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Member Of Parliament
Bawku Central Constituency
Representative to the ECOWAS Parliament

JANUARY 30, 2023

THE GOVERNOR

BANK OF GHANA

FIRST THORPE ROAD

ACCRA

Dear Governor,

STOP THE ILLEGAL EXPROPRIATION OF THE PROPERTY RIGHTS OF OWNERS OF DOMESTIC PRIVATE BANKS

This letter seeks to bring to light the following;

1. I contend that the Domestic Debt Exchange Programme will emasculate domestic private banks, as they will face capitalization and liquidity problems given that they will not receive timely and appropriate coupon payments from their bond holder (Government of Ghana).
2. I also contend that the directive of the Minister of Finance, to those banks he has so emasculated, to approach the Ghana Amalgamated Trust Plc (GAT) for support from the Ghana Financial Stability Fund (GFSF) opens them up to a takeover by investors in the GAT, if the Ghana Financial Stability Fund is not wholly publicly funded.
3. I further contend that political patronage and nepotism will inform the ultimate purchase of the shares in the private banks once GAT begins to dispose off these shares to realize the investments made in those banks (if GAT is not publicly funded).
4. I conclude that the policy and strategic options chosen by the Finance Minister enables the illegal and unconstitutional expropriation of the private property of the present owners of domestic private banks and, possibly, private international banks operating in Ghana.
5. I call for the mobilization of the available intellectual competencies and political forces to defend the bona fides property rights of owners of private banks in Ghana. Not to do so with a

sense of urgency will constitute the greatest dereliction of duty of our political class. And the collapse of present owners of these banks and the takeover of these banking interests, similar to what was orchestrated in the PDS saga and the intended ‘Agyapa’ deal, will capriciously, unlawfully and criminally transfer enormous wealth and concentrate it in the hands of those who might enjoy the patronage of the Minister of Finance. This could disorient our democracy and potentially destabilize our politics. The history of the recent banking sector “cleanup” remains fresh in our memory.

BACKGROUND

The Minister of Finance has announced a debt restructuring programme involving a debt exchange by government domestic bond holders. Our total external debt stood at about GHC383 billion as at November 2022. Domestic debt constituted GHC195 billion. Total debt was therefore GHC578 billion in November 2022.

Banks in Ghana hold about half of the entire domestic bonds of the Government of Ghana and individuals hold 11% of the Government bonds. The Minister of Finance has compelled domestic banks to “voluntarily” engage in a debt exchange with the Government in relation to the bonds they hold. This involves reduced coupons and deferred payments. Definitely, the liquidity, solvency and capitalization of these banks will be negatively affected. This also creates a problem for the financial sector as individual investors will be scared. Coming after the recent banking sector “cleanup” and the collapse of some banks it generated, people will shy away from depositing their funds in bank accounts. Our entire financial sector is in danger of collapsing.

The Minister for Finance has announced a Ghana Financial Stability Fund and directed banks to approach Ghana Amalgamated Trust PLC for a rescue package. This letter to the Governor and those copied seeks to point out the danger of this remedial prescription of the Minister for Finance.

USING LEGALLY FLAWED FRAMEWORKS TO INTERVENE IN BANKING SECTOR

I refer to my letter to your office dated 20th December, 2021 in which I brought to your attention, among other issues, the suit filed by Honourable Isaac Adongo, the Member of Parliament for Bolgatanga Central who is on the Finance Committee of Parliament, challenging the legality and structure of GAT in borrowing public funds from Government and BoG to fund

its equity investment in some selected indigenous banks which were required by BoG in 2019 to recapitalize their respective banks. We still contend that the issuance of the GHs2 Billion Sovereign Guarantee to GAT in support of its borrowing to invest in the selected indigenous banks was in contravention of Section 9(d) of the Banking and Specialized Deposit-Taking Institutions Act, 2016 (Act 930). GAT by investing in the selected banks acted as a financial holding company in contravention of sections 43(1),(2)(a), (c) and 44 of Act 930.

I am on record to have also issued a writ against GAT and other defendants in the Supreme Court challenging the legality of the incorporation of GAT as a “commercial entity” by the Minister for Finance acting through NTHC for and on behalf of the Government of Ghana in contravention of Articles 190(1)(b), (4) and 192 of the 1992 Constitution and subsequently advancing public funds to GAT in contravention of Article 181 (1) and (2) of the 1992 Constitution. My writ which is currently pending in the Supreme Court is also challenging the capacity of the Minister for Finance and GAT to rely on a Parliamentary approval for a Put-Call Option Agreement (PCOA) and a sovereign guarantee to enable GAT issue an IPO to sell off its shares in the indigenous banks to some third parties, in a grand scheme that expropriates the interests of the existing owners of the participating banks.

THE ILLEGALITY OF GAT, THE LACK OF LEGALITY OF THE GHANA FINANCIAL STABILITY FUND AND OPAQUENESS OF ITS SOURCE OF FUNDING

I refer again to previous correspondence exchanges with your office in the past over the issues of the legality and impropriety of the existence and actions of GAT for which reasons I had to proceed to the Supreme Court to seek to stop GAT. The matter is still before the Supreme Court. The Finance Minister has again announced a Ghana Financial Stability Fund (GFSF) without any parliamentary legislation establishing such a fund. There is no law defining the sources of financing for the GFSF. And no legal framework for its operationalization is known beyond the scanty public pronouncements of the Finance Ministry. The Governor of our central bank must ensure there is transparency and legal certainty anytime an intervention of this nature is proposed for the banking and financial sectors.

HOW GAT CAN BE USED TO UNCONSTITUTIONALLY EXPROPRIATE PROPERTY IN PRIVATE INDIGENOUS BANKS EMASCULATED AND DEPRESSED BY THE DEPRAVITY OF DDE AND PUSHED INTO THE GAT “RESCUE”

FRAMEWORK: You know by now that GAT is not a proper framework created by law to pursue a purely public purpose of rescuing privately owned indigenous banks hurt badly by the so-called financial sector “cleanup” of Ken Ofori Atta, the Finance Minister and the Bank of Ghana. GAT is a flawed public commercial vehicle. Minister Ken Ofori Atta has had over two years to fashion an appropriate legal framework but he has declined to do so for reasons that will be obvious soon. The DDE has further hurt the private indigenous banks as their bonds will not timeously attract the appropriate coupon rates for which they initially purchased the bonds. This has automatic negative capitalization, liquidity and solvency consequences for the banks.

Minister Ken Ofori Atta's proposed rescue approach is once again to push these banks to source solvency support from GFSF through GAT which already limps badly on both the legs of the inappropriateness of its legal and financing frameworks. Added to the banks that already suffered from the distressing effects of the "cleanup", all our indigenous private banks (suffocated by DDE) will be forced into the GAT framework which is funded in such a way that opens the banks to an ultimate takeover by those who invest in GAT to redeem the Sovereign Guarantee used to raise the GAT financing. Herein lies the real opportunity and danger for the ruling elite, through patronage, to determine those investors in GAT and effectively expropriate the interests in these indigenous banks through cronies. The likely modus operandi of GAT is to force the banks to devalue themselves as a function of the distress generated by Ken Ofori Atta's imposed DDE and threats of capital adequacy regimes. GAT then uses some form of privately sourced funding (maybe backed by a Government of Ghana guarantee) to invest in the banks. Managerial autonomy of these banks to steer themselves out of these crisis could be undermined as a concomitant of some form GAT engineered managerial reconditioning. Ultimately, GAT will say they will sell their shares in the "stabilized" banks to potential buyers determine purely on the basis of prearranged political patronage and at less than market value for the shares. Thus a structural rearrangement of ownership and control of the entire indigenous private banking sector is brutally executed. This then ensures a politically engineered concentration of enormous private wealth in the hands of a few chosen elites which is used to manipulate and equally inappropriately control the levers of democracy with a singular object of sustaining this unjust financial architecture. The potential of the above script being followed is borne out by the antecedent conduct of GAT in its dealings with banks in the wake of the banking sector crisis. It is surprising that even in the face of my suit in the Supreme Court challenging the legality of the establishment of GAT, the illegal and unconstitutional means of advancement of public funds to GAT and the challenge to the PCOA and sovereign guarantee to GAT in contravention of the 1992 Constitution, the Minister of Finance will elect to solicit further assistance from GAT to engage with affected banks to enable the banks access financial support from the GFSF.

MOBILIZING TO DEFEND PROPERTY RIGHTS PRIVATE OWNERS OF

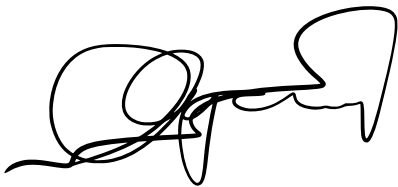
INDIGENOUS BANKS Flowing from the above analysis, the full force of the democratic institutions of Ghana must be mobilized to protect the property rights of the owners of indigenous banks in Ghana. Parliament must fight relentlessly to ensure that the framework for salvaging the banks and insurance institutions, in the wake of the forced crashing of the finances of Ghana through well calculated greed of Minister Ken Ofori Atta, is governed by a carefully thought through legal and institutional framework that protects them from the potential of take over by selfish parochial forces as we are witnessing now. Political parties must resist the schisms that, if not fought against, could see the wholesale transfer of interest in the financial sector to cronies of those holding the levers of political control of the financial sector or even indirectly to themselves. Those determine to defend our democracy should appreciate that there is no greater threat to political stability than a group determine to hang on to the levers of political power in defence of ill gotten enormous wealth. The judiciary must understand that the constitutional

protection of property rights can be upset in very nuanced ways and the current happenings in the financial sector in which a misguided Finance Minister has supervised the potential collapse of our financial sector and who seeks to use legally inappropriate means to intervene in the sector evinces a less than noble motives in his actions. We can starting looking out for this lack of good faith by first finding out whether if and how Databank and Enterprise Insurance liquidated most of their government bonds prior to the expression of the intention by the Minister for Finance to develop and implement the DDE Programme. An action that, if true, would have saved these two financial institutions from the devastating impact of the announcement of the DDE.

Lastly, the International Monetary Fund (IMF) team negotiating with the Government of Ghana should be mindful of pushing conditions that will ultimately lead to a collapse of the financial sector of Ghana. I also request of them to keep an eye on measures being taken by the Finance Minister which could result in domestic bank owners being expropriated of their assets in these banks. Our parliament must rise to the occasion and demand that the people's representatives must be the ultimate authorizers of the DDE Programme. **ULTIMATE RESPONSIBILITY OF THE BANK OF GHANA** Even though my recommendations for concerted action to stem the direction of collapse of the financial sector and unjust takeover, I write to you the Governor of the Central bank because you have ultimate responsibility for the health and well-being of the financial sector in Ghana. Its collapse under your watch indicts you. In view of the immediately forgoing, this letters points to lapses, potential criminal schemes and dangers that you must thoroughly investigate and take steps to prevent

Please accept considerations of my highest regards and assistances that we will take every step necessary to ensure the right thing is done.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Mahama Ayariga', with a stylized flourish at the end.

Mahama Ayariga, MP

Bawku Central

CC:

1. CEO, Ghana Bankers Association
2. CEO, GAT
3. Speaker, Parliament of Ghana
4. Attorney General and Minister for Justice
5. Leadership of Parliament of Ghana
6. Board Chairmen, All Banks in Ghana
7. Country Director, World Bank Office, Ghana.