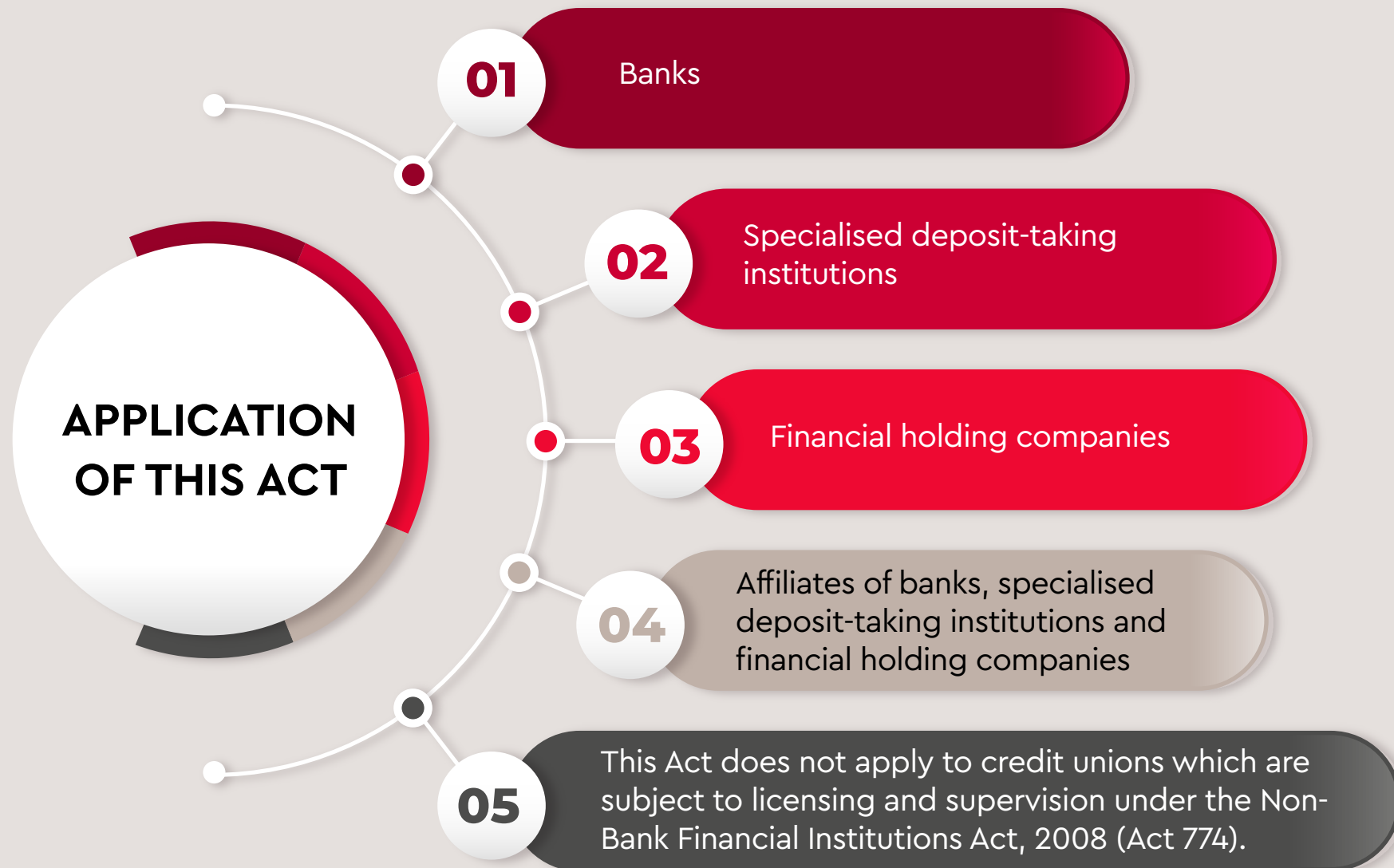


BANKS AND SPECIALISED DEPOSIT-TAKING INSTITUTIONS ACT, 2016, ACT 930

SNAPSHOTS OF NOTABLE PROVISIONS





APPLICATION OF THIS ACT cont'd

06

- ▣ This Act shall be read together with the Companies Act and shall not except as otherwise provided in this Act derogate from the provisions of that Act.

07

- ▣ Where there is a conflict or inconsistency between the Companies Act, 2019 (Act 992) and this Act, this Act shall prevail.

ISSUANCE OF LICENSES

The Bank of Ghana has the sole responsibility for the issuance of licenses to banks and specialized deposit-taking institutions; granting approval to foreign banks with respect to the establishment of representative offices; and the registration of financial holding companies.

A person who seeks to carry on a deposit-taking business shall apply in writing to the Bank of Ghana for a licence.

The Bank of Ghana shall not issue a licence to an applicant unless the Bank of Ghana is satisfied that;

- » the feasibility report submitted by the applicant is based on sound analysis under reasonable assumptions;
- » the proposed directors and key management personnel of the applicant are fit and proper persons;
- » the significant shareholders are suitable and the ownership structure of the proposed bank or specialised deposit taking institution will not hinder effective supervision, including supervision on a consolidated basis.

the paid-up capital of the applicant is adequate, and the original sources of capital are acceptable and do not include borrowed funds;

- » the arrangements for governance, including accounting, risk management, and internal control systems and records of the applicant are adequate;
- » the applicant is not a shell company; and
- » the applicant has complied with this Act, the Regulations, directives, and other legally-binding instruments made under this Act and any conditions that the Bank of Ghana may impose.


WHO CAN CARRY OUT A DEPOSIT-TAKING BUSINESS?

- » A person shall not carry on a deposit-taking business in or from within the country unless that person is a body corporate formed under the laws of Ghana.
- » A person that is not a body corporate formed under the laws of the country may, with the prior written approval of the Bank of Ghana, carry out a deposit-taking business in or from within the country.
- » A person shall not propose to be a shareholder of a deposit taking microfinance institution unless that person is a citizen.



BE INFORMED

Where a person is aggrieved with a decision of the Bank of Ghana in respect of withdrawal of the registration of a financial holding company; matters which involve the revocation of a licence of a bank or a specialised deposit taking institution; or where the Bank of Ghana determines that there is a serious risk to the financial stability or of material loss to that bank or specialised deposit-taking institution or financial holding company and that person desires redress of such grievances, that person shall resort to arbitration under the rules of the Alternative Dispute Resolution Centre established under the Alternative Dispute Resolution Act, 2010, Act 798.



REVOCAION OF LICENCE

The Bank of Ghana may revoke a licence, where;

- » the Bank of Ghana is satisfied that an applicant provided false, misleading or inaccurate information in connection with the application for a licence or suppressed material information;
 - » the bank or specialised deposit-taking institution fails to commence business within one year from the date the licence was issued;
 - » the bank or specialised deposit-taking institution fails to fulfil or comply with the terms and conditions stipulated in the licence;
 - » the bank or specialised deposit-taking institution carries on business in a manner which is contrary or detrimental to the interests of depositors or the public;
- » the bank or specialised deposit-taking institution has been convicted by a domestic court or any other court of competent jurisdiction of a crime related to money laundering or terrorist financing or is an affiliate or subsidiary of a parent or holding company which has been so convicted;
 - » in the judgment of the Bank of Ghana, the bank or specialised deposit-taking institution engages in unsafe or unsound practices; or
 - » the bank or specialised deposit-taking institution persistently contravenes this Act, the Regulations, directives or orders made under this Act.

DO'S AND DON'TS OF BANKS AND SPECIALISED DEPOSIT TAKING INSTITUTIONS

1

A licence issued by the Bank of Ghana shall not be transferred or assigned. A person who does this commits an offence and is liable on summary conviction to a fine of not less than two thousand penalty units and not more than four thousand penalty units.

2

A bank, specialised deposit-taking institution or financial holding company shall not permit to be outstanding, a financial exposure in respect of an affiliate of that bank, specialised deposit-taking institution or financial holding company except on terms which are nonreferential in all respects including creditworthiness, term, interest rate and the value of the collateral

3

A specialised deposit-taking institution shall not engage in the trading of foreign exchange or offer services denominated in a foreign currency.



DO'S AND DON'TS OF BANKS AND SPECIALISED DEPOSIT TAKING INSTITUTIONS cont'd

4

A foreign specialised deposit-taking institution shall not establish a representative office in the country.

5

A foreign bank which seeks to establish a representative office in the country shall apply to the Bank of Ghana with the information and documents that the Bank of Ghana may require, including permission from the supervisor in the country where that bank has its head office or is incorporated.

6

A foreign bank shall not establish a representative office in the country unless it obtains the prior written approval of the Bank of Ghana.

DO'S AND DON'TS

A bank or specialized deposit-taking institution shall not carry on a business other than any of the following:

- » acceptance of deposits and other repayable funds from the public;
- » lending;
- » financial leasing;
- » investment in financial securities;
- » money transmission services;
- » issuing and administering of means of payment including credit cards, travelers' cheques, bankers' drafts and electronic money; guarantees and commitments;
- » trading for own account or for account of customers in money market instruments,
- » foreign exchange, or
- » transferable securities;
- » participation in securities issues and provision of services related to those issues;
- » payment and collection services;
- » advice to undertakings on capital structure,
- » acquisition and merger of undertaking;
- » portfolio management and advice;
- » keeping and administration of securities;
- » credit reference services;
- » safe custody of valuables;
- » bancassurance;
- » electronic banking;
- » non interest banking services; and
- » any other services that the Bank of Ghana may determine

DO'S AND DON'TS

- » A bank or specialized deposit-taking institution is prohibited from incurring financial exposure exceeding twenty-five percent of its net own funds in relation to an individual or a group of connected persons, or a lower percentage set by the Bank of Ghana. This restriction aims to manage and control potential liabilities within the institution's financial framework.
- » A bank, specialised deposit-taking institution or financial holding company shall not take a financial exposure in respect of an affiliate if the aggregate of the financial exposures to the affiliates of the bank, specialised deposit-taking institution or financial holding company exceeds twenty-five percent of the net own funds.

A person shall not enter into an agreement or arrangement

- » for the sale, disposal or transfer of the whole or a part of the business of a bank, specialised deposit-taking institution or financial holding company;
- » for the amalgamation or merger of a bank, specialised deposit-taking institution or financial holding company with any other bank, specialised deposit-taking institution or financial holding company or any other institution; or
- » for the reconstruction of a bank, specialised deposit taking institution or financial holding company
- » unless the parties to the agreement or arrangement have submitted an application on the proposed agreement or arrangement and all other relevant information and documents for the approval of the Bank of Ghana.
- » The Bank of Ghana shall communicate its decision on an application under subsection (1) within six months from the date of receipt of complete information.

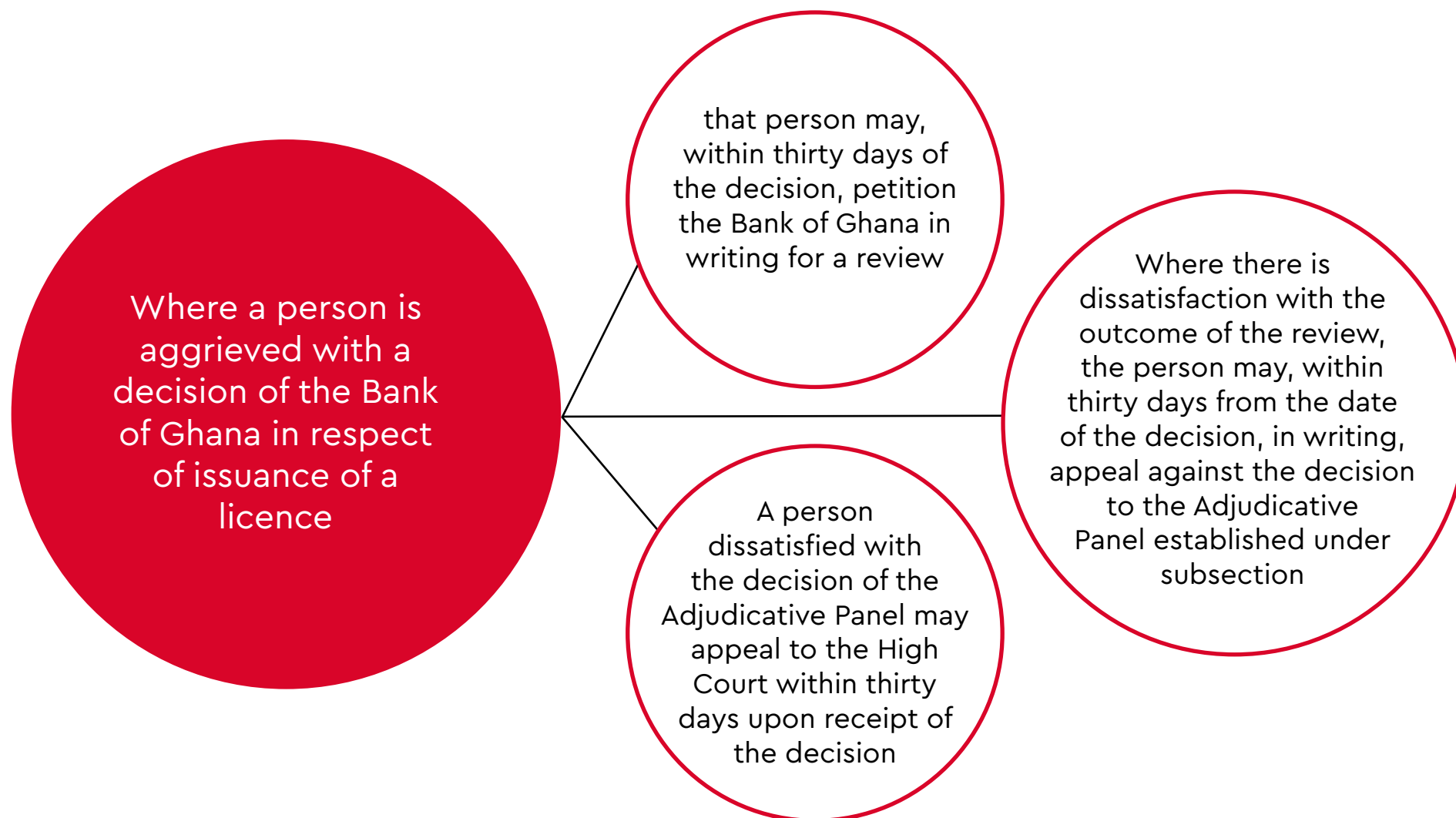
DO'S AND DON'TS

- » A bank, specialised deposit-taking institution or financial holding company shall not engage directly in a commercial, agricultural or industrial undertaking.

- » A bank, specialised deposit-taking institution or financial holding company shall not build, purchase or take a lease of immovable property except;
 - for the provision of business premises, or for the purpose of housing the staff of the bank or specialised deposit taking institution; or
 - for the provision of amenities for staff

- » A bank or specialised deposit-taking institution shall seek the prior written approval of the Bank of Ghana before it appoints a Chief Executive or Deputy Chief Executive of that bank or specialised deposit-taking institution.

DO'S AND DON'TS



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