REPUBLIC OF GHANA

MINISTRY OF FINANCE

NATIONAL BORROWING AND GOVERNMENT LENDING GUIDELINES

ISSUED BY THE

MINISTRY OF FINANCE

DATED: OCTOBER 2020

Ministry of Finance reserves the right to make exceptions, modify or eliminate these guidelines when neccesary.

Where there are contradictions in other manuals or procedures relative to this subject, the provisions in these guidelines shall suffice.

The Guidelines and Procedures Manual (GPM) provides guidance needed to fulfill the requirements and provisions of the Constitution and Public Financial Management, 2016 (Act 921) Sections 66 & 67. Thus it should be studied and applied in conjunction with those instruments.

These guidelines are accompanied by a Procedures Manual for National Borrowing.

Copies of this document can be accessed at: www.mofep.gov.gh

ARRANGEMENT OF SECTIONS

Volume 1: Guidelines on Borrowing

Introduction

Roles and Responsibilities of Institutions

Borrowing Provisions

Borrowing and Guarantee Limit

THE NATIONAL BORROWING GUIDELINES

The National Borrowing Guidelines hereinafter referred to as ‘the Guidelines’ are to guide public entities on the procurement of loans and other forms of borrowings pursuant to the provisions in article 181 and 182 of the 1992 Constitution; section 57 and other related sections of the Public Financial Management (PFM) Act, 2016 (Act 921) hereinafter referred to as the ‘PFM Act’, and the Public Financial Management Regulations, 2019 (L.I. 2378) hereinafter referred to as ‘the Regulations’. These Guidelines set out the practical parameters in conducting public borrowing, guaranteeing, and lending practices in Ghana. The Guidelines define the roles and responsibilities of stakeholders in the borrowing process and the relevant laws supporting the contracting of the debt to ensure that public debt levels are sustainable and consistent with national development objectives.

VOLUME 1: GUIDELINES ON BORROWING

Introduction

1. Background

(1) Globally, public borrowing as a phenomenon has occurred for centuries. In Ghana, public borrowing commenced in the early post-colonial era from 1957 to 1969.

(2) The Government at the time inherited a sizeable level of foreign reserves from the colonial Government. Official Development Assistance flowed in and grew for the first independent sub-Sahara African country. Government resorted to increased fiscal expansion to open the country and this included significant borrowing, both domestically and foreign, to finance mega projects. Borrowing was mainly project tied.

(3) From 1970 to 1982, Ghana repudiated in some external debts and was blacklisted on the international borrowing landscape.

(4) From 1983 to 2000, and consistent with global developments, Ghana commenced the upgrade of debt management reforms with clear objectives and other economic supporting programmes.

(5) From 2000 to date, global financial sector reform, with removal of capital controls, has changed the range of financial products and increased international capital flows, albeit with attendant growing volatility in exchange rates and interest rates.

(6) Traditional borrowing since independence has therefore changed significantly. The purposes of borrowing have also evolved tremendously to include project finance (investment), budgetary support, programme loans, as well as guaranteeing or on-lending for SOEs or the private sector. The sources of borrowing for Government have also diversified. The types of facilities have also seen enormous financial architectural reform, from a simply Government-to-Government loan structure to sophisticated financial engineering, including complex receivables-backed financing, financial leasing, on-lending schemes, and derivative transactions.

(7) The vast revolution in the financial landscape of Ghana has come with many complexities.

(8) This therefore requires more attention and well-coordinated efforts to harness the contemporary financing/borrowing challenges. Recently, public borrowing/ guaranteeing has been conceptualized and carried out in a manner that mimics laid-down procedure but has not been well documented.

(9) Until recently, public borrowing was concentrated in a few departments and there were no clear procedures or guidelines. Although, the 1992 Constitution of the Republic of Ghana and the Public Financial Management Act, 2016 (Act 921), clearly stipulate that the Minister responsible for Finance is mandated to borrow on behalf of the Republic of Ghana, there is no clear procedural approach. Due to this lack of clarity in procedure, there have been instances where the documentations

prepared to seek the regulatory approvals, including the Cabinet and Parliamentary approvals, were either incomplete and/or not properly reviewed. Additionally, some of the current borrowings are market operations that the current legal regime does not adequately address.

2. Objectives

(1) The objectives of the Guidelines, among others, are to;

i. provide direction on the acquisition of loans, securities, and other forms of credit, for the purposes of borrowing;

ii. highlight conditions under which guarantees can be issued or loans can be on-lent by GoG;

iii. on-lend funds to any entity; and

iv. promote accountability and transparency in Government's debt operations.

3. Scope

(1) The Guidelines apply to the following debt financing arrangements:

(a) issuance of Government securities in the domestic debt market;

(b) issuance of Government securities on international markets;

(c) borrowing from banks and other financial institutions;

(d) bilateral (state-to-state) borrowing;

(e) borrowing from Development Finance Institutions (DFIs);

(f) issuance of Government guarantees;

(g) suppliers credit agreement entered into by Government;

(h) finance lease agreements entered by Government; and

(i) any other form of borrowing as may be determined by the Minister for Finance.

4. Legal Framework

(1) The legal framework for public borrowing shall be in accordance with the:

(a) 1992 Constitution of the Republic of Ghana;

(b) Public Financial Management Act, 2016 (Act 921);

(c) Public Financial Management Regulations, 2019 (L.I. 2378);

(d) Fiscal Responsibility Act, 2018 (Act 982);

(e) Public Procurement Act, 2003 (Act 663) as Amended by the Public Procurement (Amendment) Act, 2016 (Act 914) as directed by these Guidelines;

(f) Securities Industry Act, 2016 (Act 929);

(g) Securities Industry Regulations, 2003 (L.I. 1728); and

(h) Any other relevant guidelines.

5. Administration and Review Policy

(1) The responsibility for the administration of the Guidelines rests with the Ministry of Finance, in collaboration with other relevant Ministries depending on the subject matter and may be reviewed periodically to incorporate and/or address any new findings or challenges which may become necessary in the course of public borrowing and guarantee arrangements.

6. Governance and Institutional Framework

(1) The Governance and Institutional arrangement for borrowing at any time in Ghana shall involve one or more of the following institutions:

(a) Parliament;

(b) Cabinet;

(c) Ministry of Finance (MoF);

(d) Bank of Ghana (BoG);

(e) National Development Planning Commission (NDPC);

(f) Attorney General's Department;

(g) Securities and Exchange Commission (SEC);

(h) Ghana Audit Service;

(i) Controller and Accountant General's Department (CAGD);

(j) Ministries, Departments and Agencies (MDAs);

(k) Public Corporations/Parastatals; and

(l) Metropolitan, Municipal and District Assemblies (MMDAs).

Roles and Responsibilities of Institutions

The following institutions shall carry out the underlisted roles and responsibilities in Government borrowing:

7. Parliament

(1) Parliament’s roles and responsibilities in public borrowing are to:

(a) consider and approve the terms and conditions of all loan agreements in accordance with article 181 of the 1992 Constitution;

(b) consider and approve the issuance of Government debt securities from the International Capital Market;

(c) consider and approve the terms and conditions of Loan Agreements and guarantees in accordance with section 56 (1) of the PFM Act;

(d) grant approval for financial swaps and other derivative transactions; and

(e) consider and approve the Annual Budget Statement and Estimates of MDAs.

8. Cabinet

(1) The roles and responsibilities of Cabinet, on behalf of the Executive, are to:

(a) consider and approve the debt management strategy for each successive financial year in accordance with section 59 of the PFM Act; and

(b) consider and approve all loan agreements in accordance with Article 181 of the Constitution for onward submission to Parliament;

(c) consider and approve all borrowings from the International Capital Market for onward submission to Parliament; and

(d) consider and approve the Fiscal Strategy Document.

9. Ministry of Finance

(1) The authroity to borrow on behalf of the Government is vested in the Minister responsbile of Finance in accordance with Section 55 of the PFM Act and subject to Article 181 of the Consitution. In addition to this, the Minister for Finance shall be guided by the relevant policies and rules to :

(a) ensure that new borrowings are within the limits set;

(b) spearhead all Government loan negotiations;

(c) furnish loan documentations to the BoG;

(d) be responsible for signing loan agreements, indemnities, or securities in respect of any financial commitment or guarantees entered into by GoG or its agencies in accordance with section 55 (1) and (2) of the PFM Act; and

(e) ensure that MDAs adhere to the use of proceeds of borrowed funds.

The Minister for Finance may appoint issuing agents, registration agents, primary dealers, bond market specialists and other agents to facilitate primary and secondary market transactions in Government Securities. With regards to international transactions, the Minister may appoint any agent in accordance with international market practices.

10. Bank of Ghana

(1) The BoG shall be responsible for execution of debt service payments upon instructions by the MoF; and

(2) Pursuant to Section 78 (2) and (3) of the PFM Act and Section 29 of the Bank of Ghana Act, the BoG may also act as fiscal agent for Government to facilitate the issuance, management, redemption and repayment of Government securities.

11. Primary Dealers/Newly Enacted Bond Market Specialists[1]

(1) The approved Primary Dealers/Bond Market Specialists on the securities market shall:

(a) engage with potential investors for the issuance of Government securities; and

(b) build order-books by receiving orders from potential investors.

12. The Controller and Accountant-General's Department

(1) The CAGD shall be responsible for:

(a) the safe custody and integrity of public funds; and

(b) the opening and management of Government accounts with BoG and other Banks for depositing public funds.

13. Attorney-General's Department

(1) The Attorney General's Department shall be responsible for providing legal opinion on behalf of Government with respect to any external transaction and be part of all loan negotiations that may bind on GoG.

[1] *The Bond Market Specialist is a new initiative to replace the Joint Book Runners Mechanism*

14. Ghana Audit Service

(1) The Ghana Audit Service shall be responsible for the periodic auditing of the financial accounts and debt management transactions.

15. Covered Entities

(1) Covered Entities or MDAs/MMDAs/Public Corporations/SOEs shall not commence the borrowing process, unless the project for which the borrowing is intended has been properly appraised in line with Section 33 (5) of the PFM Act and any other guidelines, guided by the Division in the Ministry of Finance responsible for Public Investment.

(2) Covered Entities or MDAs/MMDAs/SOEs shall submit the following project documentation and shall be considered for review by the Ministry in respect of 15 (1) above:

(a) Project Concept Note;

(b) Pre-feasibility Study Report; and

(c) Feasibility Study Report documenting financial viability or economic viability or both of the project, and social and environmental impact assessments of the project.

(3) Covered entities or MDAs/MMDAs/SOEs shall not engage directly with any investor or financial institutions for the purpose of procuring a loan, unless with the explicit approval of the Minister for Finance.

(4) In respect of 15 (3), the project for which the borrowing is intended must have received the Seal of Quality by the Minister for Finance and its funding source approved by the Public Investment Programme Working Committee.

(5) Covered entities shall furnish the Minister for Finance with progress reports on each disbursement request.

(6) In the case of guarantees, requests from Covered Entities shall come through the relevant MDA with the support of the SOE's Board of Directors and the State Interests and Governance Authority (SIGA).

Borrowing Provisions

16. Purpose for Borrowing

(1) Central Government as per Section 57 (1) of the PFM Act may borrow for the following purposes:

(a) to finance Government's budget deficit as approved by Parliament;

(b) to build up and maintain a liquidity buffer at a level or range determined by the Minister;

(c) to on-lend funds to local government authorities, SOEs, public corporations or any other entity as approved by Parliament;

(d) to honour obligations under outstanding Government guarantees;

(e) to refinance outstanding Government debt, including repayment of a loan prior to the maturity date of the loan and repurchase of Government debt securities; and

(f) for any other purpose as may be approved by Parliament.

(2) An MDA, MMDA, SOE or Public Corporation desiring to borrow shall state the purpose for which the borrowing is intended, in line with the development agenda of Government: for the purpose of this guidelines, MDA, MMDA, SOEs and Public Corporations borrowings shall include;

(a) Bridge Finance;

(b) Short-Term Loans;

(c) Municipal Bonds;

(d) Corporate Bonds;

(e) Overdrafts; and

(f) Hire Purchase Agreements

(3) The Ministry of Finance may borrow to finance the budget deficit or expenditure, build buffers, perform passive and active liability management and also for domestic market development.

17. Short-Term Borrowing

(1) Short-term borrowing/financing by GoG and public entities may be pursued as a means to temporarily manage liquidity. Conditions under which short-term borrowing is permitted may include:

(a) paying operating expenses in anticipation of cash inflows from revenues;

(b) financing of current or capital investments using short-term debt in anticipation of non-recurring revenue, such as from the sale of assets, receipt of grants, or issuance of a long-term debt (bridge loans) as may be determined by the Minister for Finance; and

(c) financing expenses from any other exogenous shock that the economy or an entity may face.

18. Medium to Long-Term Borrowing

(1) All medium to long-term borrowing, as far as practical, may be used to finance capital investments and/ or capital related expenditures.

Borrowing and Guarantee Limits

Limits for borrowing and guarantees shall be set by the Minister for Finance to control GoG and public entities external and domestic borrowing to ensure debt sustainability.

19. External Borrowing Limits

(1) The maximum external borrowing limits per annum will be guided by:

(a) borrowing limits recommended under the latest Debt Sustainability Analysis (DSA) report.

(b) the current MTDS;

(c) the current year's budget statement;

(d) the current ABRP; and

(e) guarantee ceilings recommended under the DSA and MTDS for any sectoral or institutional borrowing.

20. Domestic Borrowing Limits

(1) The maximum domestic borrowing limit will be guided by;

(a) the current MTDS; and

(b) a quarterly Government treasury issuance calendar which may be revised periodically depending on Government priorities.

21. Guarantee Limits

(1) The maximum limit of guarantees that could be extended to any public entity at each point in time shall be based on the entity's credit worthiness.

(2) For a new company/private sector firm or SOE, which has no historical reference, the financial and economic viability of the investment will be used to assess the company.

(3) Local Government Authorities may only borrow funds from within Ghana and up to a limit determined by the Minister for Finance in consultation with the Minister responsible for Local Government in line with Government's development agenda.

(4) SOEs may only borrow funds up to the limit determined by the Minister for Finance and in accordance with relevant provisions in the SIGA Act, 2019 (Act 990).

22. Indebtedness Limit

(1) GoG debt limit shall be informed by the limit:

(a) provided in the FRA or as may be announced in the Budget Statement and Economic Policy;

(b) provided in the DSA conducted in the successive year; and

(c) as shall be agreed upon the occurrence of a force majuere pursuant to section 3 (1) of the FRA.

23. Other Limits

(1) GoG shall in accordance with section 59 of 'the Act' from time to time, adjust the debt management thresholds taking into account:

(a) future borrowing requirements;

(b) the medium-term macroeconomic framework;

(c) prevailing market conditions; and

(d) any other factors that may evolve.

Guidelines on Borrowings and Guarantees

24. Guidelines for Borrowing

(1) Government sources of borrowing shall be from external and domestic sources:

External Sources

(2) External borrowing shall comprise funds sourced from, but not limited to, the following:

(a) Multilateral Institutions;

(b) Bilateral Partners;

(c) Supplier's Credit Arrangements;

(d) Buyer's Credit Arrangements;

(e) the International Capital Market (ICM); and

(f) Commercial Creditors (Commercial Banks and Private Lenders)

Domestic Sources

(3) Domestic borrowing shall comprise funds sourced from:

(a) Government Securities; and

(b) Bank and Non-Bank Financial Institutions.

(4) Domestic borrowing instruments to be used for budget financing shall include, but not be limited to, the following:

(a) Loans;

(b) Treasury bills, Notes and Bonds; and

(c) Derivatives.

(5) Central Government borrowings by means of loan agreements shall be on the terms and conditions approved by Parliament.

(6) Local government authority wishing to borrow shall obtain written approval from the Minister for Finance in pursuance to Section 74 (2) of the PFM Act.

(7) SOEs shall borrow up to a limit set by the Minister for Finance in accordance with section 76 of the PFM Act.

(8) For the purposes of these guidelines, the board of an SOE may approve a loan within Government approved thresholds for short-term liquidity management.

(9) The Ministry of Finance shall prior to the execution of a loan facility:

(a) appraise the borrowing proposal and project documents in line with the borrowing guidelines, Public Investment Management Policy, and the National Development Plan; and

(b) assess the credit risk to Government in the case of SOEs and Parastatals.

(10) For the purposes of 24 (2) and (3) of these Guidelines, the approved financing options/funding sources shall be decided by MoF from time to time.

(11) Treasury Bills, Notes and Bonds in a strcit sense are not loans and therefore the terms, being a market trasnaction, cannot be determined a priority.

25. Guidelines for External Borrowing

(1) MDAs wishing to contract external loans shall:

(a) ensure that the projects or programmes or both are captured in the Budget Statement and Economic Policy for the successive financial year and are in line with the National Development objectives and Public Investment Management Policy;

(b) submit project proposals (which may include indicative financing terms and any documents relevant to the project) to MoF for evaluation and no objection and subsequent arrangement to secure funding; and

(c) jointly with MoF, obtain Cabinet and Parliamentary approvals for the financing of the project/programme.

(2) All loan proposals shall be subject to an evaluation (particularly the indicative financing terms) to determine their concessionality and/or acceptability by the Ministry of Finance.

(3) For the purposes of these Guidelines, concessional facilities shall be applied mainly towards social projects and programmes.

(4) In cases where commercially oriented projects with self-repaying capacity must be undertaken (perhaps because such a project also has compelling public interest), non-concessional financing shall be considered.

(5) Central Government may borrow from the ICM at the terms and cost as may be favourable to the Minister for Finance at the time of the debt issuance to support the Budget.

(6) State entities seeking to borrow from the ICM shall seek a written approval from the Minister for Finance.

26. Guidelines for Domestic Borrowing

(1) Domestic borrowings shall be by;

(a) issuance of Government securities, which shall be in line with the Budget Appropriation, ABRP and periodic issuance calendars; and

(b) any other borrowing methods such as, standard term loans considered appropriate and approved by parliament.

(2) SOEs, Local Government Authorities and Public Corporations seeking to borrow from commercial banks and or financial institutions shall obtain prior approval from the Minister for Finance and in accordance with Section 4 of the SIGA Act.

(3) The lending bank shall furnish Ministry of Finance with periodic reports on the borrower's account.

27. Guidelines for Guarantees

(1) Guidelines for issuing guarantees shall be in line with Section 66 of the PFM Act.

(2) A Government guarantee may be extended only to the under listed entities:

(a) Private Firms;

(b) Public Corporations; and

(c) Local Government Authorities.

(3) The Debt Management Office may upon its assessment of a guaranteed loan propose the following:

(a) approval of the guarantee by the Minister for Finance;

(b) disapproval of guarantee by the Minister for Finance; or

(c) other prudent financing arrangements depending on the entity's financial capacity.

28. Suppliers' and Buyers' Credits

(1) Any MDA or state entity seeking to arrange a Supplier's or Buyer's credit shall submit to the Ministry of Finance in witting, a request for approval from the Minister for Finance outlining the terms of the facility.

(2) The request shall be subjected to an assessment of the cost and risk to Government of entering into the Supplier's or Buyer's Credit arrangement by the entity in accordance with Section 68 of the PFM Act.

29. Finance Lease

(1) A State entity desirous of entering into a finance lease agreement for an asset or part of an asset shall seek express approval from the Minister for Finance for an evaluation in accordance with Section 69 of the PFM Act.

30. Other Financing Arrangements

(1) Any other financing arrangement such as swaps or any other derivatives to be used to hedge financial exposure will be pursued by MDAs and state entities in line with existing laws, rules and regulations.

(2) Any institution that enters into such arrangements as mentioned in 30 (1) is required to inform the Minister for Finance within 24 hours after execution.

31. Guidelines for SOEs' Borrowing

(1) SOEs shall liaise with their respective sector ministries and the Public Investment and Asset Division of MoF for preliminary discussions on intended project(s);

(2) SOEs eligible for borrowing shall be caused to provide evidence of;

(i) a set of audited annual financial statements that indicate sufficient financial ability to manage the intended loan as well as existing loans;

(ii) tax payments;

(iii) debt servicing of existing loan(s); and

(iv) a Project Viability assessment indicating the project is viable.

(3) SOEs shall be caused to produce a preliminary case for borrowing to the Debt Management Office at the preliminary stage in project development prior to committing funds on feasibility studies.

(4) SOEs shall inform the Debt Management Office of borrowing source, terms and conditions, indicating that there is an acceptable source willing to lend.

VOLUME 2: GUIDELINES ON GOVERNMENT LENDING

Introduction

This lending guideline provides a framework and outlines how terms for subsidiary loans should be set consistent with the Medium-Term Debt Management Strategy (MTDS).

This guideline upholds the fundamental principles of sound Government decision making (accountability and transparency) and promotes the prudent use of public resources.

This guideline, forms part of the broader Debt Management Framework that currently includes the Public Financial Management Act, 2016 (Act 921).

32. Background

(1) Over the years, Government has lent funds to strategic SOEs, most of which have failed to honour these debt obligations. Failure on the part of these SOEs has posed significant fiscal risks to the national Budget.

(2) The Annual Public Debt Reports (APDRs) for the periods spanning 2016-2019 show huge outstanding debt and poor recoveries on Government books. This problem is partially due to inadequate credit assessments to ascertain the capacity and ability of the SOEs to repay their debt obligations prior to the finalisation of lending arrangements to them.

(3) The fiscal risks associated with Government lending arrangements have thus made it important for Government to develop this guideline and procedures for lending to SOEs and other public entities in line with the PFM Act.

33. Policy Objectives

(1) The policy objectives of these Guideline are to:

(a) provide operational clarity to stakeholders involved in Government lending;

(b) promote accountability and transparency of Government lending;

(c) encourage SOEs to be profitable and efficient;

(d) promote effective and efficient use of public resources; and

(e) provide Government with a means of controlling, measuring, and monitoring the risks associated with Government lending.

34. Scope

(1) The Guidelines apply to lending by central Government to public entities or any other entity as may be determined by Government (via lending agreements) for:

(a) projects implemented by entities that are fully or partially financed by Government borrowing;

(b) projects implemented by entities but fully or partially funded by Government and /or entities; and

(c) direct lending of financial resources to entities to fund the capital or operational expenses.

35. Legal Framework for Lending

(1) The legal framework for Government lending shall be in accordance with the:

(a) 1992 Constitution of the Republic of Ghana;

(b) Public Financial Management Act, 2016 (Act 921);

(c) Public Financial Management Regulations, 2019 (L.I. 2378);

(d) State Interest and Governance Authority Act, 2019 (Act 990); and

(e) any other relevant Act or Regulation.

36. Administration and Policy Review

(1) The Guidelines contained herein will be periodically reviewed to ensure that they continue to be relevant to the work of the Divisions in 36(2) and aligned with applicable standards and legislation.

(2) The Treasury and Debt Management Division (TDMD), in collaboration with the Resource Mobilization and Economic Relations Division (RMERD), Public Investment and Asset Division (PIAD) and Legal Division of the Ministry of Finance, shall be responsible for administering this guideline.

(3) The Guidelines shall also be reviewed where there are changes to Government policy relating to financing of projects by public entities.

(4) These Guidelines shall apply to:

(a) SOEs in which Government has greater than 50 percent ownership or greater than 40 percent ownership and no other entity holds a greater share;

(b) Local Government Authorities;

(c) Statutory Authorities; and

(d) Any other entity as may be approved by Parliament.

Types of Lending Arrangements

37. Types of Lending

(1) Government may have various types of on-lending arrangements with public entities, namely:

(a) Loan-to-Loan; and

(b) Grant-to-Loan.

(2) Government may lend to a public entity in the form of a loan. The terms associated with the lending agreement maybe on the same terms as the parent financing agreeement or different from the financing arrangement.

(3) Where Government receives a grant from its donors, it may lend it as a loan to a public entity. This type of arrangement shall occur:

(a) if the Government is of the view that the project in question is to an extent commercially viable; and

(b) as a revolving facility to enable different entities benefit.

Lending Provisions

38. Use of Funds

(1) The use of proceeds shall be to fund expenditure outlays of specific projects.

(2) The funds shall not be used to:

(a) finance recurrent expenditure;

(b) cross subsidising SOEs;

(c) cross subsidising Government entities; or

(d) supporting operational inefficiencies.

39. Funding Sources

(3) Government may lend funds from the following sources:

(a) External sources;

(b) Domestic Financial Institutions; and

(c) Government domestic revenue.

40. Conditions to Lend

(1) Government lending shall be limited to the following entities**:**

(a) Local Government Authorities;

(b) State-Owned Enterprises;

(c) Public Corporations; and

(d) any other entity as approved by Parliament.

(2) Government may lend to entites as listed in 40(1)**:**

(a) when the entity cannot secure funds directly from the market/bank due to the low credit rating;

(b) if the projects have high rate of return; and

(c) when banks are only prepared to offer loans on excessively onerous terms and conditions.

(3) A Government lending shall only be considered for projects that have been thoroughly assessed in accordance with the Public Investment Management (PIM) Regulation and proven to have a positive financial and economic NPV.

(4) The entity shall be subjected to credit risk (including debt servicing capacity) assessment.

(5) Any entity requesting for Government lending shall submit an application with the necessary documentation as mentioned in 54(3).

(6) The request shall come through the relevant sector ministry with the support of the public entity's Board of Directors and the SIGA.

41. Classification of Projects

(1) A project shall fall into one of the two categories depending on its nature:

(a) a commercial project to be undertaken as a profit-making venture and shall be expected to make high returns over a long term; and

(b) a non-commercial project to be undertaken to meet the socio-economic needs of the public and shall not be expected to make a return that may cover the cost of capital over a long term.

Guiding Principles

42. Lending Agreement and Lending Policy

(1) Government lending policy shall be to lend funds to Public entities in furtherance of Government's policy objective to:

(a) support public entities access to credit at a relatively cheaper rate and improve their profitability; and

(b) recover loan amounts used to finance projects, where applicable.

(2) The lending policy shall not be used by Government to generate revenue at the expense of public entities.

(3) Government lending shall be governed by a Lending Agreement (LA).

(4) The LA shall contain the terms and conditions based on which funds can be on-lent to an entity.

(5) The terms and conditions of the LA shall be approved by Parliament.

43. Setting Terms and Conditions of Lending Agreements

(1) The terms and conditions of a Government lending arrangement shall be dependent on the entity's credit rating.

(2) The following terms and conditions shall be applied:

(a) disbursement shall be made in accordance with the disbursement methods as anticipated and agreed upon by the parties. This may include direct disbursement, reimbursement and replenishments;

(b) the on-lent amount is the total amount used by Government (the on-lender) to fund the project;

(c) all funding proceeds shall be used exclusively for the financing of the project as set forth in the lending agreement;

(d) the entity shall open and maintain an Escrow receivables account into which receivables from the project would be paid and transferred into Government's debt service account against payments falling due as detailed in the repayment schedule;

(e) an Escrow receivables account shall be opened no longer than fourteen (14) days after the signing of the LA;

(f) repayments may be in local or foreign currency, depending on the nature of the receivables of the project;

(g) repayment periods for on-lent loan facilities will depend on the cash flows of the project;and

(h) the applicable interest rate and risk premium shall depend on the entity's risk rating as per the results of the credit risk assessment, the terms and conditions of the original loan agreement and the socio-economic benefit of the project.

44. Receipts

(1) All loan repayment receipts shall be paid in to the Consolidated Fund.

45. Eligibility for Entering into Government Lending Transaction

(1) An entity shall be eligible for entering into a Government Lending Transaction (GLT) where:

(a) the project is captured in the Public Investment Plan (PIP) and the National Budget in the case of a public entity.

(b) the risk assessment concludes that the entity has the financial capacity to repay the loan at the agreed structured terms.

(2) An entity shall be eligible for GLT if the entity:

(a) achieves a break even or profit and has positive net operating cash flows in each of the two (2) years preceding the loan;

(b) is not in default of an existing loan (this includes on-lending arrangements except where the entity has finalised a debt restructuring for any defaults with the TDMD and has complied with the terms of the restructured loan for at least one year);

(c) does not have other significant financial obligations which are likely to hinder its ability to repay Government; and

(d) has provided Ministry of Finance with information as listed in 54 and 56(b) of these Guidelines.

(3) If the entity is new, eligibility will be at the discretion of Ministry of Finance. The decision shall be based on whether the entity is likely to make profit or generate adequate cash flows to cater for its debt service payments.

(4) In exceptional cases, the Ministry of Finance may deem a loss making entity to be eligible for Government lending. The circumstances shall include but not limited to:

(a) If the investment is expected to significantly improve the entity's operating performance and to earn profits in the future; and

(b) If the investment arises from a transaction or agreement with a party external to the entity in respect of:

(i) a contract which is likely to result in an increase in profits to the entity; and
(ii) an acquisition of an asset which is likely to generate revenue for the entity.

(5) An entity shall be considered ineligible if it is deemed to be a profit making entity and:

(a) circumstances have arisen which are expected to significantly hinder the entity's performance such that the entity is expected to make losses in the future. The circumstances shall include but not limited to:

(i) market downturn;

(ii) undertaking a large financial committment;
(iii) court ruling;
(iv) regulatory change; and
(v) natural disaster.

Risk Associated with Lending

46. Risk Exposures

(1) The risk exposures associated with Government lending to entities may have the potential to make a debt obligation not sustainable and may pose likelihood of default if not managed. The following risks shall be considered when evaluating an entity's request/proposal:

(a) Credit risk;

(b) Foreign Exchange Mismatch Risk;

(c) Repayment Risk;

(d) Interest Rate Risk;

(e) Tenor Mismatch Risk; and

(f) Investment Risk

(2) Entities shall be assessed to ascertain their credit worthiness. Based on the result of the Credit Risk Assessment:

(a) a proposed rate of interest shall be charged to cover the cost of lending transaction; and

(b) a credit risk premium shall be charged to the entity to mitigate the risk of default.

(3) Government shall lend to a beneficiary entity in foreign currency where the entity is deemed to exhibit adequate capacity to manage foreign exchange risk and can clearly identify a hedging plan to mitigate the risk. The hedging plan shall be disclosed in the beneficiary's balance sheet.

(4) Government shall lend to entities at a fixed rate of interest to manage interest rate risk. The interest rate shall remain the same over the life of the loan.

(5) Government shall apply a variable/floating interest rate to a beneficiary entity taking into consideration the project's anticipated future cash flows. The interest rate risk may be managed through interest rate swaps.

(6) To manage risk arising from tenor mismatch, Government shall ensure that the tenor of the loan shall match the projected cash flows and tangible benefits of the project.

(7) Where prepayment risk shall arise due to tenor mismatch between the financing arrangement of Government and the lending agreement, Government may invest the buildup in cash in anticipation and use the proceeds received to repay the Original Lender when repayments are due**.**

(8) Where prepayment risk arises due to tenor mismatch, Government shall use the following options:

(a) buildup in cash to fund budget expenditure; and

(b) issue a new loan to an entity.

(9) Pursuant to 46(7) above, Government may be exposed to investment risk, which consists of all the risks that arise from investing.

Payment Arrangement and Loan Administration

47. Disbursements

(1) Unless otherwise agreed with the Primary Lender, all disbursements shall be made directly from the Primary Lender to the implementing entity**.**

(2) The Primary Lender shall furnish MoF with information on all disbursements made to the entity under the ‘parent loan’.

(3) Where the project is funded partly or wholly from Government revenue, the LA shall include a provision to govern the transfer of funds to the entity.

48. Recording of Lending Agreement

(1) TDMD shall keep records and maintain a database with regards to all Government LAs.

(2) The details of the LAs shall be recorded on the public debt database. The database shall be used to**:**

(a) generate invoices for billing entities of payments falling due under the lending agreement;

(b) record disbursements made under the Agreements with the public entity;

(c) record payments made by the entity to Government under the Agreements; and

(d) generate reports and advise the Minister for Finance on the status of the Facility.

49. Payment Arrangement

(1) All LAs shall have a repayment schedule attached as an annexure, which specifies the period for the repayment of the principal and accrued interest on the loan and the amounts due, as well as:

(a) repayment dates of the lending facility shall coincide with interest payment dates; and

(b) any payment due on a day that is not a business day shall be made on the next business day.

(2) The entity shall ensure that receivables from the project are paid into an escrow account; and

(3) All payments falling due shall be transferred from the escrow account into the debt service account by the entity.

50. Default and Write-off Loans

(1) Default provisions shall be clearly outlined in all LAs and this shall include but not be limited to:

(a) definition of a default event including period to notification;

(b) applicable default rate of interest; and

(c) actions that can be taken by the entity and MoF in the event of a default.

(2) The entity shall notify MoF promptly of any anticipated event of default, and provide sufficient evidence to support their inability to repay at the specified period.

(3) The MoF shall take necessary steps to reschedule a new payment date for any reported default and the entity shall ensure that the amount is promptly repaid on or before the newly agreed date.

(4) Where the default is not resolved as specified in 50(3) above, MoF may proceed with the following actions:

(a) take any action necessary, being legal or as spelt out in the PFM Act and lending agreement, to recover the loan and accrued interest and charges; and

(b) blacklist the entity, making them ineligible for future lending.

51. Reporting and Disclosure

(1) The entity shall comply with all reporting requirements under the lending Agreement.

(2) The entity shall submit to MoF semi-annual reports on all disbursements received under the project.

(3) The entity shall submit to MoF, semi-annual reports of all payments made under the LA. All payment reports shall be supported by accompanying bank statements for any escrow account arrangement in place.

52. Other Administrative Considerations

(1) The LA shall not be modified or amended except by written agreement signed by all parties.

(2) The LA shall become effective after all conditions precedent have been met.

Processes and Procedures for Government Lending

53. Government Lending Processes and Procedures

(1) Government's lending process is divided into three (3) stages:

(a) project evaluation;

(b) credit risk assessment;

(c) statutory approval stage; and

(d) execution stage.

54. Project Evaluation Stage

(1) The stage begins with an assessment of the merit of the project by the PIAD against the objectives of the Medium-Term Development Plan and in accordance with the PIM regulation.

(2) A full-blown project evaluation will then be carried out to ascertain whether the project merits financing.

(3) The entity shall submit the following project documentation and shall be considered for review by the Ministry in respect of 53 above**:**

(a) project concept note;

(b) pre-feasibility study report; and

(c) feasibility study report documenting financial or economic viability or both of the project, and social and environmental impact assessment of the project.

(4) The sourcing of funds for projects shall be done only when these projects are identified in the Public Investment Plan (PIP) and captured in the national budget.

55. Credit Risk Assessment

(1) A credit risk assessment shall be conducted to ascertain the entity's ability to repay its obligations and ascertain the fiscal risk it poses to Government.

(2) The outcome of the assessment shall be used to determine whether to grant approval for the request and where applicable, used in the calculation of the fee or credit margin to be charged.

56. Statutory Approval Stage

(1) The approval stage begins with Cabinet, ends with Parliamentary approval, and shall follow the outlined processes below:

(a) MoF and the entity shall prepare a joint memorandum to Cabinet and signed by the MoF and the line Minister responsible for the entity.

(b) The memo shall be accompanied with the following documents:

(i) the credit risk assessment report;
(ii) the draft lending agreement; and
(iii) any other relevant project documentation.

(c) Upon submission of a request, Cabinet shall inform the MoF of its decision on the Joint Cabinet Memorandum.

(d) When the request is approved, MoF and the line Ministry responsible for the entity shall prepare a joint memo to Parliament seeking approval of the lending agreement. The following documents must be forwarded to Parliament for consideration:
(i) Cabinet or Executive Approval letter;
(ii) Parliamentary Memorandum;
(iii) The final draft lending agreement; and
(iv) any other relevant project documentation.

(e) Upon submission of a request, Parliament shall inform the MoF of its decision on the Joint Memorandum.

(2) The listed documents in 56(d) shall be organised by the TDMD or RMERD in collaboration with the Ministry's Parliamentary Liaison to the Clerk of Parliament.

(3) Upon the invitation of Parliament, the Minister for Finance or his/her representative may be accompanied by a team from the following outfits to provide clarification and to justify the need for the project and the financing terms:

(a) Ministry of Finance: TDMD, RMERD, Legal Directorate, and other Divisions or entities when necessary.

(b) Sector Ministry: Minister or representative (not below the rank of Deputy Minister) and team.

(4) The Clerk of Parliament shall advise the Minister for Finance of the legislative approval upon which the relevant agreements are signed.

57. Execution Stage of Agreement

(1) Following receipt of the Parliamentary approval letter, the following processes are required for the signing of the lending agreement:

(a) TDMD shall liaise with legal directorate to incorporate comments raised during the statutory approval process (if any).

(b) upon signing of the underlying lending agreement between Government and the Creditor/ Lender, TDMD/ RMERD shall arrange for the execution version of the lending agreement to be signed.

(c) both parties shall sign the agreement.

(2) The MOF and the entity shall each keep an original agreement. MOF's original agreement is kept with TDMD and copies sent to the following offices:

(a) Resource Mobilisation and Economic Relations Division;

(b) Public Investment and Asset Division;

(c) Legal Directorate of Ministry of Finance;

(d) Bank of Ghana;

(e) Attorney General's Department;

(f) Controller and Accountant General's Department; and

(g) Auditor General.

Miscellaneous

58. Fees and Charges

(1) Fees and charges shall be applied in issuing financing instruments to beneficiary entities requesting such support. Beneficiaries of Government guarantees are required to pay guarantee fees, pursuant to Section 66 of the PFM Act, to cover the credit risk exposure to Government as may be determined by the Minister for Finance.

(2) A risk premum shall be charged in addition to the agreed lending rate to cover the credit risk of the entity in line with Section 67 of the PFMA as may be determined by the Minister for Finance.

(3) Credit risk assessments conducted by MoF on new proposals for funding shall attract an administrative fee determined by the Minister for Finance.

(4) In the event that an entity submits an unsolicited proposal, a processing fee determined by the Minister for Finance shall be applied.

59. Reporting and Disclosure

(1) All MDAs, SOEs and public corporations shall:

(a) comply with reporting requirements under any financing agreement;

(b) submit to MoF, semi-annual reports on all disbursements received under the project/programme; and

(c) submit to MoF payments made under a guarantee or on-lending arrangement.

(2) To ensure transparency, Government will disclose information on:

(a) Government borrowings; and

(b) guarantees and on-lending arrangements entered with public entities.

(3) The disclosure will cover information on the amounts issued, amounts defaulted, invocations, payments made and outstanding amounts of beneficiaries.

(4) The information will be presented in either the Budget Statement and Economic Policy or the Annual Public Debt Report or both or any other relevant reports of Government.

60. Sanctions

(1) Government appointees or officials of MDAs, Local Government Authorities and any Public entity that shall commit Government to any financial arrangement or obligation, in contravention of the provisions of these Guidelines, may be liable to sanctions in accordance with Article 284 of the 1992 Constitution of Ghana,

Sections 23 and 179 of the Criminal Offenses Act, 1960 (Act 29), Section 97 of the PFM Act or any applicable legislation.

61. Definitions

Bond	Debt securities issued on a local or international treasury market that give holders unconditional right to fixed income or contractually determined payments on a specified date or dates.
Bridge Finance	A short-term financing agreement used until an entity secures permanent financing or removes an existing obligation. It allows the user to meet current obligations by providing immediate cash flow.
Buyers' Credit	A financial arrangement by which a bank, financial institution, or export credit agency in the country of the exporter extends a loan, either directly to the foreign buyer of the exported goods, or indirectly through a bank in the buyer's country acting on his behalf.
Cabinet	A body of high-ranking state officials formed in conformity with Article 76 (1) of the 1992 Constitution of Ghana and typically consisting of the top leaders of the executive branch.
Credit Risk	Refers to the risk that a borrower may not repay a loan and that the lender may lose the principal of the loan or the interest associated with it or both.
Concessional Loans	Loans that are extended on terms substantially generous than loans contracted on the open market.
Debt Sustainability	The ability of a government to meet its debt obligations without requiring debt relief or accumulating arrears.
Derivative	A financial security with a value that is derived from an underlying asset or group of assets.
Disbursement	The transfer of the committed loan amount from the lender to the borrower once contractual conditions are fulfilled.
Domestic Debt	Debt issued on the domestic capital market.
Escrow Account	An account into which specified proceeds are lodged to pay off future debt.
External Debt	Debt liabilities owed by residents to a non-resident.
FRA	Fiscal Responsibility Act, 2018 (Act 982) is a law established to ensure

	fiscal responsibility rules to ensure macroeconomic stability and debt sustainability and to provide for related matters.
Government	An authority of state established by political processes that have legislative, judicial, or executive powers. In Ghana's case, it refers to the Central Government.
Government Securities	Negotiable debt obligations of a national government, comprising treasury bills, treasury notes and treasury bonds.
Guarantee	An undertaking to answer for the payment of another person's debt or obligation in the event of a default by the person primarily responsible for it.
Interest Rate	The cost or price of borrowing, or the gain from lending, normally expressed as an annual percentage amount.
ICM	The International Capital Market is part of the financial markets (mostly international) for selling and buying of long-term debt or equity-backed securities.
Loan	Structured agreement between two or more parties for money, property, or other material goods in exchange for future repayment of the value or principal amount, along with associated charges.
Long-Term Borrowing	A financing arrangement with a maturity above ten (10) years.
Maturity	The remaining time until the expiration or the repayment of an instrument.
Medium-Term Borrowing	A financing arrangement with a maturity between one year and ten (10) years.
MTDS	A debt management strategy planned to be implemented over the medium-term (usually three to five years) to achieve a composition of a desired debt portfolio with regard to the cost-risk trade-off.
Net Present Value	The difference between the present value of cash inflows and the present value of cash outflows (see Present Value).
Non-Concessional Loans	Loans that are contracted on market terms.
Note	Government of Ghana treasury security with maturity of one year.

On-lending	Government borrowed funds lent to SOEs and other institutions.
Order Book	Electronic list of buy and sell orders for a specific security or financial Instrument.
PFM Act	Public Financial Management Act, 2016 (Act 921) is an Act to regulate the financial management of the public sector within a macroeconomic and fiscal framework; and to define responsibilities of persons entrusted with the management and control of public funds, assets, liabilities, and resources.
Present Value	Current value of future sum of money or stream of cash flows given a specified returns rate.
Primary Dealer	A firm that buys Government securities directly from the Government with the intention of re-selling them to others.
Refinancing Risk	The risk associated with a borrower not being able to borrow to repay existing debt.
Seal of Quality	A satisfactory letter from Ministry of Finance indicating that all feasibility studies and risk assessments on a project have duly been done and the project is bankable.
Short-Term Borrowing	A financing arrangement in which repayment is normally less than a year.
SIGA Act	State Interest and Governance Authority Act, 2019 (Act 990) is a law established to oversee and administer the State interests in state-owned enterprises, joint venture companies and other State entities and to provide for related matters.
SOE	A legal entity partially or wholly owned by Government to conduct business on or on behalf of Government.
Suppliers' Credit	An agreement under which a supplier or an associate of the supplier, extends fixed credit to a consumer to assist the consumer in obtaining goods or services, other than credit or a loan of money, from the supplier.

List of Supplementary Documents

I. 1992 Constitution of Ghana;
II. Public Financial Management Act, 2016 (Act 921);
III. Public Financial Management Regulations, 2019 (L.I. 2378);
IV. Fiscal Responsibility Act, 2018 (Act 982);
V. Public Procurement (as Amendment) Act, 2003 (Act 663);
VI. Securities Industry Act, 2016 (Act 929);
VII. Securities Industry Regulations, 2003 (L.I.1728);
VIII. State Interest and Governance Authority Act, 2019 (Act 990).

62. Abbreviations

ABRP	Annual Borrowing and Recovery Plan
BoG	Bank of Ghana
CAGD	Controller and Accountant General's Department
DSA	Debt Sustainability Analysis
FRA	Fiscal Responsibility Act 2018 (Act 928)
GLT	Government Lending Transaction
GoG	Government of Ghana
ICM	International Capital Market
LA	Legislative Agreement
LI	Legislative Instrument
MDAs	Ministries, Agencies and Departments
MMDAs	Metropolitan, Municipal and District Assemblies
MoF	Ministry of Finance
MTDS	Medium Term Debt Management Strategy
NPV	Net Present Value
PFMA	Public Financial Management Act, 2016 (Act 921)
PIAD	Public Investment and Asset Division
PIM	Public Investment Management
PIP	Public Investment Plan
RMERD	Resource Mobilization and Economic Relations Division
SIGA	State Interest and Governance Authority
SOEs	State-owned Enterprises and Public Corporations both as defined in the PFMA
TDMD	Treasury and Debt Management Division