply with the minimum CAR of 13%.

The CAR is also a regulatory requirement under Act 930 and banks are required to submit prudential returns on CAR to the BOG on monthly basis. This serves as off-site inputs in determining the risk profile of the banks and as a trigger supervisory intervention where necessary.

iii. **Risk Management**

The Bank has promoted strong risk management practices in banks (including cyber and information security related risks) through the issuance of the Risk Management Directive to Regulated Financial Institutions (RFIs). This is aimed at instituting a Risk Governance framework in the banking industry to enable the regulated institutions effectively manage all material risks inherent in the deposit-taking business whilst serving as a prelude to the implementation of Pillar 2 of Basel II/ III Capital Framework.

iv. **Corporate Governance**

BOG in December 2018, issued the Corporate Governance Directive (CGD) for Banks and Specialised Deposit-Taking Institutions. The CGD seeks to set a minimum governance standard for banks aimed at strengthening the independence of bank boards for enhanced Board oversight. The Corporate Governance Disclosure Directive (CGDD) was also issued in 2022 to ensure that banks adopt sound governance practices in their operations. The CGDD aims at enhancing transparency, market discipline and accountability of RFIs to their stakeholders as well as assess the effectiveness of RFIs' corporate governance practices. The CGD has strengthened RFIs governance practices post implementation. A number of key governance areas covered by the Directive include;

i. Board Qualification and Composition,
ii. Role and responsibilities of the Board,
iii. BOG intervention in appointments,
iv. The nature and operations of board committees,
v. Board practices,
vi. Board performance evaluation,
vii. Independent Directors
viii. Board committees,
ix. Related party Transactions,
x. Tenure of board members and CEOs;
xi. Annual directors Certification, among others.

v. **Fit and Proper Persons Directive**

To ensure that persons charged with governance of RFIs are fit and proper, the Bank of Ghana in 2019 issued the Fit and Proper Person's Directive for the banking industry to ensure that persons of bad behaviour are not recycled in the industry. The regulation and supervisory of RFIs begins from the licensing of the supervised institutions which entails interviewing the applicant, conducting character and financial references and background checks on applicants for a director, key management personnel or shareholder. In view of this, the Directive has a prescribed assessment criteria/framework to be used by RFIs and the Bank of Ghana, in determining whether a person is fit to be a significant shareholder, director or a key management personnel. The directive complements the corporate governance directive issued in 2018.

vi. **Cyber Security**

The Bank of Ghana continues to dedicate attention to IT and cyber security related issues, given its system-wide implications for the functioning of the financial system.

The rapid expansion of networks and technologies, the opening of IT systems to external exchanges, the growing number of electronic transactions and rapid growth of digital financial services have caused the emergence of a new type of crime called "Cybercrime".

The financial sector has become an attractive target for cybercriminals. The Bank of Ghana as part of measures to address this, issued the Cyber and Information Security Directive for the financial system to address cyber security risk. RFIs are required to comply with this Directive to help minimize Cybercrime in the industry.

vii. **AML/CFT**

Deficiencies in the area of AML/CFT has been addressed in a recent guideline issued by the Bank of Ghana in collaboration with the Financial Intelligence Centre (FIC) for the industry to assist in the implementation of licensed institutions AML/CFT compliance programmes. The guidelines were issued to operationalise the Banks & Specialised Deposit Taking Institutions, Act 2016, (Act 930), and Anti-Money Laundering Act, 2020 (Act 1044).

Furthermore, the Bank has commenced the imposition of administrative sanctions and penalties for AML/CFT infractions to ensure compliance by banks and SDIs.

viii. **Eligible Collaterals Directive**

The Supervisory Guidance under Section 62 of Act 930 – Eligible Collaterals Directive is aimed at broadening the scope of eligible instruments that may be considered for collateral purposes as outlined under Section 62 subsections (8) and (9) of Act 930.

Collateral in the lender-borrower relationship serves as a mechanism for mitigating the lender's exposure to credit risk arising from information asymmetry that exists between the lender (creditor) and the borrower by securely binding the borrower to agreed repayment terms and schedules. The availability of collateral also conveys a positive signal to creditors, helping to alleviate problems that may arise from adverse selection and issues of moral hazard inherent in lending. As a result, creditors may grant more loans whilst having some assurance as a result of the collateral.

ix. **Other Directives**

The Bank has issued other directives including Procedures for issuing directives, Voluntary Winding Up Directive, and Mergers and Acquisitions Directive among others to strengthen the regulatory environment.

2. Risk-Based Supervision

The supervisory framework of the Bank of Ghana is the Risk-Based Supervisory (RBS) Framework. It is a robust and forward-looking process based on the Canadian model of RBS which entails the risk profiling of the supervised institutions and enables a better evaluation of risks inherent in the business model of the institutions through separate assessment of inherent risks and management of these risks. It is a dynamic process that places greater emphasis on early identification of emerging risks at the individual institution level or at a system-wide level (i.e. banking industry) to monitor and assess the safety and soundness of the institutions.

This process requires a continuous assessment of the institutions by assigning a Relationship Manager (RM), who is the focal point for the supervision of the institution as well as the Bank of Ghana's primary contact and this will enable supervisors to tailor their examination of the institution following its risk profile.

The main features of the RBS framework include:

i. Identifying significant activities of an institution;
ii. Assessing the risks inherent in each significant activity;
iii. Dynamic and proactive risks assessment process which involves determining the "Net Risk" for each significant activity which is the result of the level of aggregate inherent risk mitigated by the aggregate quality of risk management control functions by the institution;
iv. Assessment of the quality of operational management and risk management control functions (i.e. financial analysis, internal audit, compliance, risk management, senior management and board oversight); and;
v. A qualitative determination of the Overall Net Risk (ONR) and Composite Risk Rating which is the aggregate of the ONR and the quality of the institution's capital, earnings and liquidity.

The modes of assessments are:

i. **Off-site Surveillance** – Institutions are required to submit prescribed information (prudential returns) as required by the Bank of Ghana on daily, weekly, monthly, quarterly, semi-annually, and yearly basis or as and when basis. The information received is reviewed by the RMs on a regular basis, from the office. Examination reports are then generated and communicated to the various institutions. Institutions are required under Act 930 to provide their response and plan to implement the recommendations set by the supervisor. The risk profiles of the institutions are also updated in accordance with the outcomes of the examination undertaken.

ii. **On-site Examination** – Supervisors visit the supervised institutions to assess certain aspects of their operations periodically based on the risk profiles of these institutions. The findings are equally reported and the implementation of the recommendations are continuously monitored.

Institutions, Key Management Personnel, Board Directors, and Significant Shareholders are sanctioned in accordance with the laws (e.g. Act 930) for regulatory breaches identified in the course of the examination.

Also, the Bank of Ghana continues to undertake Stress-tests on the banking industry taking into consideration the prevailing macro-economic condition in the country.

3. Collaboration with Other Supervisors

In promoting and maintaining the stability of the financial system, the Bank of Ghana continues to collaborate with the other financial regulators within the country. The Financial Stability Council was established to bring together these regulatory authorities (NIC, SEC, NPRA, etc.) within the financial services sector to identify and evaluate threats, vulnerabilities, and risks to the stability of the financial sector by ensuring that early warning signals on cross-sectorial exposures that pose systemic risks are received and appropriate mitigating deployed timeously.

To effectively supervise an institution whilst ensuring the safety and soundness of that institution, the Bank considers the RFI's affiliations within and outside the country. This means that supervised institutions must be assessed on a consolidated level where the entity is a member of a group. Act 930 allows for consolidated supervision and with Memorandum of Understanding (MOUs) signed between Bank of Ghana and the home supervisors of the Ghanaian subsidiaries. The MOU between the home and host supervisors ensures that the parties are able to share supervisory information that may adversely impact on the safety and soundness of their respective institutions.

Also, supervisory colleges are organised by foreign supervisors to bring all other supervisors, globally, to discuss issues pertaining to the supervised institution of concern, particularly for international active banks. Within the ECOWAS, there is the College of Supervisors of the West African Monetary Zone (CSWAMZ) that are held quarterly to discuss how best to oversee individual and cross border financial institutions by regulators from the countries within the West African Monetary Zone. This provides a platform for supervisors to learn from each other and develop international best practice on supervision across national boundaries.

4. Engagement with External Stakeholders

Due to the ever-changing banking environment, regular engagements with stakeholders such as the Institute of Chartered Accountants, Ghana (ICAG), and the Ghana Association of Banks (GAB) are deemed critical in ensuring that bank supervisors are abreast with matters affecting the banking industry. Regular workshops, forums, and meetings are held with stakeholders to discuss emerging issues related to the banking industry.

The Bank is also a member of international associations that are the leaders of standards and areas pertaining to the banking industry. These include the Basel Consultative Group (BCG), Alliance for Financial Inclusion (AFI), Network for Greening the Financial System (NGFS) and the Regional Consultative Group for Sub-Saharan Africa of the Financial Stability Council.

5. Capacity Development

With the objective of promoting the safety and soundness of institutions and ensuring the stability of the banking industry, the Bank of Ghana strives to continuously strengthen the regulation, supervision and practices of regulated institutions. This is done by continuously building the capacity of supervisors as well as the banking industry through the use of internal staff or external consultants.

The Bank continues to receive capacity development support from the International Monetary Fund (IMF), AFRITAC West 2, Bank of England, Toronto Centre, and World Bank. The IMF, through funding support from the Swiss State Secretariat for Economic Affairs (SECO), continue to provide long-term technical assistance aimed at building capacity of the supervisors. The Bank recently engaged a long-term technical expert for banking supervision in the areas of Basel II/ III Capital Framework, Risk Based Supervision and Climate-Related Financial Risk.

6. Emerging Issues

i. To deal with the effects of the **COVID-19 pandemic** on the economy, fiscal policies, supportive monetary policies and supervisory/ regulatory interventions were issued by the Bank of Ghana in March 2020. The interventions ranged from capital to liquidity reliefs. The Bank of Ghana also issued regulatory guidance on the application of IFRS expected credit loss (ECL) impairment model in response to the COVID-19 pandemic. These intervention measures were in line with international best practices all over the globe.

ii. Following the announcement of the **Domestic Debt Exchange Programme (DDEP)** by the Government, the Bank of Ghana has issued regulatory reliefs to the RFIs that fully participated in the DDEP. These reliefs are meant to alleviate the potential impact of the DDEP on RFIs.

Conclusion

The Bank of Ghana will continue to effectively regulate and supervise the RFIs towards promoting the safety and soundness of the institutions and ensuring the stability of the banking industry with the ultimate objective of protecting depositors funds.