FINANCIAL SECTOR RECOVERY LEVY BILL, 2021

MEMORANDUM

The object of the Bill is to impose a special levy to be known as the Financial Sector Recovery Levy on banks to raise revenue to defray outstanding commitments in the banking sector.

Government began reforms in the banking sector from August 2017 to December 2018 with the object of cleaning up the financial sector, building resilience and promoting the safety, soundness and stability of the financial system to support the economic growth agenda of Ghana. This was informed by the asset quality review exercise of the Bank of Ghana carried out in 2015 and 2016 on universal banks which revealed that some local banks had challenges in respect of inadequate capital, high levels of non-performing loans and weak corporate governance system.

It was further assessed that some of the banks, especially the indigenous banks, were challenged with legacy problems, poor risk management practices, related party transactions and regulatory non-compliance leading to a significant build-up of vulnerabilities which threatened to plunge the banking sector into a crisis state. These challenges almost rendered these banks undercapitalised and highly insolvent. As a result, the Bank of Ghana intervened to revoke the licences of these banks bringing the total of licensed banks from a figure of thirty-six prior to the reforms in 2017 to twenty-three in August 2019.

Similarly, the specialised deposit-taking institution and the microfinance institution sectors were also plagued with acute liquidity and insolvency challenges. The continued existence of the specialised deposit-taking institutions and microfinance institutions posed severe risks to the stability of the financial system and depositors. As a result the licenses of fifteen savings and loans companies, eight finance house companies and three hundred and eighty-six microfinance institutions were revoked in order to safeguard the financial system against potential contagion which threatened to erode the gains made in the banking sector.

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The interventions by the Bank of Ghana and the Securities and Exchange Commission saved over four million depositors and eighty-one thousand, seven hundred investors. With the support of Government, a bailout for depositors of the failed banking sector institutions has been completed while that of the asset management industry is ongoing.

The reforms have led to a well-capitalised, solvent, liquid, profitable and resilient financial sector with improved financial soundness indicators in line with expectations. The clean-up and the bailout for depositors and investors have further restored confidence in the sector and the hard-earned savings of millions of Ghanaians are protected.

This intervention has, however, come at a huge cost of over twenty-one billion Cedis (GH¢ 21,000,000,000) to Government.

The Financial Sector Recovery Levy is being introduced to raise funds to recover the cost of the banking sector clean-up. Government expects to raise two hundred and nineteen million and nine thousand Cedis (GH¢ 219,009,000) from the Levy in 2021.

Clauses 1 to 6 provide for the imposition of a Financial Sector Recovery Levy. *Clause* 1 imposes a Financial Sector Recovery Levy of five per cent on the profit before tax of a bank for the purpose of the recovery of the financial sector.

Clause 2 provides for the application of the Levy. The Levy applies to a bank other than a rural bank or a community bank.

For the purpose of ascertaining the chargeable income of a person under the Income Tax Act, 2015 (Act 896), the Levy is not an allowable deduction, *clause* 3.

Clause 4 outlines the profits affected by the Levy. The Levy is payable in respect of profits before tax for the 2021, 2022, 2023 and 2024 years of assessment. The *clause* further empowers the Minister to, at the expiration of the 2024 year of assessment, review the Levy.

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Clause 5 provides for the assessment of the Levy payable. The *clause* requires a bank covered under the Bill to submit an estimate of the Levy for the year and the annual tax estimate of the bank to the Commissioner-General. The *clause* further empowers the Commissioner-General to make an assessment of the Levy payable by a bank.

Clause 6 specifies the dates on which the Levy assessed for a year of assessment is payable.

Clauses 7 to 10 cover the administration, collection and recovery of the Levy. *Clause* 7 mandates the Commissioner-General to administer the Levy in accordance with the Revenue Administration Act, 2016 (Act 915).

Under *clause* 8, the Ghana Revenue Authority is responsible for the collection of the Levy.

Clause 9 directs the Commissioner-General to pay the Levy into the Consolidated Fund.

Clause 10 provides for the application of the provisions of the Revenue Administration Act, 2016 (Act 915) and the Income Tax Act, 2015 (Act 896) relating to collection, enforcement, refund and penalties to the Levy.

Miscellaneous matters are dealt with under *clauses* 11 and 12. *Clause* 11 provides for the power of the Minister to make Regulations whilst *clause* 12 provides for the interpretation of words and expressions used in the Bill.

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(Osei Kyei-Mensah-Bonsu)
Minister responsible for Finance

Date: 25th MARCH, 2021

FINANCIAL SECTOR RECOVERY LEVY BILL, 2021

ARRANGEMENT OF SECTIONS

Section

Imposition of Financial Sector Recovery Levy

1. Imposition of Levy on profit before tax of a bank
2. Application of Levy
3. Levy not an allowable deduction
4. Profits affected by Levy
5. Assessment of Levy payable
6. Payment period of Levy

Administration, Collection and Recovery of Levy

7. Administration of Levy
8. Collection of Levy
9. Payment of Levy into Consolidated Fund
10. Recovery of Levy

Miscellaneous Provisions

11. Regulations
12. Interpretation

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BILL

ENTITLED

FINANCIAL SECTOR RECOVERY LEVY ACT, 2021

AN ACT to impose a special levy to be known as the Financial Sector Recovery Levy on banks to raise revenue to support the financial sector reforms and provide for related matters.

PASSED by Parliament and assented to by the President:

Imposition of Financial Sector Recovery Levy

Imposition of Levy on profit before tax of a bank

1. There is imposed by this Act a Financial Sector Recovery Levy of five per cent on the profits before tax of a bank.

Application of Levy

2. Despite any provision to the contrary in an enactment relating to a tax holiday or an exemption from a direct tax or an indirect tax applicable to a bank, the Levy imposed under section 1 applies to a bank other than a rural bank or a community bank.

Levy not an allowable deduction

3. The Levy is not an allowable deduction for the purpose of ascertaining the chargeable income of a person under the Income Tax Act, 2015 (Act 896).

Profits affected by Levy

4. (1) The Levy is payable in respect of profits before tax for the 2021, 2022, 2023 and 2024 years of assessment.

(2) The Minister may, at the expiration of the 2024 year of assessment, review the Levy.

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Assessment of Levy payable

5. (1) A bank covered under this Act shall submit an estimate of the Levy due for that year of assessment together with the annual income tax estimate of that bank.

(2) Where the bank has not

(a) been assessed for tax in the two preceding years of assessment, or

(b) furnished

(i) a return or an estimate in accordance with the Income Tax Act, 2015 (Act 896), or

(ii) a statement of the estimated Levy payable in accordance with subsection (1)

the Commissioner-General may proceed to make an assessment of the Levy payable by that bank.

Payment period of Levy

6. (1) The Levy assessed for a year of assessment is payable on the following dates of each quarter of the year of assessment:

(a) 31st March;
(b) 30th June;
(c) 30th September; and
(d) 31st December.

(2) Payment of the Levy for the 2021 year of assessment shall be made in three instalments on

(a) 30th June, 2021;
(b) 30th September, 2021; and
(c) 31st December, 2021.

Administration, Collection and Recovery of Levy

Administration of Levy

7. The Commissioner-General shall administer the Levy in accordance with the Revenue

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Administration Act, 2016 (Act 915).

Collection of Levy

8. The Ghana Revenue Authority is responsible for the collection of the Levy.

Payment of Levy into Consolidated Fund

9. The Commissioner-General shall pay the Levy collected under this Act into the Consolidated Fund.

Recovery of Levy

10. For the purpose of enforcing the collection of the Levy, the provisions of the Revenue Administration Act, 2016 (Act 915) and the Income Tax Act, 2015 (Act 896) relating to collection, enforcement, refund and penalties shall apply to the collection of the Levy as if the Levy is collected under the specified enactments.

Miscellaneous Provisions

Regulations

11. The Minister may, by legislative instrument, make Regulations to provide for the efficient and effective implementation of this Act.

Interpretation

12. In this Act, unless the context otherwise requires,

"bank" means a bank regulated under the Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930);

"Commissioner-General" means the Commissioner-General appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);

"Levy" means the Financial Sector Recovery Levy imposed under section 1; and

"Minister" means the Minister responsible for Finance.

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