

ARRANGEMENT OF SECTIONS

Section

1. Section 2 of Act 673 amended
2. Section 3 of Act 673 amended
3. Section 4 of Act 673 amended
4. Section 5 of Act 673 amended
5. Sections 5A, 5B and 5C of Act 673 inserted
6. Section 6 of Act 673 amended
7. Section 7 of Act 673 amended
8. Section 8 of Act 673 amended
9. Section 8A of Act 673 inserted
10. Section 9 of Act 673 amended
11. Section 12 of Act 673 amended
12. Section 13 of Act 673 amended
13. Section 14 of Act 673 amended
14. Section 16 of Act 673 amended
15. Section 17 of Act 673 amended
16. Section 23 of Act 673 amended
17. Section 29 of Act 673 amended
18. Section 33 of Act 673 amended
19. Section 37 of Act 673 amended
20. Section 38 of Act 673 amended
21. Section 40 of Act 673 amended
22. Section 42 of Act 673 amended
23. Section 46 of Act 673 amended
24. Section 51A of Act 673 inserted
25. Section 60A of Act 673 inserted
26. Section 62 of Act 673 amended
27. Sections 69A and 69B of Act 673 inserted
28. Section 72 of Act 673 amended
29. Section 74 of Act 673 amended
30. Section 83 of Act 673 amended
31. Section 84 of Act 673 amended
32. Section 84A of Act 673 inserted
33. Section 87 of Act 673 amended
34. Sections 89A and 89B of Act 673 inserted
35. Section 90 of Act 673 amended
36. First, Second, Third and Fourth Schedules to Act 673 inserted



THE SEVEN HUNDRED AND THIRTY-EIGHTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA ENTITLED THE BANKING
(AMENDMENT) ACT 2007

AN ACT to amend the Banking Act, 2004 (Act 673) to facilitate the establishment of an International Financial Services Centre that seeks to attract foreign direct investment, income from licence fees payable in foreign currencies, create employment, enhance local skills and knowledge, strengthen the financial sector through expansion in the use of investment banking instruments and to provide for related matters.

DATE OF ASSENT: *18th June, 2007.*

ENACTED by the President and Parliament.

Section 2 of Act 673 amended

1. Subsection (1) of section 2 of the Banking Act, 2004 (Act 673) referred to as the principal enactment is amended by the addition of a new paragraph (*d*),

"(*d*) ensuring the soundness and stability of the financial system in this country,"

Section 3 of Act 673 amended

2. The principal enactment is amended by the substitution for section 3 of "3. Subject to this Act, no person other than a body corporate shall carry on the business of banking in or from within Ghana."

Section 4 of Act 673 amended

3. Section 4 of the principal enactment is amended by the substitution for section 4 of

"4. (1) A person shall not carry on the business of banking in or from within Ghana except by or under the authority of a license issued in accordance with this Act.

(2) A person shall not use a banking license for any purpose other than that for which it is issued.

(3) A person who contravenes subsection (1) and (2) of this section commits an offence and is liable on summary conviction

(a) in case of a body corporate or other body of persons to a fine not more than three thousand penalty units; and

(b) in the case of an individual to a fine not more than three thousand penalty units or to a term of imprisonment not exceeding ten years.

Section 5 of Act 673 amended

4. Section 5 of the principal enactment is amended

(a) by the insertion after paragraph (e) of

"(j) in the case of an external company registered in Ghana, an authenticated copy of its certificate of registration and a written confirmation from the banking supervisory authority in the applicant's country of incorporation that the supervisory authority has no objection to the applicant's proposal to carry on banking business in Ghana;"

(b) by the insertion of new paragraphs (g) and (h)

"(g) the measures and structures it intends to adopt to ensure that its business is conducted in accordance with sound corporate governance principles;

(h) the processing fees and licence fees that the Bank of Ghana may by notice specify;" and

(c) by placing the original paragraph (j) at the end of the subsection as paragraph (i);

(d) by the insertion of a new subsection (2);

"(2) Each application shall state clearly the type of licence that is being applied for." (e) by the renumbering of subsection (2) as subsection (3); (f) by the insertion of new subsections (4) and (5)

"(4) Where any document submitted to the Bank of Ghana is not in the English language, it shall be accompanied with a certified translation in English.

(S) The Bank may require that information supplied to it be verified, certified or otherwise authenticated in the manner that the Bank may consider fit."

Sections 5A, 5B and 5C of Act 673 inserted

5. The principal enactment is amended by the insertion of new sections *SA*, *SB* and *Sc*.

"Types of licences

SA. A licence issued under this Act shall be issued subject to the terms and conditions that the Bank of Ghana may impose and shall be in one of the following categories:

- (a) General Banking Licence;
- (b) Class I Banking Licence; or
- (c) Class IT Banking Licence;

Limitation of Class II Banking Licence

SB. Subject to this Act or any other enactment, the holder of a Class II Banking Licence shall not .

- (a) take deposits or placements from any person resident in Ghana other than another bank holding a General Banking Licence with respect to its Class II banking business, or another bank holding a Class II Banking Licence;
- (b) invest in an asset that represents a claim on any person resident in Ghana except a claim resulting from
 - (i) a Class IT banking transaction with another bank holding a General Banking Licence or a Class IT Banking Licence; or
 - (ii) the purchase of bonds or other securities issued by the Government of Ghana or any other securities that may be approved by the Bank of Ghana; or
- (c) carry on business in Ghana other than the business for which its Class IT Banking Licence has been issued.

Pre-requisites for a licence

Sc. A licence shall not be granted by the Bank, unless it is satisfied with

- (a) the technical knowledge, experience, financial conditions and history of the applicant;
- (b) the adequacy of the capital structure of the applicant;

- (c) the character of the business and its management;
- (d) the adequacy of the applicants accounting control systems and records;
- (e) in the case of an applicant incorporated outside Ghana, that the applicant is a branch or related company of a foreign bank of established international reputation; and
- (j) the ability and willingness of the applicant to comply with the other conditions that the Bank may impose."

Section 6 of Act 673 amended

6. The principal enactment is amended by the substitution for section 6 of "Provisional approval

6. (1) The Bank of Ghana may issue a provisional approval for a specified licence to the applicant on the terms and conditions that it considers appropriate, if it is satisfied that

(a) the applicant will carry on banking business with integrity, prudence and the required professional competence;

(b) the applicant has and will maintain paid up capital as set out in the First Schedule and hold a licence of the specified type as required; and

(c) where the bank is an external bank, it shall have and maintain in Ghana the required capital in the form of funds transferred from abroad together with other funds that may be determined by the Bank.

(2) The Bank of Ghana may by notice published in the *Gazette*, alter the capital requirements as well as any other pre-licensing requirements."

Section 7 of Act 673 amended

7. Section 7 of the principal enactment is amended;

(a) by the insertion of "for a General Banking Licence or a Class I Banking Licence" after "applicant";

(b) by the insertion of a new subsection (2), and

"(2) The applicant for a Class II Banking Licence shall not invite capital through a public issue of shares in Ghana."

(c) by the renumbering of subsection (2) as subsection (3) and by the insertion of

"or subsection (2)" after "subsection (1)".

Section 8 of Act 673 amended

8. Section 8 of the principal enactment is amended;

(a) by the numbering of section 8 as 8 (1) and the insertion of "of a specified type".