

REMITTANCES & RAISING CAPITAL THROUGH THE DIASPORA: The Legal Environment

D.K.D. Letsa

Partner
Bentsi-Enchill Letsa & Ankomah
Legal Practitioners, Ghana



BENTSI-ENCHILL
LETSA & ANKOMAH



Primary Focus

- The Ghanaian legal environment for the inflow of remittances
- Some of the more secure areas or products for the investment of remittances.

Legal Environment

- Foreign exchange regime in either country of residence or home
- Can affect the volume and ease of remittance inflow or outflow.

National Environments

There are still countries with highly regulated foreign exchange environment

- Restrictions affect dealing, importing, exporting, exchanging
- Type of currencies
- Amount
- The days of “Cow Lane” and “Zongo Lane”
- Ghana/UK and many Diasporan countries – operate liberal foreign exchange regimes

Ghana – Liberal Regime



- Licensing regime – under the Foreign Exchange Act 2006
- Bank of Ghana (BoG) grants licenses for:
 - **Purchase and sale of foreign currency**
 - **Receipt or payment of foreign currency**
 - **Importation and exportation of foreign currency**
 - **Lending and borrowing of foreign currency**

Bank of Ghana licenses (contd.)

Institutions that require licenses:

- Banks
- Forex Bureau/Exchange
- Money Transfer Services
- Finance Houses
- Foreign Exchange Act permits – unlimited remittance – provided it is effected through an authorized dealer.

Bank of Ghana licenses (contd.)

- Transfers: in notes, coins, travellers cheques, drafts, etc.
 - **Bank transfer charges on remittances – 2.75% - recipient**
 - **Money transfer: Remitter pays charges – recipient receives local currency equivalent**
- Notwithstanding – a lot of remittances still come through friends, relatives, travellers, etc. with attendant problems

Doing the Exchange Business

Forex, Money Transfer – the mobilisers

- Set up and registration of legal entity – a company, partnership:
 - 2 weeks – 1 month
- Registration with GIPC:
 - 5 working days
- License from BoG: 60 days

Doing the Exchange Business (contd.)

Other requirements

- **Business Plan**
- **Financing**
- **Establish Corresponding relationship with other money transfer companies in other countries**
 - **Using their franchise or well-documented agreements**
- **Management Agreements: Technology transfer – registered with GIPC**

Some Investment Products

1. Life Insurance – Various insurance cos.

- Build up investment-linked life insurance packages

Regulatory Framework:

- The Insurance Act, National Insurance Commission

2. Pensions – National Pensions Act 2008

- Non Mandatory Scheme
 - **3rd tier for self-employed persons to join and pay contributions to a personal pension scheme**
 - **Personal savings account**
 - **Retirement account**
 - **No limit contribution**

Non Mandatory Scheme (contd.)

The scheme is subject to rules – Savings may be withdrawn but retirement a/c payable as monthly pensions

- ❑ Tax Reliefs – 35% of declared income deductible for income tax purposes
- ❑ Investment income and capital gains treated as deductible income.
- ❑ Contributor may pledge or charge part or all of accrued benefits
- ❑ Use of member's benefit to secure a mortgage for acquisition of primary residence.
- ❑ Regulatory – National Pensions Authority- Trustees, Custodians, Fund manager regulated

Investment Products (contd.)

- 3. Savings –Local/Foreign currency deposits, etc.**
- 4. Various Funds**
- 5. Rural Banks – 10 yr moratorium on dividends.**
- 6. Investing on the Stock Exchange in listed companies – through public offers- authorized brokers, licensed by GSE**
 - Securities and Exchange Commission,
 - Ghana Stock Exchange.
- 7. Investing in non-listed companies**
 - Due diligence required
 - Credit Reference Bureau
 - Credit Reporting Act – BOG licensed and regulated



Investment Products (contd.)

8. Home Mortgage Financing

- Home purchase financed through mortgage lending. More secure titles less cumbersome enforcement in event of borrower or mortgage breach.
- Home Finance Mortgage Act 2008

9. Banks and Money Transfer Cos.

- Back up financing by using remittance inflow as security for loan financings.
- Remittance Accounts were charged as security for loan payments

Watch Out !

➤ Money laundering – Anti-money laundering legislation

➤ Counterfeiting - dealing in notes, coins, travellers cheques, etc.



THANK YOU