LOAN CONTRACTION AND DEBT MANAGEMENT IN GHANA
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## Acronyms

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<td>ADF</td>
<td>African Development Fund</td>
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<td>AfDB</td>
<td>African Development Bank</td>
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<tr>
<td>AG</td>
<td>Attorney-General</td>
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<td>ARIC</td>
<td>Audit Report Implementation Committee</td>
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<td>BoG</td>
<td>Bank of Ghana</td>
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<td>BOP</td>
<td>Balance of Payments</td>
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<td>BRICs</td>
<td>Brazil, Russia, India, China</td>
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<tr>
<td>CAGD</td>
<td>Controller and Accountant-General’s Department</td>
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<tr>
<td>CAS</td>
<td>Country Assistance Strategy</td>
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<td>CEPA</td>
<td>Centre for Policy Analysis</td>
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<tr>
<td>CF</td>
<td>Consolidated Fund</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>CSP</td>
<td>Country Strategy Paper</td>
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<tr>
<td>DMD</td>
<td>Debt Management Division</td>
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<td>EERD</td>
<td>External Economic Relations Division</td>
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<td>ERFD</td>
<td>Economic Research and Forecasting Division</td>
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<td>ERP</td>
<td>Economic Recovery Programme</td>
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<td>FINSAP</td>
<td>Financial Sector Adjustment Programme</td>
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<td>FSD</td>
<td>Financial Sector Division</td>
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<td>GCB</td>
<td>Ghana Commercial Bank</td>
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<td>GHA</td>
<td>Ghana Highway Authority</td>
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<td>GIHOC</td>
<td>Ghana Industrial Holding Corporation</td>
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<td>GNP</td>
<td>Gross National Product</td>
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<td>GOG</td>
<td>Government of Ghana</td>
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<td>GPBG</td>
<td>Ghana Public Borrowing Guidelines</td>
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<td>GRA</td>
<td>Ghana Revenue Authority</td>
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<tr>
<td>HIPC</td>
<td>Highly Indebted Poor Country (initiative)</td>
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<td>IBRD</td>
<td>International Bank for Reconstruction and Development</td>
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IDA  International Development Association
IEA  Institute of Economic Affairs
IFC  International Finance Corporation
IFI  International Financial Institution
IMF  International Monetary Fund
ISSER  Institute of Statistical, Social and Economic Research
MDA  Ministries/Departments/Agencies
MDRI  Multilateral Debt Relief Initiative
MOFEP  Ministry of Finance and Economic Planning
NRC  National Redemption Council
NTRU  Non-Tax Revenue Unit
PARD  Policy Analysis and Research Division
PAC  Public Accounts Committee
PBA  Performance-Based Allocation
PID  Public Investment Division
PPP  Public-Private Partnership
PRSP  Poverty Reduction Strategy Paper
RSD  Real Sector Division
SAP  Structural Adjustment Programme
TOR  Tema Oil Refinery
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AFRODAD also expresses its deep appreciation to OXFAM NOVIB for their financial support for this project.
Preface

The causes of Africa’s debt crisis are varied and complex. Major emphasis on these causes has been placed on external factors while overlooking internal ones. Notwithstanding the external factors, it is clear that the causes of the debt crisis in many African countries are also attributable to the loan contraction process and the absence of a debt policy. The problem associated with the loan contraction process include among others, a weak institutional and legal framework, lack of accountability, transparency and inclusiveness. A lot still needs to be done to improve on the procurement, utilisation and management of public loans. The processes involved require legitimacy and systematic planning to be sustainable. This is important if economies in Sub Saharan Africa (SSA) are to move out of stunted economic growth and the poverty trap.

African countries have benefited from various debt relief initiatives. As of September 2013, 30 of the 35 Post Completion Point Countries which had qualified for the Highly Indebted Poor Country (HIPC) initiative are from Sub Saharan Africa (SSA).\(^1\) Similarly, by the end of September 2013, 29 out of the 35 countries which had reached the Completion Point under the Enhanced HIPC Initiative and benefited from Multilateral Debt Relief Initiative (MDRI) were also from SSA.\(^2\) While initiatives such as the MDRI help reduce the debt burden for these countries, there are new concerns that they may re-accumulate debt to unsustainable levels in the near future. Ironically, improved debt ratios of the post-debt relief era

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in most countries have meant new indebtedness for most HIPC as soon as they become eligible for new loans from bilateral lenders. Quite a number of factors have constrained the ability of African countries to repay the hard currency loans they are contracting at present when they reach their maturity. These include the recent global financial crisis and its effects on international commodity markets; the decline in the terms of trade of most low income countries; and the slowdown in and diversion of international aid flows. The reduction in financial resources means that the majority of African governments may fail to attain the Millennium Development Goals (MDGs) by 2015.

There is ample research evidence indicating that governments and international financial institutions often negotiate and sign loan agreements in a non-transparent and non-accountable way. In most situations, the executive may overrule parliament’s objections to new loan agreements reducing it to a mere rubber stamp of its fiat. On the other hand, civil society organizations have played a very limited, or no role in the whole process of loan contraction. The loan contraction process has no legislation that allows for the role of civil society participation.

This study focuses on Ghana which is said to be a star performer in Africa on debt. It aims to explain the process by which loans are contracted and how debt is managed in its historical and macroeconomic context. Trends in external and domestic debt since the country attained independence are analysed. The country’s own performance in national debt management against its stated strategy and macroeconomic performance are given. Borrowing from multilateral and traditional bilateral lenders, as well as from emerging lenders such as the BRICS is also profiled.
The legal and institutional frameworks for loan contracting and management is illuminated, showing how the involved institutions coordinate with each other and guarantee checks and balances in the process. The role of other stakeholders such as civil society groups in debt management is analysed to assess the levels of inclusivity of the process. It highlights the strengths and weaknesses of the current framework, while stressing the specific sectors that will benefit the most from capacity building.

Collins Magalasi PhD
Executive Director
AFRODAD
EXECUTIVE SUMMARY

When Ghana gained its independence from Britain in 1957, the economy appeared stable and prosperous. The country had $481 million in foreign reserves, was the world’s leading producer of cocoa, boasted well-developed infrastructure to service trade, and enjoyed a relatively advanced education system. On assuming office, the new government embarked on an ambitious mission to achieve a rapid transformation of the primarily agricultural Ghanaian economy to a mixed agricultural-industrial one. Investment was thus channelled, *inter alia*, into new industrial enterprises and agricultural projects. Resources were insufficient, however, to finance the envisioned public sector projects. Thus, when foreign currency reserves were exhausted, the government resorted to deficit financing and foreign borrowing to pay for essential imports and state projects.

Succeeding administrations were unable to overcome the restraints on growth posed by the debt burden, balance-of-payments imbalances, foreign exchange shortages and mismanagement in the country; and despite faithful implementation, in the 1980s, of the structural adjustment policies prescribed under the Economic Recovery Program (ERP), Ghana’s economic recovery was still uneven. To cover the deficits resulting from loans and increased imports, the government came to rely on rising levels of foreign aid. However, foreign investment, compared with aid, was weak except in the mining sector. By the end of 2000, the public debt to GDP ratio stood at about 181% of GDP, with public debt servicing accounting for 32% and 39% of total government expenditure in 1999 and 2000 respectively. Such high debt service requirements affected the government’s budget and impacted negatively on the

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3 AFRODAD, *Domestic Debt Management in Africa. The Case of Ghana* (Harare: AFRODAD, 2011) page 16
country’s balance of payments, leading the government, in 2001, to request debt relief under the terms of the Highly Indebted Poor Country (HIPC) initiative.

Prior to the 1990s, domestic debt was not an issue. The Financial Sector Adjustment Programme (FINSAP), launched in 1987 to address the deterioration in the financial sector, introduced a number of innovations including, inter alia, the issuance of various short-, medium- and long-term instruments to address the challenges in the money market. The need to finance fiscal deficits has remained the major cause of the government’s reliance on these instruments.

In spite of the overall reduction in external debt by the end of 2006 due to debt forgiveness, Ghana’s total public debt has been on the rise, with increases in both external and domestic debt. The result has been a gradual increase in the country’s Public Debt to GDP ratio which, although still within the target of around 60% in the medium term, points to an increasing debt burden on the economy.

Ghana’s first Medium Term Debt Management Strategy (MTDS 1) for the 3-year period 2011-2013 aimed to achieve an optimal mix of external and domestic financing at the least possible cost, subject to a prudent level of risk. The Strategy was adhered to fairly well; however, some challenges were also encountered, necessitating a revision to incorporate lessons learned. The follow-up MTDS 2 (2012-2014) thus seeks to ensure that (a) government financing needs are met at reasonable cost and subject to prudent levels of risk; (b) public debt levels are maintained at sustainable levels over the medium to long term; and (c) a vibrant domestic debt market is developed.

The 1992 Constitution (Clauses 181 and 182) establishes that all public sector loans must be authorized by Parliament.

The Loans Act of 1970 establishes that the Government of Ghana (GOG) may raise local or external loans on behalf of itself or any other public institution/authority. It authorizes the Minister of Finance to borrow both domestically and externally; and to extend guarantees on such terms and conditions as he approves. Nonetheless, according to the same Act, following approval by the Cabinet, the terms and conditions of both loans and guarantees must be presented by the Minister to Parliament for authorization.

The Bank of Ghana (BOG) Act (Section 31) entrusts the BOG with the issue and management of government loans publicly issued upon the terms and conditions agreed between GOG and BOG, *i.e.* BOG acts as fiscal agent for GOG. This is spelled out in greater detail in a Loan and Fiscal Agency Agreement (2004) between the two entities, on the management of public debt, with eleven listed responsibilities delegated to BOG under its mandate as fiscal agent.

The Financial Administration Act (Section 23) establishes the requirements for on-lending from the Consolidated Fund; it further specifies that all on-lending agreements must be approved by Parliament.
Primary legislation does not explicitly require mandatory annual reporting to Parliament on debt management activities and guarantees. This requirement is however stipulated in the Financial Administration Regulations.

The institutional arrangements guiding the borrowing process in Ghana are summarised in Section 4 of the Ghana Public Borrowing Guidelines (GPBG) prepared by the Debt Management Division (DMD) of the Ministry of Finance (MOF). The document outlines the legal framework for public borrowing/guarantee, sources of public borrowing, classification of borrowers/guarantors, types of facility; and guarantee and borrowing limits. It also identifies the various government institutions involved in the process of public borrowing/guaranteeing; and delineates their roles and responsibilities to this end.

The DMD plays a key role in the process as, in line with Article 171 of the 1992 Constitution of the Republic of Ghana and the Loans Act of 1970 (Act 335), the Minister of Finance has the sole mandate to borrow on behalf of the Government of the Republic of Ghana. This mandate is operationally conferred on the DMD to source, administer and manage the public and quasi-public debts, and to develop strategies for effective public debt management.

In exercising this mandate, the DMD coordinates, *inter alia*, with the main fiscal units of MOFEP (ERFD, NTRU), the Controller and Accountant-General’s Department (CAGD) and the Ghana Revenue Authority (GRA).

Chapter thirteen of the 1992 Constitution of the Republic of Ghana, which deals with finance, grants Parliament extensive powers in financial management of the country. By virtue of this
mandate, two (2) of the 15 standing committees of Parliament - the Public Accounts Committee and the Finance Committee – are required to play an important watchdog role in matters of public finance. Interaction with some Parliamentarians in these two (2) Committees revealed that overall, they were generally not dissatisfied with their involvement in the loan contracting and management process; however, they were all of the view that the public financial management system currently in existence must be improved as soon as possible, with a view to enabling them ensure adherence by Ministries/Departments/Agencies (MDAs) to the internal checks and balances outlined in the Constitution.

Parliamentarians also raised a fundamental concern regarding the matter of Executive Approval, where the President of the Republic could approve a loan without recourse to the Ministry of Finance. They underscored the critical need for Parliament to be able to play its objective oversight role, despite the obvious challenges.

A review of the entire legal framework on loan contraction and debt management, as well as the current debt strategy and guidelines, reveals that these documents all exclude mention of civic actors as participants in the process. One could therefore deduce that CSOs in Ghana are not guaranteed a meaningful role in loan contraction and debt management. This is not, however, necessarily a deliberate policy of the Ministry of Finance: there is no specific legislation precluding the participation of CSOs in the development process. The lack of any CSOs (distinct from think-tanks) specifically organised around debt contraction and management issues is likely to be a contributory factor.
The Ministry of Finance maintains that there is space available for CSOs to participate in the development process. Stakeholders are of the view that development needs to be decentralized – that this needs to be felt and practised at the District level; and that passage of the Right to Information Bill into law will help to provide CSOs the opportunity to participate meaningfully in debt contraction and management matters.
AN OVERVIEW OF GHANA’S PUBLIC DEBT

Evolution of External Debt

When Ghana achieved Independence in 1957 (the first country in sub-Saharan Africa to attain this status), its economy was solidly based on the production and export of cocoa (being the world’s leading producer) and minerals, particularly gold and timber. It had a well-developed transportation network, relatively high per capita income (US$390), very low national debt and $481 million in foreign currency reserves (equivalent to three years’ of imports).

The first President of the independent Ghana (President Kwame Nkrumah) believed in a rapid transformation of the Ghanaian economy along socialist lines. On assuming office, his administration channelled investment into new industrial enterprises and agricultural projects, nationalized foreign-owned enterprises and, wherever possible, “Ghanaianized” the public and private sectors. State-sponsored enterprises such as construction of the Akosombo Dam and the Volta Aluminium Company were undertaken, the New Township and Industrial City anchored around the port of Tema was developed, the Ghana Industrial Holding Corporation (GIHOC) was set up, roads were built, and schools and health services were expanded. Regions which had previously been neglected by the British received special attention in an attempt to address colonial imbalances.

Ghana, however, lacked sufficient resources to finance the public sector projects that President Nkrumah envisioned. For instance, under the adopted rapid industrialisation policy (import-substitution policy), there was no clear policy to develop agriculture
(traditionally the backbone of the economy) to feed the newly established industries, most of which relied on imported raw materials. The share of agriculture in GDP thus dropped from nearly 60% to 46% between 1957 and 1969. As the nation’s major traditional foreign exchange earner and also major contributor to tax revenue, the neglect of the agriculture sector, particularly the cocoa sector, contributed immensely to the decline in the country’s foreign exchange earnings and overall decline of the economy. The massive industrialisation effort juxtaposed with the country’s declining foreign exchange earnings resulted in the overreliance on and subsequent diminishing of the country’s foreign exchange reserves. When foreign currency reserves were exhausted, the government resorted to deficit financing and foreign borrowing to pay for essential imports and state projects.

This was especially true for the implementation of such projects as the Akosombo Hydroelectric Dam under the auspices of the Volta River Project. Ghana had large reserves of bauxite and hence the potential to become a major exporter of aluminium. However, this required building a smelter and a very large dam and power plant to feed it. That, in turn, was envisaged to support a national electricity grid; the cheap, abundant power was expected to jump-start and drive industrialization all over the country. It was also envisioned that the dam would set in motion the “forward and backward linkages” that would give Ghana economic independence. However, the implementation of this project among many others dictated the pace of debt accumulation in the country. The plants and equipment of the various projects were financed largely by foreign suppliers’ credits. These credits were quick-maturing, and the heavy reliance on them caused debt problems to emerge early in the post-independent development effort. External debt rose sharply from almost nothing at independence to nearly $600
million at end-1965; over 80% of this total were suppliers’ credits that had become due for repayment. Despite obvious gains from investment in roads, schools, health services, and import-substituting industries, by the mid-1960s Ghana was a nation ensnared in debt, rising inflation, and showing signs of economic mismanagement. The debt repayment crises were however partly resolved through debt rescheduling agreements in 1966, 1968 and 1970 respectively.

Despite considerable assistance and some debt relief as indicated above, the transition government that came into power after President Nkrumah was overthrown in 1966 was unable to overcome the restraints on growth posed by the debt burden, balance of payments (BOP) imbalances, foreign exchange shortages and mismanagement in the country. However, through the 1970s, the transition governments did not accrue significant amounts of additional foreign debt, as shown in figure 1 below. One factor contributing to this modest development in external debt was the fact that the international financial community had blacklisted the country following repudiation of some external debts by the Government of the National Redemption Council (NRC).

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5 AFRODAD (2011) page 15
As shown in fig 1 above, the country’s total external debt however rose in the 1980s in line with the country’s implementation of the Economic Recovery Program (ERP) under President Rawlings’ administration. The precarious nature of the economy made Ghana in 1983 accept to undergo structural adjustment reforms under the guidance of the World Bank and the International Monetary Fund (IMF). The ERP was designed to stimulate economic growth and exports, enhance private initiative and investment, and to reduce the role of the state in economic affairs. It also aimed at enabling Ghana to grow out of its debt and BOP problems through boosting exports and attracting foreign direct investment.

The program succeeded in reversing the downward trend in production and exports, especially in the cocoa, mining and timber industries. Gross National Product also grew at annual rates of at least 5% per year, per capita income slowly began to rise, and inflation abated. Conversely, the country incurred new debts during the ERP era. Most ERP projects were funded by foreign loans,
notably from the IMF. The country’s debt to GDP ratio is estimated to have increased from less than 5% in 1982 to more than 80% by 1992. Aiming to stabilize the financial structure and promote production in the export sectors, the government in 1983 utilized 4.2 billion dollars from external sources to rebuild infrastructure, finance energy imports for machinery and aid export industries. In addition, the failure of the ERP to make a noticeable difference in non-export sectors such as food production and to cushion unemployment resulting from the privatization of state-owned enterprises, created an impetus for even more expensive policies that skyrocketed foreign debt. Since Ghana had by now achieved a reputation for financially-sound reform, foreign investors were willing to lend even more money.

The external debt stock at the end of 2000 was 575% of revenue in present value terms and this far exceeded the internationally accepted limit of 250% for sustainability. The public debt to GDP ratio stood at about 181% of GDP with public debt servicing accounting for 32% and 39% of total government expenditure in 1999 and 2000 respectively⁶. Such high debt service requirements affected the budget of the government and impacted negatively on the country’s balance of payments.

In view of such debt developments, the Kufuor Administration duly indicated in the 2001 budget statement its intention of seeking debt relief under the Highly Indebted Poor Countries (HIPC) Initiative. The previous administration had taken the opposite position when it announced to international donors in May 1999 that Ghana would not resort to the HIPC initiative for debt relief because it wished to protect access by Ghana’s private sector to capital markets and maintain its long record as a responsible debtor. This government

⁶ Ibid. page 15
also perceived that the volume of concessional loans from Japan (Ghana’s largest bilateral donor then), and possibly other donors, would be reduced if Ghana decided to benefit from the HIPC initiative.\(^7\)

Following its request for debt relief, the country reached the HIPC completion point in July 2004, which resulted in a 14.6% decline in external debt from the end 2003 level of US$7 548.90million to US$6 447.88million by end of 2004. Further debt relief was received under the Multilateral Debt Relief Initiative (MDRI) in 2006, resulting in a substantial 65.7% decline in the stock of outstanding external debt from the 2005 level of US$6347.8million to US$2176.6million as of end 2006. The burden of external debt on the economy also declined significantly from 60% of GDP in 2005 to 10% as of end 2006 respectively.

However, as shown in Fig 2 below, the country’s external debt has been on the rise again, increasing by 329% from the end 2006 level of US$2176.6million to US$ 9342.99million as of June 2013, actually exceeding the pre-MDRI levels in nominal terms. Given the significant borrowing space that came from debt relief and the need bridge the infrastructure gap, and also further open up economic and /or productive sectors of the economy, the government continued the borrowing route. This was characterised by debut issuance of a US$750 million 10-year Eurobond on the international capital market in 2007, acquisition of new loan facilities from both multilateral and bilateral creditors targeted at the energy, water resources and health sectors in 2008; and further acquisition of additional loans to fund sectoral priorities in health, agriculture, rural development, highways(roads & bridges), communication & housing for public sector employees in 2010,

\(^7\) OECD/AfDB African Economic Outlook (Paris: OECD, 2002) page 162
among others. Consequently, the external debt to GDP ratio has also risen from 10% in 2006 to approximately 21.7% as of end 2012. However, as portrayed in fig 2 below, the annual growth in this ratio has been reserved.

**Fig 2: Trends in Ghana’s External Debt Stock between 2000 and June 2013**

Source: Compiled from the Bank of Ghana Annual Reports

Decomposition of the country’s external debt by creditor shows that as of end 2012, multilateral debt was the largest portion of external debt at approximately 48% of the total outstanding debt. However, as shown in fig 3 below, this is a lower dominance as compared to the end 2005 level of 89%. Even though more multilateral debt is in most cases more preferable due to its concessionary and long term nature, the country’s attainment of middle income status in 2010, the 2008/09 global financial crisis and the perceptions of being an oil producer have all contributed to the country’s limited access to concessional funding respectively. Furthermore, the country’s reputation as a star performer in Africa on debt and improvement

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in the ratings of the country by international rating agencies also attracted significant interest from non-traditional bi-lateral lenders resulting in the increase in bilateral debt respectively.

**Fig 3: Composition of External Debt Stock by Creditor, 2005 and 2012**

### 2005
- Multilateral Debt: 89%
- Bilateral Debt: 7%
- Commercial Debt: 4%

### 2012
- Multilateral Debt: 48%
- Bilateral Debt: 33%
- Commercial Debt: 19%

Source: Compiled from the 2005 and 2012 Bank of Ghana Annual Reports
Evolution of Domestic Debt

In addition to the evolution of external debt above, there have been developments in the country’s money and financial markets which have also contributed to the building up of domestic debt respectively. From independence up to the 1970s, government securities as well as the market for securities were almost non-existent in the country. The financial system, particularly the money market, was underdeveloped and the Treasury bill was not a popular financial instrument; thus the Government could not borrow from the domestic market to support the budget. Since foreign borrowing was also limited during the 1970s, as the international financial community had blacklisted the country following repudiation of some external debts by the National Redemption Council (NRC) Government, the country had to rely on the printing of money by the Bank of Ghana (BOG) to finance its budget deficits. This mode of financing, however, led to strong inflationary pressures in the country, and the deterioration of the financial sector respectively.

As part of the Structural Adjustment Programme (SAP), the Financial Sector Adjustment Programme (FINSAP) was launched in 1987 to address the deterioration in the financial sector, which was partly as a result of the controls and overreliance on this sector in the 1970s. In 1988, Bank of Ghana bills were introduced to take care of excess liquidity in the economy and to also provide an avenue of investment for banks. Improvements in the money market continued with the introduction of a 30-day bill to deal with the short end of the market and a longer dated bill (182-day, 2 years). Another innovation in the financial system was the introduction of the 3- and 5-year bonds.⁹ In line with these developments, Ghana’s

⁹ AFRODAD (2011) pages 38-39
money and/or domestic debt market continued developing with the issue of various short-, medium- and long-term instruments. The continuous need to finance fiscal deficits and the issuing of domestic debt instruments in line with the country’s domestic debt management strategies have all contributed to the increase in the country’s domestic debt stock respectively.

The Domestic debt stock which was cedi 784.2 million as of December 2000 has been on an upward trend, growing by 2547.2% to reach cedi 20,759.20 million as of June 2013. As shown in Fig 4 below, between 2000 and 2005 the annual growth in domestic debt was very modest, with stock levels remaining well below cedi 2000 million for these six years. However, in 2006 there was a sharp increase in the country’s domestic debt stock, which grew by 59% from the 2005 level of cedi 1823.9 million to 2893.7 as of end-2006. This sharp rise was mainly attributed to the government flotation of more indexed medium term instruments especially the 2-year Fixed Treasury Notes, 3-year Fixed Rate Bond and the 5-year GOG Bond. Between 2007 and 2009, the annual growths in domestic debt were not as high as the 59% record of 2006. Average annual growth for the three years was 28.2%. However, in 2010, 2011 and 2012, domestic debt grew by 36%, 43% and 57% respectively. For all these years, government expenditure rose faster than revenue collections, causing the country’s fiscal deficit and domestic debt to widen accordingly. The further 12% increase between December 2012 and June 2013 was mainly as a result of the issuance and growth of medium term securities.
Domestic Debt Instrument Composition

Domestic debt instruments are classified into 3 main categories namely short-term, medium-term and long-term instruments. As of June 2013, short-term instruments were comprised of 91-day and 182-day treasury bills and the 1-year treasury note, with the 91-day bill being the dominant instrument in this category. Medium-term instruments consisted of 2-year & 3-year fixed treasury note, 3-year floating treasury note (SADA-UBA), 3-year stock (SBG), 3-year stock (SSNIT), 5-year GOG Bond, 5-year Golden Jubilee Bond, GOG Petroleum Finance Bond, TOR Bonds and NPRA Stocks, with the 3-year fixed treasury note being the major instrument in this category. Long term instruments on the other hand consisted of Long Term Government Stocks, Telekom Malaysia Stocks, Revaluation Stock and various other government stocks.
The 2012-2014 Medium Term Debt Strategy stipulates the need to lengthen the maturity profile of the instruments as one of the strategic ways of developing a vibrant domestic debt market. As evident in fig 5 below, short-term instruments which were the major outstanding instruments as of end 2009 accounting for 43.3% of the total outstanding debt have declined in proportion to 28.1% as of end June 2013. On the other hand, medium-term instruments have increased from 34.5% to 58% during the same period respectively, signifying progress in lengthening the maturity profile of the instruments. However, the composition of long term instruments have remained subdued, actually declining from 22.2% as of end 2009 to 13.9% as of June 2013.

Fig 5: Domestic Debt Instrument Composition, %

Source: Compiled from the Bank of Ghana Publications
Holdings of Domestic Debt

The holders of the country’s outstanding domestic debt stock are categorized into the Banking Sector (Bank of Ghana and the Deposit Money Banks), Non-bank Sector (Insurance Companies, Social Security and National Insurance Trust (SSNIT) and Others i.e. rural banks, firms & institutions and individuals) and the Foreign Sector (which are the holdings of non-residents). Decomposition of these holders between 2010 and 2012 shows that, even though the holdings of the banking sector have been declining, the sector remained as the dominant holder of the government securities, with the deposit money banks leading in this category, as shown in Fig. 6 below.

Fig 6: Holdings of Outstanding Domestic Debt, 2010 - 2012

Source: Compiled from the 2011 and 2012 Bank of Ghana Annual Reports
It is notable that the other holders category have increased its holdings from an average of 14.3% as of end 2010 to 26.6% as of end 2012. The same applies to the foreign residents who also increased their holdings from 17.3% in 2011 to 20.6% in 2012. This is a positive development in terms of diversifying the investor base and thus reduce the dominance of the banking sector. The need to diversify the investor base is also aspired to in the country’s 2012-2014 MTDS. The excessive domination of by banks in the purchase of government securities is viewed not to augur well from a “systemic risk” viewpoint. A slight negative turn in the banking system could systemically jeopardize the refinancing of a large part of government debt. In this context it is important for securities to be issued to a wide range of investor types (institutions, private sectors, etc) to ensure a well diversified holding of government debt.

Further emphasis on the importance of this diversification can be viewed critical given the observed vulnerabilities in Ghana’s financial/banking system. A Financial System Stability Assessment Update done by an IMF team on Ghana in 2011 found out that, despite the progress made by the Ghanaian authorities in implementing reforms to enhance the financial system’s resilience to shocks and its contribution to growth, financial stability risks in the country had actually heightened. In the aggregate, the banking system was found to be liquid, profitable and highly capitalized. However, non-performing loans (NPLs) were found to be very high and a significant segment of the banking industry was also found fragile.

Stress tests undertaken by the team also indicated that a moderate deterioration in the asset quality of banks can lead to insolvency of several banks. In addition, gaps in the frameworks for bank resolution, systemic risk analysis, and crisis management rendered the Bank of Ghana (BOG) ill-equipped to deal with potential crises. The vulnerabilities reflect the interplay of several factors, but State involvement was seen as an important element. The State has controlling interests in five banks, accounting for 29% of the banking system assets. The performance of these state-owned banks (SBs) has been poor, due to lending practices that focus on developmental objectives at the expense of prudential considerations. The losses of these SBs have also created contingent liabilities for the government. The other contributory factors include deficiencies in commercial banks’ risk management, supervision and the insolvency regime.

**Trends in Total Public Debt**

In line with the above developments in both external and domestic debt, as of end 2012, the country’s total public debt stood at US$18.7 billion made up of external debt of US$8.8 billion & domestic debt of US$9.9 billion respectively, as shown in Fig. 7 below. This accounted for a total public debt to GDP ratio of 48.1%, an increase from the end 2006 position of 26.1% respectively. The stock of public debt increased further to reach approximately US$20 billion as of June 2013. With the significant reduction in external debt due to debt relief in 2006, domestic debt became more dominant in the total public debt portfolio in 2006 and 2007 respectively, with external debt taking over from 2008 to 2010. As of end 2011 however, there was a near split balance between external and domestic at 49.8% and 50.2% of the total debt respectively. As of June 2013, domestic debt was more dominant at 53.3% of the total outstanding public debt.
Debt Sustainability Analysis

The Total Public Debt-to-GDP ratio is currently capped at 60% in the country’s 2012-2014 MTDS. Regardless of the above mentioned increases in total public debt, a snapshot of the country’s performance against this ratio shows that with a Total Debt-GDP ratio of 48.1% as of end 2012, the country was still within its set threshold of 60%. A further analysis of external debt sustainability indicators using the World Bank/IMF external debt sustainability thresholds for countries with strong institutions and policies also shows that the country’s risk of debt distress has remained remarkably low over recent years as shown in Table 1 below.

11 Domestic debt figures converted to US$ using the end period cedi/US$ exchange rates from various Bank of Ghana Annual Reports
### Table 1: External Debt Sustainability Indicators, 2009-2012

<table>
<thead>
<tr>
<th></th>
<th>Benchmark</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>External Debt Stock/GDP</td>
<td>50%</td>
<td>19.4</td>
<td>20.5</td>
<td>20.8</td>
<td>21.7</td>
</tr>
<tr>
<td>External Debt/Exports</td>
<td>200%</td>
<td>65.8</td>
<td>67.0</td>
<td>59.4</td>
<td>65.4</td>
</tr>
<tr>
<td>External Debt Service/Exports</td>
<td>25%</td>
<td>4.3</td>
<td>4.0</td>
<td>2.9</td>
<td>3.0</td>
</tr>
<tr>
<td>External Debt Service/Budget Revenue</td>
<td>35%</td>
<td>9.7</td>
<td>6.8</td>
<td>6.4</td>
<td>7.4</td>
</tr>
</tbody>
</table>


### Emerging Actors and New Flows in Development Cooperation

In the last decade, many African countries have achieved rapid economic growth despite the global economic downturn and the on-going Eurozone crisis.

However, progress has been uneven and there are still gaps. The reality is that the global economic crisis has reduced the capacity of the traditional development partners\(^\text{12}\) to continue to provide development assistance at the same rate as before. Increasingly, also, it has become clear that development assistance is only part of the solution to finance sustained economic development.

\(^{12}\) Traditional development partners: Western countries belonging to the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD)
African countries therefore need to be very strategic in order to sustain and leverage the gains made over the last decade; and entering into new partnerships would be one aspect of an overall strategy to do this.

Ghana’s new-found Middle-Income-Country (MIC) status and the commencement of oil and gas production in commercial quantities have implications for the delivery of development assistance in the future to the country\textsuperscript{13}. The situation is thus opportune for Ghana to embrace development partners such as the BRICs (Brazil, Russia, India and China), while still cherishing its traditional partners.

Ghana does not necessarily regard the BRICs as “new” actors. To some extent, the country had various types of cooperation with these countries right from the early days of independence. However, what is new is the evolved nature of the relationship, \textit{i.e. from a political and humanitarian relationship to a commercial one}; and, as regards China in particular, in the volume of assistance given. The volumes range from the US$3bn China Development Bank (CDB) facility with a 25-year repayment period, to a US$750m loan from Brazil with a repayment period averaging 7 years. The terms are highly concessional and cover a variety of sectors including energy generation, food security, infrastructure, construction of agro-processing plants (to process farm produce), investing in water systems and construction of transport links. Annex 1 provides a breakdown of the status of current outstanding loans from India and China.

\textsuperscript{13} It is expected that there will be a reduction in inflows, with a shift from concessional to non-concessional financing
It is noted, however, that facilities sourced from the BRICs are usually tied, particularly when the funds are provided by their Exim Banks or Export Credit Agency. Thus, a greater share of the goods and services required under these facilities has to be procured from the relevant country, especially equipment and other capital expenditure.
In November 2010, Ghana launched its first Medium Term Debt Management Strategy (MTDS 1) for the three financial years 2011-2013. The Debt Management Division (DMD) in MOFEP, who involved the BOG, the Controller and Accountant-General’s Department (CAGD), as well as the Policy Analysis and Research Division (PARD) (now known as the Economic Research and Forecasting Division or ERFD) and the Financial Sector Division (FSD) in the Ministry spearheaded the drafting of the document. The main objective of the strategy formulation was to achieve an optimal mix of external and domestic financing at the least possible cost, subject to a prudent level of risk. On external debt, there was need to determine the right mix of concessional and non-concessional funds, whilst on the domestic debt, there was the need to determine the right mix of short- and long-term funds with the objective of lengthening the maturity profile of debt and developing the domestic market.

In this strategy, cognizance was taken of the likelihood of the drying up of concessional loans as Ghana attained middle income country status\(^{14}\). Emphasis was also placed on developing the domestic market to the stage where both the external and domestic financing sources would be competitively ranked. Five alternative financing strategies were considered in MTDS 1. Out of these alternatives, one was chosen (# 2) and a borrowing plan for 2011 was designed accordingly.

\(^{14}\) The re-basing of Ghana’s national accounts in November 2010, using 2006 constant prices, raised Ghana’s GDP by 65% and the GDP per capita to US$1,286 making Ghana a lower Middle Income Country.
A cursory look at the implementation of MTDS 1 showed that the strategy was adhered to fairly well. As of end-September 2011, the proportion of domestic debt to the public debt portfolio had increased to about 50% from 48% as of June 2010. There was also an issue of the 5-Year Government of Ghana Fixed Rate Bond as part of measures to increase the maturity profile of the domestic debt. Despite these notable achievements, the strategy met some challenges. Regardless of the increases in the maturity of the domestic debt portfolio by the issuance of 3- and 5-year fixed rate bonds, the Average Time to Maturity of the public debt portfolio had actually declined from 8 years in 2010 to 3 years by end September 2011. This was not consistent with the strategy and the set objective of actually lengthening the maturity profile of the public debt profile. Again, there was a need to revise the strategy to incorporate some changes when the IMF extended the country’s non-concessional window from USD800.00 million to USD3.4 billion.

Consequently, the second strategy (MTDS 2) was developed in December 2011, covering 2012 to 2014. The drafting of the document was spearheaded by the DMD with support from the Economic Policy and Debt Department of the World Bank, BOG, CAGD, the ERFD, the Real Sector Division (RSD) and the External Economic Relations Division (EERD) of MOFEP. Similar to MTDS 1, the main objective of the new strategy is to ensure that government financing needs are met at reasonable cost and subject to prudent levels of risk. It also aims to ensure that public debt levels are maintained at sustainable levels over the medium- to long-term horizon. Furthermore, developing a vibrant domestic debt market, by lengthening the maturity profile of the instruments and diversifying the investor base is also aspired to. Like the MTDS 1, four (4) alternative financing strategies were
identified, leading to the selection of alternative Strategy # 3. Borrowing Plans for 2012 and 2013 respectively were drawn up, in line with the chosen strategy. A comparison of Strategy 2 selected under MTDS 1 and Strategy 3 selected under MTDS 2 is made in Table 2 overleaf, whilst the 2011, 2012 and 2013 borrowing plans are included as Annexes 2, 3 and 4 respectively.

One of the major external financing assumptions made under this strategy was that having attained a lower-middle income status, Ghana is likely to have limited access to concessional funding which currently constitutes a larger proportion of the country’s external debt. In this regard, a gradual shift from concessional to non-concessional sources of borrowing is envisioned, including meeting infrastructural needs by adopting the Public-Private Partnership (PPP) approach. The primary source of such financing will be from the BRICs (Brazil, Russia, India and China), with a large proportion of the funds to be provided by China and Brazil in the form of mixed credits (i.e. Export Credits and Commercial loans).

In terms of domestic market financing, the assumed pricing of new domestic borrowing is set relative to US Treasury forward rates with some adjustment to reflect credit, exchange rate and liquidity differentials.

The borrowing ceiling has only been captured in the medium term debt strategies. According to MTDS 2, government continues to pursue an overall policy framework which aims at controlling the rate of growth of the public debt in relation to GDP with a public debt-to-GDP ratio target of around 60 percent in the medium term horizon. The same point is mentioned on page 8 of the maiden strategy, MTDS 1.
It is worthwhile to note that the Constitution of Ghana, as well as the enabling Acts governing debt management, do not explicitly mention the debt strategy\textsuperscript{15}.

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Strategy 2 (S2)</strong> selected among the five (5) designed Strategies (S1, S2, S3, S4 &amp; S5)</td>
<td><strong>Strategy 3 (S3)</strong> selected among the four (4) designed strategies (S1, S2, S3 &amp; S4)</td>
</tr>
<tr>
<td><strong>Description of S2</strong>: Switch to Non-Concessional External Debt &amp; More Long Term Domestic Debt resulting in a 50% Split between External Debt and Domestic Debt</td>
<td><strong>Description of S3</strong>: Domestic Debt Bias with more Long Term Domestic Debt resulting in 77.3% Domestic Debt and 22.7 External Debt</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Domestic and External Debt Composition under S2</th>
<th>Domestic and External Debt Composition under S3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Domestic Debt Composition</strong></td>
<td><strong>Domestic Debt Composition</strong></td>
</tr>
<tr>
<td>Maturity and/or Description of Instruments</td>
<td>As a % of Total Domestic Debt (100%)</td>
</tr>
<tr>
<td>1 year</td>
<td>30</td>
</tr>
<tr>
<td>3 year</td>
<td>30</td>
</tr>
<tr>
<td>5 year</td>
<td>20</td>
</tr>
<tr>
<td>7 year</td>
<td>10</td>
</tr>
<tr>
<td>10 year</td>
<td>10</td>
</tr>
<tr>
<td>Non-Market-Fixed</td>
<td>3.7</td>
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</table>

\textsuperscript{15} It should be noted that the MTDS 1 and 2 were developed long after the Constitution and relevant enabling Acts governing debt management had been enacted.
### External Debt Composition

<table>
<thead>
<tr>
<th>Description of Source and/or Type</th>
<th>As a % of Total External Debt (100%)</th>
<th>As a % of Total Public Debt (50%)</th>
<th>Description of Source and/or Type</th>
<th>As a % of Total External Debt (100%)</th>
<th>As a % of Total Public Debt (22.7%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semi-Concessional Fixed</td>
<td>13</td>
<td>7</td>
<td>Concessional (IDA)</td>
<td>35</td>
<td>7.9</td>
</tr>
<tr>
<td>Semi-Concessional Float</td>
<td>12</td>
<td>6</td>
<td>Concessional (Bilateral Fixed)</td>
<td>10.7</td>
<td>2.4</td>
</tr>
<tr>
<td>Concessional</td>
<td>50</td>
<td>25</td>
<td>International Capital Market (ICM)-Non-Concessional</td>
<td>11.7</td>
<td>2.7</td>
</tr>
<tr>
<td>10-year International Bond</td>
<td>25</td>
<td>13</td>
<td>Bilateral - Variable Non Concessional</td>
<td>37.7</td>
<td>8.6</td>
</tr>
</tbody>
</table>
THE LEGAL FRAMEWORK OF LOAN CONTRACTION AND MANAGEMENT

The Constitution of the Republic of Ghana (1992), the Loans Act (1970), the Bank of Ghana Act (2002), the Financial Administration Act (2003), the Financial Administration Regulations; and the Loans and Fiscal Agency Agreement (2004) together make up the most important legislation governing Ghana’s debt management arrangements. The scope of these statutes includes including on-lending and guarantees; the central government’s authorization of new debt by other public sector institutions; and the relationship between the government and the BOG in the area of public debt management.

The Ghanaian Constitution

The 1992 Constitution of Ghana has a number of provisions linked directly or indirectly to control over the fiscus, as well as loan contraction and management.

Chapter 8 sub-section 58 (1) to (2) vests all executive authority in the President, who will exercise it in accordance with the Constitution, as well as all laws made under it. In 58 (3) to (4) it is accepted that other officials may exercise functions or authority conferred on the President indirectly, subject to provisions of the Constitution; or any laws which are not inconsistent with it.16

Chapter 13 deals with Finance, where the Consolidated Fund (CF), the Contingency Fund and other public funds are established

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under the authority of Parliament in article 175. The CF is the depository of all funds raised on behalf of the government, which includes loans in line with article 4 (b). According to articles 178 (1) and (2), no money shall be withdrawn from the CF except to meet expenditure catered for in the Constitution, through an Act of Parliament, an Appropriation Act or without the authorisation of Parliament. Subsection 179 generally deals with the preparation and presentation of estimates of expenditure to Parliament for the Appropriation Bill.

Sub-section 181 deals directly with the matter of loans. It establishes that all public sector loans must have parliament’s authorization. In 181 (1), Parliament authorises the Government to enter into a loan agreement. Such an agreement has to be laid before Parliament for approval and does not come into force unless approved by a resolution of the same body. Article 3 prohibits any public loan to be raised which does not fall under an Act of Parliament.17 According to subsection 181 (4) (a), an Act of Parliament must be enacted which stipulates that the terms and conditions of a proposed loan should be laid before Parliament, and the loan will not enter into force without its approval. The Minister of Finance is required by article 181 (7) to present to Parliament any discrepancies relating to the granting of loans, their repayment and servicing.

Sub-section 182 (1) charges the public debt of Ghana on the CF, with the definition of public debt including “interest on that debt, sinking fund payments and redemption moneys in respect of that debt and the costs, charges and expenses incidental to the management of that debt.”18
Sub-section 187 (1) provides for the Auditor-General’s office through which all the public accounts of Ghana and all public offices and other departments will be audited. Within 6 months after the end of the immediately preceding financial year, the Auditor-General is expected to draw the attention of Parliament to any irregularities noted in the accounts. The President is however empowered to request the Auditor-General in the public interest, to audit, at any particular time, the accounts of any such body or organisation.

Ghana Loans Act, 1970 (Act 335)

This is the principal Act governing contraction and management of public debt for government or on behalf of public institutions in Ghana. It establishes that GOG may raise local or external loans on behalf of itself or any other public institution/authority. In terms of this Act, money received and repayment of loans are charged on the Consolidated Fund (CF) as articulated in sections eight and nine respectively. The role of various offices and institutions in loan contraction and management is also elaborated, with the Minister or Finance having the overall authority as well as wide discretion powers.

The Loans Act authorizes the Minister of Finance to borrow both domestically and externally; and to extend guarantees on such terms and conditions as he approves. Thus, the Minister spearheads any borrowing externally on behalf of government or other public institutions as articulated in Section 3. As regards domestic debt, the Minister may issue and sell securities such as bonds and promissory notes; he/she may borrow domestically such sums as are required for the payment of formerly issued domestic securities (this is covered in Section 1 (2) (a)).
The Minister must be consulted before any agreements for raising loans are brought before Cabinet for approval, in line with sections 1 (1) and 3. In line with section 6, statutory corporations also require the Minister’s prior approval, in writing, before raising a loan (except in those cases where the Minister decides otherwise). The Minister is responsible for the system of books and records of the debt. It is important to note here that these corporations are prohibited from investing their money in government securities, in line with subsection 51 (2) of the Financial Administration Act 2003 (Act 654).

The Minister is authorized by the Loans Act to authenticate (sign) agreements and issue securities and loan guarantees on behalf of the government. These powers may also be delegated to others in writing, through a Power of Attorney, in line with section 2 (1) to (3); section 4 and section 10 (2).

The Minister determines terms and conditions for various aspects of external and domestic borrowing in line with section 1 (2) (a) and (b); section 5 (1) and section 13. In line with section 12, the Minister has to place these terms or conditions of loans or guarantees before Parliament, which has to approve it by resolution.

As regards powers on borrowing limits/ceilings, the Minister may restrict supplementary borrowing by prescribed bodies (public institutions) which have existing guarantees in force. The Minister is required to lay annually, before Parliament, a statement relating to guarantees paid. As regards management of debt, the Minister is required to cause detailed record keeping for loans, securities and guarantees to be done in line with section 17 (1) (a) to (c). He/she is also empowered to make regulations for management of public debt, payment of interest and matters incidental.
The Bank of Ghana plays a key role in this Act. When deciding to extend a loan guarantee to external creditors for lending to the central government or to a government agency, the Minister is authorized to request the Bank, in writing, to guarantee loans or undertake other related obligations in line with section 13. (This is also stated in the Central Bank Act (Clause 51): “The Bank may at the written request of the Minister guarantee a loan granted to the government or an agency of government by a foreign institution.”) The Legal Department of BOG is responsible for reviewing the requests of such guarantees. Nonetheless, the Act clarifies, in article 15, that in the eventuality of a default by the guaranteed entity, thus triggering a liability for the BoG, the Minister may follow up with other entities (e.g. line Ministries) to ensure that the entity complies with its obligations; if this fails, the BOG becomes the debtor of last resort and is made responsible for paying the debt.

Two (2) other institutions also play key roles in this Act. The Cabinet approves loan agreements in line with section 1 (1) and section 3, prior to their submission to Parliament. Indeed, no terms and conditions of loan agreements will come into force without the approval of Parliament, in line with section 7. When presenting the terms and conditions of specific external loans to Parliament for authorization, the MOFEP must specify the purpose of the loan.

Furthermore, according to section 10 (3), “no agreement providing for a guarantee by the Government of any loan shall come into operation unless the terms and conditions of the agreement have been laid before the National Assembly and approved by them.

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19 According to the DMD, the most recent request for review received by the Legal Department was in January 2012; it appears that BOG has not issued a guarantee for the past three (3) years.
by resolution.”²⁰ (In practice, this provision is applied exclusively to external debt). This is in addition to their authority to approve guarantees by resolution in line with section 10.

In addition to approving the terms and conditions, Parliament may also prescribe limits necessary for borrowing. Again, Parliament may request that any agreements be brought before it for further approval in line with Section 11 (3). Parliament may also revoke any approval granted to borrow by government or on behalf of public institutions in line with section 11 (3).

The DMD does not request/obtain Parliamentary approval for individual domestic securities issuance, given that a blanket authorization is obtained with Parliament’s approval of the domestic debt issuance program when it approves the Annual Budget and the Annual Borrowing Plan.

Primary legislation does not explicitly require mandatory annual reporting to Parliament on debt management activities and guarantees. This requirement is however included in the Financial Administration Regulations, and enjoins MOFEP to submit quarterly and annual reports on debt and debt management activities to the Finance Minister and Parliament. While the Annual Budget Statement and Economic Policy of the Government includes a section on debt reporting, the quarterly reports are internal to the Ministry.

**Bank of Ghana Act, 2002 (Act 612)**

The purpose of the Bank of Ghana Act is to amend and consolidate

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the law relating to the Bank of Ghana and to provide for implementation of Articles 183 and 184 of the 1992 Constitution relating to the Bank. Part III (28-32) of the Act outlines, *inter alia*, the role of the BoG as the banker and fiscal agent of government and state institutions, including its responsibilities as the custodian of State funds; the banker for, and adviser to government on fiscal matters; its role in the management of the public debt, while Part V and Part VI deal with its role in domestic and foreign operations respectively.

**Financial Administration Act, 2003 (Act 654)**

This Act, under the portfolio of the Finance Minister, has numerous aspects linked to loan contraction and management. Broadly speaking, it deals with the management of public finances in Ghana, reinforcing regulations in other finance-related Acts (and the Constitution); as well as outlining the roles of key offices and institutions in pursuit of this. It outlines the powers and responsibilities of the Minister and establishes the requirements for on-lending from the CF. Examples of key actors are the Controller and Accountant-General, whose appointment and responsibilities towards this Act are described. This is a key office in relation to public debt management as it is responsible to the Minister of Finance for the custody, safety and integrity of the CF and other public funds designated under its care. The Act also reiterates the definition of public funds, which is also found in the Constitution.

Section 1 (a) (i) to (iii) on the powers and responsibilities of the Minister state that the incumbent will develop and implement a macro-economic and fiscal policy framework, supervise and
monitor the finances of the country and coordinate international and inter-governmental financial and fiscal relations. Indeed, public debt must be contracted, issued and managed within an overall macro-economic strategy or policy framework. The debt must also link directly to enforceable fiscal rules for sustainability. Monitoring of expenditure as it relates to public debt is a management issue linked with timely implementation of projects and prompt debt servicing. The international relations arrangements mentioned earlier in this Chapter are linked to the liaison role that the Ministry plays with multilateral and bilateral creditors.

The Act reinforces the duty by the Minister to share information with Parliament on the use of resources and public moneys in section 1 (3) (c) (i). This is important for shared decision-making on the public debt. This aspect is supported by section 40 (1) governing the preparation and gazetting of public accounts by the Controller and Accountant-General, which must also be transmitted to the Auditor-General and the Minister. All this aids public information on the use of loans.

One noteworthy aspect is section 12, which states that in the public interest, and with Parliament’s approval, the Minister may “recommend the deletion from the public accounts or other government accounts, in whole or in part, of any obligation or debt due to the Government or any claim by the Government.”21 This should be of concern when read together with section 23, which states that subject to article 181 of the Constitution, the “President may with the approval of Parliament, authorise the Minister to enter into an agreement to grant a loan from the Consolidated

The Act however states that this deletion is not total and the Minister can still institute proceedings for recovery if he/she sees it fit. According to subsection 73 (c) of this Act, the Minister of Finance is empowered to make regulations subject to the provisions of this Act, one area being loans from the CF.

Closely linked to the idea of potential loans from the CF, section 22 states that public moneys may be advanced from the CF. This is subject to article 181 of the Constitution; and under authority of regulations from the Minister and approved by Parliament. “Such Regulations shall specify the terms of release and repayment of advances and require the completion of agreements between the government and the borrowers as a condition for release... Parliament may require that interest be payable in respect of the advances and shall determine the rate to be paid.”

Section 13 reinforces article 178 of the Constitution above. Debt service is indeed part of any payments out of the CF, which are highlighted in this article.

Section 14 relates to appropriation of public money, where subsection (3) states, “When an appropriation for a department has been approved in accordance with article 179 of the Constitution, it shall be used only in accordance with the purpose described and within the limits set by the classification within the estimate of the department.” This should be seen to support the principle of proper deployment of external resources where debt management is concerned.

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22 Ibid.
23 Ibid.
24 Ibid.
Section 17 governs payment for contracts, where under subsection (1) it states, “Subject to the Loans Act, 1970 (Act 335), a contract that provides for the payment of any money by the government shall not be considered valid without the prior approval of the Minister.” The Act specifies further in this section that copies of such contracts must be submitted to the Auditor-General and to the Controller and Accountant-General.

Section 47 is concerned with the funding of statutory corporations, with loans granted to a corporation in terms of subsection 47 (b) being part of them. The Act reiterates that the accounts of these corporations (indeed, including those of public accounts, accounts of departments and public institutions provided for in the Act) should be audited in accordance with the provisions of the Audit Service Act, 2000 (Act 584). Section 54 requires a corporation to keep proper books and accounts in relation to these loans, ensuring that a balance sheet of assets and liabilities of the corporation for the year is included.

**International Bank, Fund and Finance Corporation Act, 1957**

This Act governs the relationship between the Government of Ghana and three international finance organisations: the International Bank for Reconstruction and Development (IBRD), the International Finance Corporation (IFC) and the International Monetary Fund (IMF). It also authorises Ghana’s Minister of Finance in Section 3 to sign the articles of agreement forming these three institutions, which formalise the country’s membership therein, as well as accept key amendments to these articles. In

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25 Ibid.
Section 4 the Act formalises Ghana’s participation in the Special Drawing Account of the Fund and stipulates that payments to this fund must come out of the CF. The Bank of Ghana is also authorised to hold any assets of the Special Drawing Account as part of its operations in this section. The Fund, the Bank and the International Finance Corporation have their legal personality/status, immunities and privileges catered for in line with their agreements, and these are acknowledged and internalised in Section 5 of this Act.

**Audit Service Act, 2000 (Act 584)**

This is the enabling Act for the audit office created in line with subsection 187 (1) of the Constitution.

Section 11 gives the office authority to audit the public accounts of “Ghana and of all public offices, including the courts, the central and local government administrations; of the Universities and public institutions of like nature; of any public corporation or other body or organisation established by an Act of Parliament.” All financial accounting systems in these bodies, as well as any changes to them, have to be notified to the Auditor-General, as well as have his/her prior approval. There are punitive measures to the head of any institution which experiences losses or cost related to non-compliance with this. Furthermore, these bodies will have an internal auditor in line with section 11 (4) who will submit reports to the Auditor-General. This implies that all bodies with borrowing powers, or which have funds borrowed for them also have the means to audit the use of loans. This is best understood in the context of the Internal Audit Agency Act, 2003 (Act 658), which establishes an Internal Audit Agency to, “co-ordinate, facilitate
and provide quality assurance for internal audit activities within the Ministries, Departments and Agencies and the Metropolitan, Municipal and District Assemblies.”

Section 12 of the Act governs the audit of all foreign exchange transactions. Briefly, no later than three months after the first six months of, and end of the financial year, the Bank of Ghana shall submit a statement of its foreign exchange receipts, payments or transfers in and outside Ghana. This aspect is critical when understood in the context of the role of BOG in external debt management, and as a supplementary source of information on debt flows. The Auditor-General is responsible for relaying information from these reports to Parliament.

Section 13 relates to examination of the accounts by the Auditor-General. Key amongst the elements of this section is (c), which states that the incumbent will ascertain whether “monies have been expended for the purposes for which they were appropriated and the expenditures have been made as authorised.”

A number of clauses support provision of information to Parliament, which can be viewed as supportive of principles of joint collaboration between committees or working groups, guaranteeing rights of access to information and public participation in decision-making. Section 16 states that the Auditor-General shall submit reports on the audits or reviews undertaken by him/her to Parliament, in the public interest. This is supported by section 20 on submission of the Auditor-General’s report to Parliament. Within six months immediately preceding the financial year to which the

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28 Government of Ghana Audit Service Act, 2000 (Act 584)
accounts relate, the Auditor-General’s office is required to report to Parliament, as well as draw their attention to any irregularities. In section 21, it is stated Parliament shall discuss the outputs of the Auditor-General’s office, as well as appoint any committees to deal with any matters arising from the report. Section 22 also enables Parliament to request an ad hoc audit relating to public funds.

Section 23 stipulates that the Auditor-General shall make his or her reports public, which can be deemed good for access to information and public participation. It is important to mention that the Act has punitive measures for anyone interfering with, or compromising the work of the Auditor-General.

An institution, body or organisation which is subject to auditing by the Auditor-General, shall establish an Audit Report Implementation Committee (ARIC) in line with Section 30, to implement audit recommendations and institutionalise any remedial actions. It is therefore plausible to expect systemic improvements where the report captures weaknesses in the handling of public funds in general and loans in particular.

The important issues to assess here, in addition to what has already been included, relates to how the Auditor-General is appointed in the context of provisions to ensure its independence from interference and its role in loan contracting and management. Section 10 (1) states that “the Auditor-General shall be appointed by the President, acting in consultation with the Council of State. This official may be engaged for a limited period of not more than two years at a time but not exceeding five years, and upon such other terms and conditions as the President shall determine acting in consultation with the Council of State.” These terms must be

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29 Ibid.
made public or clarified in the Act in the name of transparency and accountability to the public, to ensure impartiality. The incumbent’s remuneration, according to Section 10 (5) shall be determined by the President on the recommendations of a committee of not more than five persons appointed by the President, acting in accordance with the advice of the Council of State. This could be made more airtight. The President’s power over composition of consultative bodies and remuneration of the Auditor-General may not foster accountability.

**Debt Recovery (Tema Oil Refinery Company) Fund Act, 2003 (Act 642)**

This Act establishes a fund known as the Debt Recovery (Tema Oil Refinery Company) Fund under the CF. The TOR is authorized by law to operate both as a refiner of crude oil and seller of petroleum products and Ghana is the sole shareholder. The object of the Fund was to finance the payment of debts incurred by the Tema Oil Refinery Company and interest accruing on those debts. The sources for the fund are a combination of levies, budget allocations and money received from other sources for this purposes in line with section 3. The total payment by the Government to Ghana Commercial Bank (GCB) is one billion Ghana Cedis.

**Banking Act, 2004 (Act 673)**

This Act regulates the banking sector in conjunction with the Companies Code, 1963 (Act 179). The significance of this Act in relation to the topic is that in section 11 on permissible activities by banks, it allows banks to invest in financial securities in 11 (d). In 11 (l) banks are allowed to keep and administer securities. The banking sector is key in domestic capital markets as holders and traders of domestic debt instruments.
Central Securities Depository Act 2007 (Act 733)

This Act establishes a central securities depository to regulate dealings in securities and to provide for related matters. A commission regulates applications by persons intending to operate such a depository, whose multi-faceted functions will be monitored by the Commission in line with this Act.

Legislation giving other public bodies borrowing powers

In addition to the central borrowing authority vested in the Minister of Finance, a number of public entities such as statutory corporations, special authorities and commissions have the State’s authority to borrow by law. A few Acts creating these entities, as well as conferring borrowing powers on them are used here to illustrate this.

The Grains Development Board Act, 1970 (Act 324) establishes the Grains Development Board. Section 7 of this Act governs the funds of the Board, which include loans granted to it by the government or any other body or person.

The Water Resources Commission Act, 1996 (Act 522) establishes the Water Resources Commission, which is responsible for the regulation and management of the utilisation of water resources, and for the co-ordination of any policy in relation to them. In the context of this topic, Section 25 of this Act governs the funds of the Board, which include loans granted to it.

The objectives of the Ghana Highway Authority (GHA), which exists as a body corporate subject to Act 1997 (Act 540), are to carry out the responsibilities for the administration, control, development and maintenance of trunk roads and related facilities.
Section 25 of the Act governs the funding of the Authority from various sources. In the context of this study, subsection (b) of this section states that the Authority will be funded through “any loans granted to the Authority by Government or obtained from any other source.”

The matter regarding loans is further clarified in section 26 governing loans, bank accounts and investments, which in sub-section 26 (1) links this source of funding with article 181 of the Constitution, as well as the Loans Act. Sub-section 26 (2) allows the GHA to borrow temporarily through overdrafts to meet its obligations. There are however limits on the borrowing specified in this Act. Sub-section 26 (3) states that the Minister of Finance in consultation with the portfolio Minister can prescribe maximum sums that the GHA can borrow. Section 27 specifies who in the GHA will have the power to execute contracts and use the seal of the GHA.

Subsection 28 says that the GHA must present an annual budget to the portfolio Minister for the approval of Parliament not later than three months before the end of each financial year. This budget must essentially be seen as including borrowing income and costs. Sub-section 28 (3) (b) states that approved funds shall be released quarterly, in advance; this relates to or has impact on proper deployment of external resources and timely implementation of projects in the context of this study. Sub-section 31 (2) states that the books of account of the GHA shall be audited within three months after the end of each financial year by the Auditor-General or an alternate appointed by that office.

The National Petroleum Authority Act, 2005 (Act 691)

establishes the National Petroleum Authority, which regulates, oversees and monitors activities in the petroleum downstream industry; establishes a Unified Petroleum Price Fund and provides for related purposes. According to Article 54 of the Act, “subject to the provisions on loans in Article 181 of the Constitution, the Authority may obtain loans and other credit facilities on the guarantee of Government from the banks and institutions that the Minister for Finance approves.” The Fund is subject to audit by the Auditor-General’s office, like other public bodies.

THE INSTITUTIONAL FRAMEWORK AND COORDINATION

The institutional arrangements guiding the borrowing process in Ghana are summarised in Section 4 of the Ghana Public Borrowing and Project Selection Guidelines (GPBG)\(^{32}\), launched in November 2010 (see Annex 5). The document which seeks to legitimise all borrowing, as well as ensure prudence and better coordination in contracting public loans, was developed consistent with Articles 181 and 182 of the 1992 Constitution, provisions in the Loans Act of 1970 (Act 335), the Procurement Act of 2003 (Act 665), the Financial Administration Act of 2003 (Act 654) and the Financial Administration Regulations, 2004 (LI 1802); and takes into consideration other existing assumed procedures and policies and international best practices to ensure harmony in arranging public borrowing and in the execution of public projects.

The GPBG outlines the legal framework for public borrowing/guarantee; sources of public borrowing; classification of borrowers/guarantors; types of facility (non-exhaustive) currently being accessed by the Government of Ghana, as well as potential ones that may be explored; and guarantee and borrowing limits.\(^ {33}\) It also identifies the various government institutions, including Ministries, Departments and Agencies, as well as the relevant divisions/units involved in the process of public borrowing/guaranteeing; and delineates their roles and responsibilities to this end.

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\(^{32}\) The GPBG document was drafted by the Risk Management and Policy Analysis Unit of the DMD, MOFEP with input from the IMF.

\(^{33}\) The drafters of the document recommended that the GPBG be reviewed bi-annually to incorporate and/or address new findings/evolving challenges in the public borrowing/guarantee arrangements.
Parliament

Parliament in principle has several roles which are central to the process of managing the public debt. These can be summarised as legislative, financial (power of the purse), oversight (over the Executive), representational and deliberative.\textsuperscript{34}

According to the Constitution, no money shall be withdrawn from the CF except to meet expenditure catered for in the Constitution, through an Act of Parliament, an Appropriation Act or without the authorisation of Parliament. This is only after estimates of expenditure to Parliament are prepared and presented for the appropriation bill.

The constitution also stipulates that Parliament authorises the Government to enter into a loan agreement. Such an agreement has to be laid before Parliament for approval and does not come into force unless approved by a resolution of the same body. No public loan can be raised which does not fall under an Act of Parliament. The crafting and approval of the legal framework dealing with loans is also the prerogative of Parliament. The specific act dealing with loans also elaborates further on the role of Parliament in public borrowing. Briefly, no terms and conditions of loan agreements will come into force without their approval. This is in addition to their authority to approve guarantees by resolution. In addition to approving the terms and conditions, Parliament may prescribe limits necessary for borrowing. They may request that any agreements be brought before it for further approval; they may also revoke the approval granted to borrow.

Parliament also scrutinises the public accounts which include expenditure on borrowed funds, and acts on the reports. Preliminary work to this effect is undertaken by the Public Accounts Committee (PAC), which is one of the 15 standing committees of Parliament. Its primary function is to examine the audited accounts of government showing the appropriation of the sums granted by Parliament to meet the public expenditure of the government as presented to the House by the Auditor-General of Ghana; and of such other accounts laid before Parliament. Sittings of the PAC are conducted in the full glare of the public, to foster transparency and accountability. Parliament and its committees are given technical assistance by the Parliamentary Unit in the Auditor-General’s Secretariat. The Parliamentary Unit reviews audit reports sent to the sittings of the PAC, invites audit officers to explain issues raised in their reports, follows up on resolution of issues raised, assists the PAC in drafting reports to Parliament, delivering reports and evidence to Parliament and briefing the Auditor-General on outcomes of PAC meetings.35

Like the PAC, the Finance Committee is also a standing committee of Parliament. Bills and inquiries relating to finance and the economy generally are referred to this Committee for review. Requests for waiver or variation of any taxes imposed on individuals, businesses and donor-funded projects/programmes are reviewed, as are agreements on international loans, including individual donor-funded projects/programmes. The Finance Committee also monitors the foreign exchange receipts and payments or transfers of the Bank of Ghana in and outside Ghana and reports on these to Parliament once every six months.

35 Ghana Audit Service Profile On Sectors Within The Audit Service http://www.ghaudit.org accessed 23/7/2012
Chapter thirteen of the 1992 Constitution, which deals with finance, grants Parliament extensive powers in financial management of the country. By virtue of this mandate, these two (2) Committees clearly have an important watchdog role in matters of public finance. With regard to their pre- and post-budget roles on public debt, there have been suggestions that Parliament should carry out pre-emptive investigations in the performance of their functions, as well as demand prior involvement in major financial transactions undertaken by MOFEP. It is important, however, that the separation of powers between the Executive (the government) and the Legislature, as provided in the Constitution, is observed.

Interaction with some Parliamentarians in these two (2) Committees revealed varied responses. Some indicated that they were generally not satisfied with their involvement in the loan contracting and management process, even though the Constitutional mandate requiring Parliament to authorize all public sector loans was their guarantee that they would have a say at some point in the process. Respondents leaning to this view cited the importance of inclusivity; and bemoaned the fact that Parliament was not involved at the preparatory stage or preliminary discussions with lenders. The challenge of limited information and time to consider documents was also raised. Others were of the opinion that Parliament did not need to be involved in the day-to-day loan contracting and management process, since the role of Parliament is essentially and primarily one of oversight, rather than that of an implementer.

The varied responses notwithstanding, all respondents were of the opinion that Members of Parliament could do a much better and more thorough review of all financial matters brought before them if the loan agreements would be submitted early enough to give
Members sufficient time to thoroughly examine those documents when laid before the respective Committees. Invariably, a sense of urgency would accompany a number of loan agreements/donor-funded project/programme loan documents submitted to the Finance Committee for review – thus putting pressure on Committee members to conduct a hurried assessment. Thereafter, the Public Accounts Committee would similarly not be allowed sufficient time to also conduct a thorough review in line with its mandate.

The point was also made that the supporting documentation submitted to Parliament by the Ministry of Finance in respect of loans to be contracted was often insufficient. Specific mention was made of the failure of MOF to submit its debt sustainability analysis along with the accompanying documentation. The practice of also issuing the requisite Legal Opinion on loan agreements only AFTER they had been approved by Parliament and signed by the Minister for Finance was also questioned. A further complaint was that on some occasions, even after Parliament had reviewed loan agreements, the Ministry of Finance failed to take the recommendations of the Parliamentary Select Committees into consideration.

A few MPs critiqued the fact that on a number of occasions, loans were contracted by the government without the duly laid-down process being followed (i.e. such loans were neither planned for in the development plan nor in the budget). A more fundamental concern raised related to the matter of Executive Approval (legitimate though it was), where the President of the Republic could approve a loan without recourse to the Ministry of Finance. Questions posed regarding the budget process also elicited some
interesting reactions. In general, there is absolutely no consultation with Members of Parliament from both sides of the House before the Budget is submitted to Parliament.

While some felt this was not the best, as they believed a more hands-on involvement in its development would augur well for the later Parliamentary debate, others were of the view that the non-direct involvement of MPs in development of the budget was acceptable, as it made for a more objective review. In any case, Parliamentarians bemoan the fact that they are not in any way involved in the budget implementation process, nor are they invited to take part in any monitoring activities to track the utilization of a loan. They also believe that the public financial management system currently in existence must be improved as soon as possible, with a view to enabling proper internal checks and balances, as well as enable proper financial accounting and reporting by MDAs.

Overall, the role of Parliament in debt management appears to have been reduced to the mere fulfilment of a constitutional responsibility. Parliament’s legislative, financial, oversight, representational and deliberative roles give Parliamentarians a strong hand in debt management ‘on paper’; however, for a more meaningful and beneficial interaction, the necessary provisions in the Constitution must be enforced, to enable all parties play their roles effectively.

In the final analysis, MPs underscored the critical need for Parliament to be able to play its objective oversight role, despite the obvious challenges.

The Debt Management Division (DMD)

The Debt Management Division (DMD) of MOFEP, which embodies the typical front, middle and back office functions of
public debt management in Ghana, is tasked to manage the total public debt, which includes all financial obligations over which the Government exercises direct and indirect control. The process is generally divided into three stages, viz. (i) the preparatory stage (ii) approval stage (iii) signing and execution stage.

The first stage, broken down in more detail in Fig. 9 below, begins with identification of a project by the sector Ministry or government agency, and ends with the preparation of a memorandum to Cabinet for consideration and approval. Briefly, a government Ministry or agency (e.g. a statutory corporation, special authorities and commissions) identifies a project/programme, and then submits a proposal to the MOFEP. A processing fee of US$20,000 is charged to financiers or their agents (excluding multilateral and international capital market sources) during the project identification stage in the loan contraction process. This money will only be refunded after
successful approval and execution of the credit facility, acting as a check against unsolicited and unscrupulous proposals or agents.\textsuperscript{36}

Strategic branches of the MOFEP such as the Public Investment Division (PID) and the Project Financial Analysis Unit (PFA) do financial evaluation of the project and due diligence of new lenders where necessary. MOFEP puts new lenders through a due diligence process to ascertain their existence, credit-worthiness and readiness in the area of international financing. The exercise also looks at the source of funds to prevent government from engaging in any money laundering or other illegal activities. The resultant Due Diligence Report enables MOFEP to make an informed decision on the way forward with the proposed lender. This process applies also to guaranteeing or on-lending to a State-Owned Enterprise (SOE) or the private sector. Specific procedures exist for assessment of proposals which involve different market-related borrowing instruments.

If the preceding conditions are satisfied, MOFEP informs the applying agency or sector Ministry of satisfactory completion of due diligence and advises them to continue with the project. The MOFEP advises the sector Ministry to draft the requisite documentation for Cabinet approval.
The second stage (approval) - broken down further in Fig. 10 below - is a process beginning with Cabinet approval (or other feedback on the request submitted) to MOFEP and the requesting sector Ministry and ending with Parliamentary approval.\textsuperscript{37} If approval is given, Cabinet through a Cabinet Decision mandates the Minister of Finance and Economic Planning to borrow in line with the Constitution and enabling Acts described above. The Minister, in collaboration with the sector Ministry/government agency prepares a Parliamentary Memorandum on the proposed loan for consideration and approval. Legal analysis of the draft credit agreement is also done at this stage. The DMD is responsible for the organisation of all relevant documentation under the approval stage, and works closely with the Parliamentary Liaison Officer and other relevant departments.\textsuperscript{38}

\textsuperscript{37} Ibid. page 19
\textsuperscript{38} Ibid. page 20
When the Executive seeks approval from Parliament at the approval stage, the approval letter for a prospective loan issued by the Minister of Finance, and addressed to Parliament must include the project objectives, the financing terms and the decision of Cabinet on the matter.\textsuperscript{39} This means that the purpose for the intended borrowing is opened up to oversight so that Parliament can play its legal watchdog role.

\textbf{Fig. 10 Processes in the Approval Stage}

Under the third stage (signing and execution), the Clerk of Parliament advises the Minister of Finance of legislative approval, upon which the latter proceeds to sign the relevant executable agreements after final legal review (DMD, 2010, 21). Copies are lodged with the Attorney-General (AG), the Legal Division of MOFEP and the CAGD.

\textsuperscript{39} Ibid. page 19
The above-mentioned Controller & Accountant General’s Department (CAGD) also plays an important role in debt management. Amongst its Directorates is the Public Debts and Investment (PDI) through which CAGD carries out its mandate on public debt as specified in the Constitution and other legislation. The PDI has two departments: Foreign Loans; and Domestic Loans & Investments. PDI is responsible for the receipt and payment of external debt, domestic debt and HIPC receipts and drawings. It maintains the various schedules profiling each debt and instrument. It also works closely with the BOG on managing external debt accounts and processing payments.

Creditors may also play a role in the institutional framework or coordinate with the authorities. The IMF made valuable inputs into the drafting of the GPBG mentioned above, which is important to acknowledge in assessing the institutional arrangements and process.\(^{40}\)

**Coordination**

In accordance with article 171 of the 1992 Constitution of the Republic of Ghana and the Loans Act of 1970 (Act 335), the Minister of Finance has the sole mandate to borrow on behalf of the Government of the Republic of Ghana. This mandate is operationally conferred on the Debt Management Division of the Ministry of Finance, to source, administer and manage the public and quasi-public debts, and to develop strategies for effective public debt management.

In exercising this mandate, the DMD coordinates *inter alia* with the

\(^{40}\) Ibid. page 6
main fiscal units of MOF, which includes the Economic Research and Forecasting Division (ERFD), CAGD (which controls all expenditures of MDAs), the Ghana Revenue Authority (GRA) and the Non-Tax Revenue Unit (NTRU) of MOFEP. The ERFD collects the necessary information from these units and puts together the macro-economic framework for the annual budget and the medium-term (3-year) expenditure framework (MTEF). The DMD is responsible for preparing the annual and medium-term forecasts of borrowing and debt services for both domestic and external debt as inputs for the ERFD, based on the baseline and alternative macro-economic projections provided by the ERFD. Debt service forecasts, however, do not include sensitivity analyses to possible (adverse) changes in exchange or interest rates.

MOF conducts a Debt Sustainability Analysis (DSA) regularly. In addition to participating in the annual World Bank/IMF DSA exercise, it frequently revises the results during the year to assess the impact of a proposed new loan on the country’s debt sustainability and then informs the Minister. A technical committee including members from DMD, ERFD and BOG is responsible for carrying out the DSA.  

It is noted that the DSA is essentially an internal document, prepared as a means of providing information and serving as a guide for the Minister for Finance. It relates only to external financing; no such analysis is prepared in respect of domestic debt.

There are weekly information sharing sessions between BOG and DMD at policy and operational levels, e.g. through the weekly

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41 The last DSA update was prepared in September 2011 based on the revised quarterly fiscal and macro-economic forecasts, aligned with the (then) most recent IMF review. It analyzed the combined impact several new loans on debt sustainability up to 2016 under baseline, alternative and historical scenarios.
Treasury Management Committee, Auction Committee, and Open Market Operations Committee.

Ghana and Multilateral Lenders

The World Bank, which provides IDA resources; and the African Development Bank (AfDB), which provides ADF resources, constitute two (2) of Ghana’s most important multilateral partners. The Headquarters and the Country Offices of both institutions play important roles in the loan contracting and management process. The Multilateral Department of the External Economic Relations Division (EERD) is responsible for handling matters relating to Ghana’s multilateral development partners.

The AfDB follows the same Credit Policy as the World Bank: both institutions use two (2) criteria to determine which countries are eligible to access concessional (IDA and ADF) resources, viz.:

(a) relative poverty defined as GNI per capita below an established threshold and updated annually (in fiscal year 2012: $1,175);
(b) lack of creditworthiness to borrow on market terms and therefore a need for concessional resources to finance the country’s development program.

Ghana, for now, qualifies to access these concessional resources, although, in view of the country’s attainment of (lower) middle-income status, development partners have signalled a gradual decrease in such loans up to 2022.\footnote{This was discussed and agreed during the 2012 Consultative Group/Annual Partnership Meeting; the arrangements are outlined in the GoG/Development Partner Compact (2012-2022): Leveraging Partnership for Shared Growth and Development, signed by both multilateral as well as bilateral partners.} Thereafter, until Ghana is fully stabilized as a full-fledged Middle-Income Country (MIC), the ‘blend country’ regime would apply, whereby the country
would access a mix of concessional (IDA, ADF only) and non-concessional (IBRD, ADB) resources.

In allocating resources to eligible countries, the two Banks follow a four-step process, which is carried out at Headquarters level:

**First,** resources for Regional Operations (RO) and the Fragile States Facility (FSF) are set aside.

**Second,** the remaining resources are allocated to eligible countries based on annual assessments of country circumstances using the Performance-Based Allocation (PBA) formula, which has two (2) main determinants:

(a) country needs, based on the gross national income per capita and country population; and
(b) country performance, as given by the country’s performance assessment score, undertaken through the Country Policy and Institutional Assessment (CPIA).\(^{43}\) The CPIA assesses each country’s policy and institutional framework and consists of 16 criteria grouped into four equally weighted clusters: (i) economic management; (ii) structural policies; (iii) policies for social inclusion and equity; and (iv) public sector management and institutions. Portfolio performance is also assessed and, together with the CPIA, provides the Country Performance Rating (CPR).

**Third,** country-specific financing terms (loan, grant, or loan/grant combination) are determined using the agreed Joint World

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\(^{43}\) The main factor in this assessment is the individual country’s performance in implementing policies that promote economic growth and poverty reduction.
Bank-IMF Debt Sustainability Framework (DSF). Ghana currently benefits from outright loans, as well as a loan/grant combination. With specific reference to the AfDB, at this point in the process, a discount is applied to all grant allocations, and the discounted amount is partially re-allocated among ADF-only countries excluding Fragile States.

**Fourth,** debt relief to eligible countries under the Multilateral Debt Relief Initiative (MDRI) is deducted from beneficiary countries’ allocations, while resources provided by donors to compensate the two Banks for foregone reflows are re-allocated to all IDA-/ADF-only countries on the basis of the PBA.

After the allocations have been made, the next step – utilization - at the country level commences. It involves preparation of the country strategy, prioritization of planned projects/programmes; and implementation:

(a) **Preparation of Country Strategy:** The World Bank’s **Country Assistance Strategy** (CAS) and the AfDB’s **Country Strategy Paper** delineate the two institutions’ strategy for supporting Ghana’s development efforts. The Country Offices of both Banks, liaising with their respective Headquarters, identify a few focus areas from the Medium-Term National Development Framework where they deem their institution to have a comparative advantage, to channel the allocated resources. This is then shared with MOFEP and the relevant government MDAs for further consultations. MDAs subsequently submit proposed project/programme requests for funding.

(b) **Prioritization:** at this stage, the MOFEP prioritizes the requests for funding received from the MDAs. Basically, these requests
must be in line with the CAS/CSP; cognizance is also taken of the available budget, as well as national priorities. MoFEP consults extensively with the various MDAs until consensus is reached, following which a consultative workshop comprising stakeholders – government officials, development partners, Parliamentarians and representatives of Civil Society Organisations – is held to validate the country strategy.

(c) **Implementation:** a number of actions are involved in this next phase:

i) once a final decision is reached on which programmes to fund during the programme cycle under consideration, a **formal request for funding** (signed by the Minister of Finance) is conveyed to the Representative of the Bank at the Country Office, for onward transmission to the respective Headquarters;

ii) **appraisal missions** corresponding to each identified programme area are fielded to examine the feasibility of each project/programme;

iii) **negotiations** are carried out as and when each project appraisal report is prepared. At this point the contents of the appraisal document, including the terms of the loan, are painstakingly reviewed between the Bank and the borrowing country. On the government side, the negotiating team comprises representatives from MoFEP, the relevant MDA and the Attorney-General’s Department;

iv) following successful negotiations, the necessary steps are taken to obtain the requisite **approvals** (Bank, Cabinet, Parliament), followed by the Legal Opinion); after which the loan agreements are **signed**;
v) project/programme **execution** follows after this; the MDAs are responsible for carrying out and implementing the project/programme objectives. MOFEP (EERD) essentially plays a coordinating and supervisory role at this stage; 
vi) regular **monitoring** is undertaken by the implementing MDA; MOFEP also undertakes monitoring on a quarterly basis; and organises quarterly programme review meetings to ascertain if activities are on track; based on the progress reports, **evaluation** is also carried out as needed; 
vii) the project/programme cycle ends with formal **closure**, following which an audit of the project/programme is conducted. At this stage, the project/programme’s outcome is measured against its original objectives. (The audit entails a review of the project completion report and preparation of a separate report. These reports are made available to the borrowing country; they are not available to the public).
THE ROLE OF OTHER STAKEHOLDERS IN DEBT MANAGEMENT (INCLUSIVITY)

Civil Society

It is clear from the fore-going that the entire legal framework on loan contraction and debt management, as well as the current debt strategy and guidelines, all exclude mention of civic actors as participants in the process.

When looked at in historical context, it is plausible to assert that CSOs in Ghana are not guaranteed a meaningful role in loan contraction and debt management. Ghana is one of several African countries that were required to prepare and implement Poverty Reduction Strategy Papers (PRSPs) as a condition for debt relief. The process of drawing up the PRSP, which began in 2000, was supposed to be consultative and participatory in nature, giving citizens an entry point to participate in debt management.

However, participation in the process was largely symbolic, characterised by information sharing, given the dominance of government officials, despite the holding of national, regional and district level consultations. Not all CSO inputs were taken on board after these processes. Some key groups such as Labour were invited to participate after the PRSP was already produced.44

Civil society also suffered some constraints, particularly lack of access to adequate information linked to the PRSP, as well as

44 AFRODAD Africa’s Experience with the PRSP: Content and Process (Harare: AFRODAD, 2003), pages 57-59
the technical capacity to grasp it. Lastly, CSOs were not involved sufficiently in the macro-economic discussions, with information linked to this not made public during consultations.

To add to the challenges experienced with the PRSP process described above, in more recent times, there have been calls by CSOs for the publishing of an abridged version of the annual budget document to guarantee access to information and enable citizens to follow through its implementation.

The above-cited challenges faced by CSOs notwithstanding, it must be noted that the operating environment in Ghana for CSOs to interact with MoF has greatly changed for the better since AFRODAD’s findings in 2003. By the time the Government of Ghana hosted the Accra High Level Forum on Aid Effectiveness (HLF-3) in 2008, much progress had been made towards inviting the participation of CSOs in various fora once reserved exclusively for government functionaries. Indeed, a key lesson learned following HLF-3 was the importance of ‘enlarging the tent’ to create more space for civil society; the Busan HLF held in the Republic of Korea in 2011 was therefore also about keeping CSOs in the ‘enlarged tent’ and granting them more space.

True, CSOs are not listed among the entities identified in the GPBG, with their specific roles and responsibilities in the loan contracting and management process. This is because the MOFEP essentially sees this activity as part of its core mandate; and Civil

45 Comment by researcher: MOFEP first produced an abridged version of the annual budget document in 2005 (on the Budget Statement and Economic Policy for FY 2006); this was continued yearly until 2009 (on the budget statement for FY 2010), when it was halted by the government of the day. Currently, an e-version Citizen’s Budget on the 2014 Budget Statement and Economic Policy is currently available on the MOFEP website.

Servants, who are required to swear an Oath of Secrecy, are not at liberty to share any information without being expressly authorized to do so. Thus, while there are no specific legal preclusions to the participation of citizens in issues relating to debt, Civil Servants have traditionally opted to err on the side of caution where the sharing of potentially sensitive information could be construed as breaking one’s Oath of Secrecy.

Perhaps the lack of any CSOs (distinct from think-tanks such as CEPA, ISSER and IEA) specifically organised around debt contraction and management issues could also be a contributory factor in the seeming neglect by MOFEP of active CSO participation in these matters.

All the same, MOFEP has routinely and regularly, since the early 2000s, invited CSOs to attend fora related to the economy, in particular, the annual Consultative Group/Annual Partnership Meeting, where the resource envelope, among other issues, is discussed47. CSOs have also been strongly encouraged to participate in the various Sector Working Groups under the Multi-Donor Budget Support (MDBS) mechanism.

The Ministry of Finance maintains that there is space available for CSOs to participate in the development process. Stakeholders are of the view that development needs to be decentralized – that this needs to be felt and practised at the District level; and that passage of the Right to Information Bill into law will help to provide CSOs the opportunity to participate meaningfully in debt contraction and management matters.

47 Although CSO participation started out as purely representative, by 2007 the CSO representatives were given speaking slots to address the gathering; they were also invited to join the working groups that prepared the CG/APM
CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

Regardless of the increases in the country’s total public debt from approximately 26.1% of GDP at the end of 2006 after the HIPC/MDRI to at least 48.1% of GDP as of end 2012, it is still within the 60% total public debt-to-GDP MTDS target. Furthermore, the country’s risk of external debt has remained remarkably low with its external debt sustainability indicators prevailing below the World Bank/IMF thresholds for countries with strong institutions and policies.

As compared to the external debt sustainability framework done by the MOFEP in conjunction with the World Bank/IMF, there appears to be no separate analysis for domestic debt sustainability. This is of major concern given its dominance in the total public debt portfolio and its preference over external debt in the current 2012-2014 MTDS2.

In line with the MTDS2 objective of developing a vibrant domestic debt market by lengthening the maturity profile of the instruments and diversifying the investor base, progress has been made in both, though there is still room for further improvement. Short-term instruments which were the major outstanding instruments as of end 2009 at 43.3% of the total outstanding domestic debt, have since declined in proportion to 28.1% as of end June 2013. On the other hand, medium-term instruments have increased from 34.5% to 58% during the same period respectively. However, the composition of long term instruments have remained subdued, actually declining from 22.2% as of end 2009 to 13.9% as of June 2013. Furthermore, though the participation of other holders of
domestic debt has improved, thus signifying progress towards investor base diversification, the banking sector was still dominant holder of domestic debt instruments as of end 2012, holding 48.4% of the total outstanding domestic debt.

Ghana has made significant efforts to follow good public borrowing and debt management practices, and prevent recurrence of unsustainable debts which characterised the past. Before 2010 when the maiden debt strategy was launched, “public borrowing [had been] concentrated in a few departments and there were no clear procedures or guidelines.”

Notwithstanding the fact that primary legislation does not explicitly require adherence to a borrowing strategy, the country has also tried to adhere to borrowing strategies which take into account the broad macro-economic conditions pertaining in the country (MTDS 1 and 2). These strategies are supported by detailed guidelines and annual borrowing plans. The sequence of the authorisation process is also clear in these documents.


As regards institutional arrangements and coordination, the Constitution gives Parliament powers of approval over all public

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48 Debt Management Division, Ministry of Finance and Economic Planning, Ghana 2010 Public Borrowing and Project Selection Guidelines for Promotion of Responsible Borrowing and Lending Practices page 5
borrowing and debt management and includes clear guidelines for public borrowing and fiscal management.

The Minister of Finance and Economic Planning has sole authority to borrow on behalf of Ghana. The Minister presents borrowing requirements of MDAs or public bodies to Cabinet for authorisation and to Parliament for approval; this is the most important mechanism ensuring a controlled borrowing process. The Minister also authenticates (signs) agreements, securities and loan guarantees. In the absence of an autonomous debt management office (DMO), the Debt Management Division (DMD) in the MOFEP embodies the typical front, middle and back office functions of public debt management in Ghana. Other government agencies are also involved in loan contraction and management, and these include the Central Bank, the Auditor-General, line Ministries and the Attorney-General’s office, amongst others.

A number of mechanisms are included in the legal and institutional framework, which promote transparency, checks and balances. Examples cited above include the refundable processing fees charged to financiers or their agents acting as a check against unsolicited and unscrupulous proposals or agents. There is also due diligence effected on new lenders to prevent government from engaging in any illegal activities. Most importantly, the public accounts include the public debt, and these are scrutinised by Parliament in the public interest for any irregularities noted by the Auditor-General.

Notwithstanding these progressive policies and approaches, there are some areas in the loan contraction and debt management
framework which can be strengthened. At present there is no explicit mechanism by which a follow-up, monitoring and evaluation of the implementation of loan-funded projects can be done to determine whether the acquired loans are efficiently utilised to bring about the desired outcomes (particularly development purposes).

**RECOMMENDATIONS**

To the Government

- There is a need for a clear and comprehensive framework that assesses all aspects of domestic debt sustainability in the country’s total public debt analysis. With a large bias towards domestic debt, at 77.3% of the total public debt, and almost half of the 22.7% external debt being sourced from the non-concessionary international capital market and bilateral sources as indicated in MTDS 2, there is generally more use of commercial financing to fund the country’s various project investments. In this regard, it is critical that debt resources be directed towards self financing productive sectors that will generate resources commensurate with servicing the related debt obligations.
- There is need for continuous diversification of the domestic debt investor base to keep reducing the dominance of the banking sector and thus cushion the country against any potential inherent risks.
- There is also need for further deepening of the domestic debt market to enable the issuing of more long term instruments as compared to short term instruments
- It is prudent to set up a debt monitoring board that checks the conformity of any new project loan with overall economic policy before its approval. An example is Tanzania, which has the National Debt Management Committee (NDMC) an advisory
structure on public debt created in line with their Government’s Loans, Guarantees and Grants Act

To Parliament

- Constitutional and legislative amendments should be made for explicit reference to a national debt strategy, so that borrowing does not occur in a vacuum. An example is Tanzania’s Governments Loans, Guarantees and Grants Act (2003) which states in Subsection 32 that borrowing must fall in line with the objectives in the debt management strategy.

- CSOs must be given legislated recognition and a role in the process. Whilst existing parliamentary representation of citizens in debt management is acknowledged, participation through their civic organizations/watchdogs should be included as a way to enhance public finance ownership and accountability. Possible mechanisms to involve CSOs include publishing a citizen’s budget, carrying out outreach programmes for information sharing and allowing site visits. In this view, Ghana’s hosting of an annual policy fair is encouraged, and is recommended as an outreach platform where the public can gain an understanding of government’s borrowing policy.

- The President’s power over composition of consultative bodies and remuneration of the Auditor-General may also be loosened to foster accountability

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49 The NDMC or National Committee, an advisory structure on public debt. The NDMC is served by a Secretariat. The act also provides for a technical committee called the Technical Debt Management Committee (TDMC) of the National Committee (also known as the Technical Committee)

50 The United Republic Of Tanzania The Governments Loans, Guarantees And Grants Act, 1974 Amalgamated With The Governments Loans, Guarantees And Grants (Amendment) Act, 2003 page 13

51 A citizens’ budget is a non-technical presentation which enables broad public understanding of a government’s plans for raising revenues and spending public funds in order to achieve public policy goals. As regards policy fairs, Ghana introduced policy fairs in 2010 to offer Ghanaians the opportunity to evaluate policies being implemented to determine their relevance to socio-economic development and deepen the process of public consultation. See www.internationalbudget.org and www.modernghana.com
• Legislation should also ensure that line ministries provide regular progress reports on implementation of projects funded by loans
• Legislation should also ensure that line Ministries provide regular progress reports on implementation of projects funded by loans

To Civil Society

CSOs are also encouraged to build their capacity to engage on the authorities on this issue.
• They must play an advisory role in the process of loan contraction and debt management working as ‘think tanks’ working closely with negotiators and governments by influencing policy decisions, giving legal, technical or expert advice
• They can carry out research and advocacy during the project/programme proposal development and loan agreement negotiation stages
• They must monitor development projects and programmes, including how they are financed. This allows civic groups to monitor the effect of loan-funded programmes and projects, as well as the funds freed up as a result of debt relief initiatives
• CSOs should conscientise the public and raise awareness on issues of loans, grants and development finance issues
• CSOs should campaign for the passing of an access to information bill to strengthen citizens claims for government-held information such as public loans
REFERENCES

Luvanda, E. 2008 The Loan Contraction Process in Africa. The case of Tanzania Harare: AFRODAD
37. Tema Oil Refinery to get $450m loan to pay outstanding debts http://www.reportingoilandgas.org/2012/05/28/tema-oil-refinery-to-get-450m-loan-to-pay-outstanding-debts/ accessed 10/10/12
38. Tema Oil recovery website http://www2.torghana.com/ accessed 10/10/12
Annex 1: Status of On-Going Projects/Programmes (China, India) as at June 2013

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<td><strong>10.84</strong></td>
<td><strong>6.58</strong></td>
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Annex 1: Status of On-Going Projects/Programmes (China, India) as at June 2013 continued

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<td>FEBRUARY</td>
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Annex 2 2011 Borrowing Plan in line with the MTDS 1

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<th>Domestic/External Instruments</th>
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<th>% of total</th>
<th>GHS millions</th>
<th>Frequency</th>
<th>Purpose/Use of Funds</th>
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<td>100%</td>
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<td>100%</td>
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<tr>
<td>1-year</td>
<td>15%</td>
<td>15%</td>
<td>684</td>
<td>Weekly</td>
<td>Support Gov't Liquidity Requirement</td>
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<td>3-year</td>
<td>15%</td>
<td>15%</td>
<td>684</td>
<td>Bi-monthly</td>
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<td>5-year</td>
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<td>10%</td>
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<td>7-year</td>
<td>5%</td>
<td>5%</td>
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<td>Semi-annually</td>
<td>Projects</td>
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<td>10-year</td>
<td>5%</td>
<td>5%</td>
<td>228</td>
<td>Semi-annually</td>
<td>Projects</td>
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<tr>
<td>External</td>
<td>100%</td>
<td>50%</td>
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<tr>
<td>Semi-concessional Fixed</td>
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<td>Semi-concessional Float</td>
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<td>6%</td>
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<td>10-yr ICM</td>
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<td>593</td>
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### Annex 3 2012 Borrowing Plan in line with MTDS 2

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<th>Domestic/External Borrowing</th>
<th>% of subtotal</th>
<th>% of total</th>
<th>GHS million</th>
<th>Frequency</th>
<th>Purpose/Use of funds</th>
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<td>Total Borrowing</td>
<td>100</td>
<td>100</td>
<td>9,351</td>
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<td>Domestic</td>
<td>100</td>
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<td>Domestic - Short term</td>
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<td>Domestic - 2-3yr</td>
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<td>1,057</td>
<td>2 year monthly 3 year quarterly</td>
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<td>Domestic - non-mkt – Fixed</td>
<td>5</td>
<td>4</td>
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<td>External</td>
<td>100</td>
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<td>Multi – Concessional</td>
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<td>899</td>
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<td>Budget Support/programmes</td>
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<td>2</td>
<td>180</td>
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<td>720</td>
<td>Varied</td>
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Annex 4 2013 Borrowing Plan in line with MTDS 2

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<th>Domestic/External Borrowing</th>
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<th>GHS million</th>
<th>Frequency</th>
<th>Purpose/ Use of funds</th>
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<td>2 year monthly 3year quarterly</td>
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## Annex 5 Institutional arrangements for public borrowing in Ghana

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<th>PASE</th>
<th>STEPS</th>
<th>ACTION REQUIRED</th>
<th>SOLE SOURCING</th>
<th>COMPETITIVE BIDDING</th>
<th>GOVT SECURITIES</th>
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<td>Preparatory Conditions</td>
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<td>Project Identification</td>
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<td>Required MDAAs/SOE</td>
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<td>II</td>
<td>Submit Proposal to MOFEP</td>
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<td>Payment of processing fees</td>
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<td>May Required</td>
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<td>Required lending agent</td>
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<td>III</td>
<td>Financial Viability of Project</td>
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<td>Financial Evaluation</td>
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<td>Advice of Alternate sources of funding</td>
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<td>For Competitive bidding, make advert &amp; evaluate bids</td>
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<td>For ST GO, TMC determines PSER &amp; informs BOG</td>
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<td>for consideration</td>
<td>Required</td>
<td>May Required</td>
<td>Required</td>
<td>MOPF</td>
<td>MOFEP</td>
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<td>Required</td>
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<td>MOPF</td>
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<td>Mandate a fund manager to arrange funding for the project</td>
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<td>Not Required</td>
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<td>Seek a waiver from IMF</td>
<td>May Required</td>
<td>May Required</td>
<td>May Required</td>
<td>May Required</td>
<td>MOPF, IMF</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Organise road show</td>
<td>Not Required</td>
<td>Not Required</td>
<td>Not Required</td>
<td>May Required</td>
<td>MOPF, IMF</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>LT domestic Bond for project, seek approval</td>
<td>Not Required</td>
<td>Required</td>
<td>Required</td>
<td>May Required</td>
<td>MOPF</td>
</tr>
<tr>
<td></td>
<td>Approval</td>
<td>v</td>
<td>Cabinet to inform MOPF of its approval or decision to prepare Parliamentary memo to Parliament</td>
<td>Required</td>
<td>Required</td>
<td>Required</td>
<td>Required MOPF</td>
<td>sector Ministry</td>
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<td></td>
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<td>VI</td>
<td>Sealing PPB’s approval of sole financing</td>
<td>Required</td>
<td>Required</td>
<td>May Required</td>
<td>Required</td>
<td>MOPF</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Review of draft credit agreement</td>
<td>Required</td>
<td>May Required</td>
<td>Not Required</td>
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<td>MOPF</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Submission of project document for VFM</td>
<td>Required</td>
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<td>May Required</td>
<td>May Required</td>
<td>MOPF, MOJIA</td>
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<tr>
<td></td>
<td></td>
<td>VII</td>
<td>Request for Parliamentary ratification on memorandum</td>
<td>Required</td>
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<td>VIII</td>
<td>Clerk notify MOPF of Parliament Decision on request</td>
<td>Required</td>
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<td>Required</td>
<td>Required</td>
<td>MOFEP</td>
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<td></td>
<td>Signing &amp; Execution</td>
<td>IX</td>
<td>Signing of the credit agreement AG issues a legal opinion on the credit facility</td>
<td>Required</td>
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<td>Required</td>
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<td></td>
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<td>X</td>
<td>Other Condition precedent - Guarantees/PNs</td>
<td>Required</td>
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<td>Required</td>
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<tr>
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<td></td>
<td>(ii)</td>
<td>Other Conditions</td>
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Source: Ghana’s Public Borrowing Guidelines, November 2010