



REPUBLIC OF GHANA/ MINISTRY OF FINANCE

GHANA DEVELOPMENT FINANCE PROJECT (P169742)

TERMS OF REFERENCE

FIRM TO OVERHAUL THE LEGAL AND REGULATORY FRAMEWORK FOR THE CAPITAL MARKETS, DEVELOP ASSOCIATED REGULATION AND TRAIN SEC'S STAFF

REFERENCE NO. GH-GDFP-194705-CS-QCBS

I. BACKGROUND

The Government of Ghana has received credit from the World Bank through the Ghana Development Finance Project to support the deployment of long-term capital to enhance economic growth and increase the availability of funding for SMEs. A component of the project supports the implementation of the Capital Market Master Plan (CMMP), by providing critical technical assistance to enhance the capital market legal and regulatory framework and to build the capacity of the Securities and Exchange Commission (SEC), Ghana as well as that of the market operators.

The SEC is established by the Securities Industry Act, 2016 (Act 929) ('the Act') with the object to regulate and promote the growth and development of an efficient, fair and transparent securities market in which investors and the integrity of the market are protected.

Recent regulatory developments prompted the SEC with support from World Bank to conduct two (2) reviews of the Act 929 in 2018 to strengthen the legal and regulatory framework of the securities industry in Ghana. The reviews are "Legal Analysis of Act 929" in May 2018 and "Policy Framework in Preparation for the Review of Act 929 and Related Regulation" in December 2021. The reviews included fit and proper requirements; appeal of SEC's decisions by licensees; requirements for the constitution, licensing, establishment, and management of collective investment schemes (CIS) other than Unit Trusts and Mutual Funds; powers of the SEC to exchange information with other regulators; resolution powers; and provisions on insider trading.

The Government of Ghana intends to apply part of the credit towards the **review of Act 929 and development of associated regulations, as well as capacity building of SEC's staff.**

II. OBJECTIVE

The objective of the assignment is to review and recommend the necessary amendments to Act 929 and the accompanying regulations and guidelines in line with the best practices, including standards set by the

International Organization of Securities Commissions (IOSCO). Specifically, the assignment is aimed at positioning Ghana as one of the top tier securities markets globally. Therefore, the review should also be made in the light of government's policy of making Ghana an International Financial Services Centre (IFSC) in the sub-region.

III. SCOPE OF SERVICE

The consulting firm is expected to work with the SEC to review and recommend amendments to Act 929 to ensure a robust and regulatory framework for the Securities Industry in Ghana. The Scope of services to be offered by the selected consulting firm shall include:

- Engage key stakeholders to harness ideas to guide the work of the consultant.
- Undertake a comparative analysis of the legal regime in emerging and developed markets to inform the legal and regulatory framework to be proposed for Ghana.
- Undertake desktop research to synchronise all relevant laws to ensure comprehensive legal regime for the Securities industry.
- Prepare a review report on Act 929 and related regulations for the securities industry and, in line with international best practice, make policy recommendations for improvement.
- Ensure that the Regulatory Framework complies with IOSCO's Enhanced Multilateral Memorandum of Understanding (EMMoU) concerning consultation and cooperation and the exchange of information.
- Organise workshops to sensitise stakeholders on the draft review and recommendations for the proposed amendments to the Securities Industry Act.
- Conduct three stakeholder workshops as follows:
 - To discuss the initial findings and recommendations of the consultant.
 - To present the first draft amendment to Act 929 and related regulations and guidelines to sensitize and collate input from stakeholders into preparation of legislative Instructions.
 - To present the final draft for discussion with stakeholders.
- Prepare a report detailing the underlying policy reasons to serve as Legislative Instructions. (to be guided by the "Policy Framework in Preparation for the Review of Act 929 and Related Regulation " conducted in December 2021.
- Legislative drafting based on Legislative Instructions.
- Design and develop training manuals for the training of staff of SEC on the industry's legal frameworks. Prepare Preliminary Draft of the proposed Amendments to the Securities Industry Act, 2016 (Act 929) and related regulations and guidelines for SEC's review and comments if any.

IV. REPORTING REQUIREMENT

The Consultants (firm) will report directly to the Project Coordinator and Director General of The SEC. The Consultant will work closely with the SEC.

V. DELIVERABLES AND PAYMENT

S/N	DELIVERABLES	TIMING	PAYMENT (%)
1.	Inception Report detailing Consultant understanding of the assignment, methodology and approach as well as work plan.	Two (2) weeks after the commencement of the assignment.	20% after acceptance of the inception report
2	Submit review findings and recommendations following comparative analysis of the legal regime in emerging and developed markets to inform the legal and regulatory framework	Three(3) months after commencement of the assignment.	
3.	Draft amendment to the Act 929 and the relevant Regulations <ul style="list-style-type: none"> 1st Stakeholder engagement report 	Six (6) months after the endorsement of the inception report.	20% after acceptance of Draft amendments to the Act 929 and the relevant Regulations
4.	2 nd Draft amendment to the Act and the relevant Regulations <ul style="list-style-type: none"> 2nd Stakeholder engagement report 	Two (2) months after the submission of the 1 st Draft amendment to the Act	10% after acceptance of 2 nd Draft amendment and training manual
6	Report detailing the Legislative Instructions with corresponding policy explanations 3 rd Stakeholders engagement report	Two(2) months after the Submission of the 2 nd Draft	20% after acceptance of report
	Submit training Manuals and a training report conducted for SEC staff and other stakeholders.	Two (2) months after submission Legislative Instructions and Corresponding Policy.	
7.	Final draft amendment to the Act and the relevant Regulations	Two (2) months after receiving 2 nd Draft amendment, Legislative Instructions and Training Report	30% after acceptance of Final Draft Amendment

VI. DURATION AND LOCATION OF ASSIGNMENT

The duration of the assignment is Eighteen (18) Months and it will be located at SEC.

VII. FACILITIES, DATA, AND INFORMATION TO BE PROVIDED BY THE CLIENT

SEC shall provide the following to facilitate the work of the consultant:

- a. Securities Industry Act, 2016 (Act 929) and related regulations and guidelines
- b. Other background documents as requested by the consultants.
- c. Two reports on the review of Act 929 previously completed with support from the World Bank.
- d. The Client will provide the Consultant with two (2) counterpart staff to work with the Consultant.

VIII. QUALIFICATION OF CONSULTANT AND KEY STAFF

The assignment will be delivered by a firm with the following experience:

- Minimum of at least 10 years' extensive experience and knowledge in Securities Industry Law, operations of Securities Industry regulations/enforcement.
- Track record in the completion of similar assignments.
- Demonstrable experience working with international standards like IOSCO principles of securities regulation, The Hague Securities Convention and other internationally accepted benchmarks and best practices for regulating the securities industry.
- Evidence of experience working in Sub-Saharan Africa in a similar role.

The Firm must have the following composition of key Experts:

1 Team Leader.

- Must possess a minimum of Bachelor's degree in Law.
- A Master's degree in Securities Law, policy, regulation or any other related field
- At least ten (10) years' experiences in securities and capital market with good working knowledge on Securities Industry Act, 2016 (Act 929) and related regulations and guidelines
- Has practical experience in the operations of Securities (Exchange) Markets or has been a member of a recognized regulated body undertaking activities related to equity and /or debt Securities trading.

2. Capital Market Specialist

- Must possess a degree in Finance, Economics, Accounting or any other related fields.
- A professional qualification in securities related disciplines would be an added advantage.
- At least seven (7) years' experiences in securities and capital market in both developed and emerging countries.

- Has practical experience in the operations of Securities (Exchange) Markets or has been a member of a recognized regulated body undertaking activities related to equity and /or debt Securities trading.

3. Legislative Drafting Specialist

- Must possess a minimum of bachelor's in law and qualified to practice at the Ghana Bar.
- Formal certification/training in Legislative drafting will be an added advantage.
- At least ten (10) years' experiences in Legislative Drafting with good working knowledge on Securities Industry Act, 2016 (Act 929) and related regulations
- Practical experience in the operations of Securities (Exchange) Markets or has been a member of a recognized regulated body undertaking activities related to equity and /or debt Securities trading.

4. Legal Specialist with experience in in securities law and/or practice.

- Minimum of Bachelor's in Law and qualified to practice at the Ghana Bar.
- Minimum of Master's degree in Securities Industry law or related qualification will be an added advantage.
- Demonstrate relevant experience in legislative/legal drafting.
- Extensive experience in drafting Securities regulations, Law and Rule Books of Stock Exchanges

5. Legal Training Expert

- Minimum of Bachelor's in Law and qualified to practice at the Ghana Bar.
- Minimum of Master's degree in Securities Industry law or related qualification will be an added advantage.
- Training expert with experience in designing and implementing large institutional training programs in regulatory institutions.
- Demonstrated preparation of training manuals and delivery of capacity building programme.