

**PUBLIC FINANCIAL MANAGEMENT (PUBLIC INVESTMENT
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In exercise of the power conferred on the Minister responsible for Finance by paragraph (1) of subsection (1) of section 101 of the Public Financial Management Act, 2016 (Act 921), these Regulations are made this 10th day of August, 2020.

Preliminary Provisions

Purpose of Regulations

1. (1) The purpose of these Regulations is to prescribe the method for the preparation, evaluation and execution of investment projects.

- (2) For the purpose of subregulation (1), the Regulations shall
- (a) establish processes and procedures for delivering investment projects;
 - (b) provide a standard framework to guide project identification and planning, pre-feasibility and feasibility studies, selection and budgeting, implementation, monitoring, evaluation and reporting of investment projects by covered entities;
 - (c) establish the Integrated Bank of Projects as part of the Public Investment Management System within the Ghana Integrated Financial Management Information System, in furtherance of
 - (i) subsection (1) of section 4 of the Act; and
 - (ii) the Public Financial Management Regulations, 2019 (L.I. 2378);
 - (d) prescribe the roles and responsibilities of key stakeholders in the public investment management process;
 - (e) prescribe and ensure adherence to the project cycle; and
 - (f) enhance transparency, accountability and the prudent use of public resources.

Application of Regulations

2. These Regulations apply to

- (a) a covered entity unless otherwise expressly stated;
- (b) investment projects financed or co-financed from budget revenues and proceeds, within the meaning of the Act and the Public Financial Management Regulations, 2019 (L.I. 2378);

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- (c) investment projects irrespective of the funding source which may be wholly or partially funded from resources or guaranteed by Government;
- (d) public private partnerships; and
- (e) investment projects, the implementation of which requires
 - (i) the issuance of guarantees as specified by the Act, within the meaning of legislation governing public debt; or
 - (ii) the undertaking of any other commitments that constitute liabilities to the budget.

Responsibilities for Public Investment Management

Responsibility of Cabinet

3. In furtherance of subregulation (3) of regulation 31 of the Public Financial Management Regulations, 2019 (L. I. 2378), the Public Investment Plan approved by Cabinet shall be consistent with the Debt Sustainability Analysis, the Medium-Term Fiscal Framework and the Medium-Term Expenditure Framework.

Responsibility of Parliament

4. Parliament shall ensure that budgeting and appropriation for investment projects are for investment projects which are approved and prioritised in the Public Investment Plan.

Responsibilities of the Minister

5. The Minister shall

- (a) issue the Seal of Quality for investment projects recommended by the Public Investment Programme Working Committee as having met the criteria for project viability and bankability;
- (b) ensure compliance with these Regulations by covered entities;
- (c) issue guidelines to facilitate efficient and effective public investment management;
- (d) set up the criteria for appraisal of investment projects at the pre-investment stage;
- (e) develop and implement an efficient and effective Public Investment Management System to be used by all covered entities;

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- (f) ensure capacity building and strengthen the capacity of covered entities to use the public investment management processes and systems;
- (g) present the Public Investment Plan to Cabinet for consideration and approval; and
- (h) ensure that financing agreements with any investor, including development partners, are for investment projects identified in the approved Public Investment Plan, and that have been uploaded onto the Public Investment Management System.

Responsibilities of Division in the Ministry responsible for public investment management

6. The Division in the Ministry responsible for public investment management shall

- (a) review Project Concept Notes submitted by a covered entity, public corporations and state-owned enterprises and recommend whether or not pre-feasibility and feasibility studies should be undertaken;
- (b) review project pre-feasibility and feasibility study reports submitted and provide summary briefs including decision guidance criteria for the consideration of the Public Investment Programme Working Committee established under regulation 8;
- (c) oversee the implementation of the Public Investment Management System;
- (d) compile the Portfolio of Projects which have been prepared by covered entities and have received the Seal of Quality;
- (e) consolidate and facilitate the approval of the Public Investment Plan consistent with the Debt Sustainability Analysis, the Medium-Term Fiscal Framework and the Medium-Term Expenditure Framework;
- (f) assign a unique code to an investment project in the Public Investment Plan which will be used for budgeting and transactions throughout the project life;
- (g) prepare and submit to the Public Investment Programme Working Committee for consideration, a report of all unfunded investment projects in the Portfolio of Projects;

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- (h) prepare analytical reports based on project information in the Public Investment Management System to inform decision making on policy planning and budget management;
- (i) report on major investment projects which are part of the Public Investment Plan and the budget;
- (j) collaborate with covered entities to facilitate the capacity building of staff on public investment management processes, tools and techniques; and
- (k) serve as the secretariat to the Public Investment Programme Working Committee.

Responsibilities of Principal Spending Officer

7. A Principal Spending Officer shall have the following responsibilities in respect of public investment management:

- (a) ensure the development of the Public Investment Plan of the covered entity consistent with the Medium-Term Expenditure Framework;
- (b) ensure the preparation of Project Concept Notes, Pre-Feasibility and Feasibility Study Reports for investment projects in accordance with these Regulations;
- (c) ensure submission of Project Concept Notes, Pre-Feasibility and Feasibility Study Reports of investment projects for review and recommendation for approval and inclusion in the Portfolio of Projects;
- (d) allocate resources necessary for the efficient and effective preparation, evaluation and implementation of investment projects in accordance with standard guidelines issued by the Minister;
- (e) ensure efficient and effective utilisation of resources that will be used in investment project execution;
- (f) undertake procurements for investment projects in accordance with the Public Procurement Act, 2003 (Act 663);
- (g) ensure compliance with the relevant policy guidelines and enactments on public private partnership, in the case of the procurement of a public private partnership arrangement;
- (h) ensure the successful execution of investment projects in line with key performance indicators, on time and within approved budget;

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- (i) undertake the preparation, structuring, procurement, implementation, monitoring and evaluation of public private partnerships;
- (j) ensure that project agreements or contracts are consistent with the financing agreements for effective and efficient implementation;
- (k) declare and report on all investment projects within the covered entity from all funding sources;
- (l) provide the primary link and enhance collaboration between relevant stakeholders, including development partners, project financiers and coordinate implementation to ensure efficient and effective delivery of project objectives;
- (m) ensure monitoring, evaluation and reporting of investment projects including the financial and non-financial status;
- (n) ensure the successful project closure and transfer of assets and liabilities in accordance with the provisions of the project commercial contract, financing agreement and any other relevant laws;
- (o) facilitate the conduct of mid-term and end of term investment project evaluation; and
- (p) ensure the following are obtained before documentation on investment projects emanating from the covered entities are submitted to the Ministry:
 - (i) the consent of the covered entity in writing;
 - (ii) recommendation by the Entity Project Committee;
 - (iii) approval of the Principal Account Holder; and
 - (iv) in the case of public corporations and state-owned enterprises, the approval of the Sector Ministry and the State Interests and Governance Authority.

Public Investment Programme Working Committee

8. (1) The Minister shall establish a Public Investment Programme Working Committee to appraise project documentations and recommend investment projects for approval by the Minister to be included in the Public Investment Plan.

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(2) The Public Investment Programme Working Committee shall consist of the following:

- (a) the Chief Director of the Ministry who shall be the chairperson;
- (b) the Director-General of the National Development Planning Commission;
- (c) the Chief Executive of the Ghana Infrastructure Investment Fund;
- (d) a representative of the Office of the President not below the rank of a Director;
- (e) the Director of the Budget Office;
- (f) the Director of the Debt Management Office;
- (g) the Director of the Division responsible for Resource Mobilisation and Economic Relations;
- (h) the Director of the Division responsible for Macro-Fiscal Policy;
- (i) the Director of the Division responsible for Public Investment Management;
- (j) the Executive Director of the Environmental Protection Agency;
- (k) a representative of the Office of the Attorney-General not below the rank of a Chief State Attorney nominated by the Attorney-General and Minister for Justice;
- (l) a civil or structural engineer in good standing with not less than ten years' professional experience nominated by the Ghana Institution of Engineers; and
- (m) the Chief Executive Officer of the Public Procurement Authority.

(3) The head of the Public Investment Programme Unit of the Division responsible for Public Investment shall be secretary to the Public Investment Programme Working Committee.

(4) The Minister shall appoint members of the Public Investment Programme Working Committee.

(5) The Public Investment Programme Working Committee shall determine the procedure for the meetings of the Public Investment Programme Working Committee.

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(6) The Public Investment Programme Working Committee may co-opt a person to attend a meeting of the Public Investment Programme Working Committee and advise the Public Investment Programme Working Committee.

Functions of the Public Investment Programme Working Committee

9. The Public Investment Programme Working Committee shall perform the following functions:

- (a) review project documents including Pre-Feasibility and Feasibility Study Reports submitted by covered entities to determine the technical, financial and economic viability and legal, environmental and social safeguards of investment projects, and make a recommendation for the grant or denial of Seal of Quality by the Minister;
- (b) consider, prioritise and recommend appropriate funding sources for investment projects taking into consideration available fiscal space, the nature of the investment projects and the strategic fit of the proposed investment projects;
- (c) review and recommend the Public Investment Plan prepared by the Division responsible for public investment to Cabinet for consideration and final approval;
- (d) ensure the Public Investment Plan is comprehensive and covers all on-going investment projects and new investment projects that have received the Seal of Quality, prioritised and allocated resources within the constraints of the Medium-Term Fiscal Framework and the Medium-Term Expenditure Framework;
- (e) review, quarterly, the reports on the Public Investment Plan prepared by the Division responsible for public investment to ensure effective monitoring of all investment projects; and
- (f) review the report on all unfunded investment projects in the Portfolio of Projects and report to Cabinet through the Fiscal Strategy Document.

Responsibilities of Regional Coordinating Council

10. (1) The Regional Planning Coordinating Unit of the Regional Coordinating Council shall be the focal unit for investment projects at the regional level.

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(2) The Regional Planning Coordinating Unit shall perform the following functions:

- (a) collate and co-ordinate all Public Investment Plans of local government authorities approved by the respective district assemblies into the Regional Composite Public Investment Plan for submission to the Minister through the Minister responsible for Local Government and Rural Development for inclusion in the National Public Investment Plan;
- (b) review Project Concept Notes for all investment projects of local government authorities and recommend the undertaking or otherwise of pre-feasibility and feasibility studies;
- (c) review Pre-Feasibility and Feasibility Study Reports for investment projects of local government authorities and recommend projects for the issuance of the Seal of Quality by the Minister and inclusion in the Portfolio of Projects;
- (d) monitor the Public Investment Management System to ensure that only prepared investment projects with the Seal of Quality are in the Portfolio of Projects;
- (e) report on investment projects in the Regional Portfolio of Projects that do not receive funding to the Regional Coordinating Council and the Ministry of Local Government and Rural Development when submitting the Regional Integrated Budget;
- (f) prepare analytical reports based on project data in the Public Investment Management System to inform decision making on policy planning and budget management;
- (g) in collaboration with the appropriate agencies, develop the respective Project Concept Notes, Pre-Feasibility and Feasibility Study Reports for all investment projects which will be executed by the region;
- (h) submit to the Ministry of Local Government and Rural Development, Project Concept Notes, Pre-Feasibility and Feasibility Study Reports of investment projects which will be executed by the region for review and recommendation to the Minister for approval; and

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- (i) develop the Regional Composite Public Investment Plan consistent with the Medium-Term Expenditure Framework for approval by the Regional Coordinating Council and submit same to the Minister through the Minister responsible for Local Government and Rural Development for inclusion in the National Public Investment Plan.

Responsibilities of General Assembly and Executive Committee of local government authorities

11. (1) The General Assembly of a local government authority shall ensure that budgeting and appropriation for investment projects is for investment projects which are approved and prioritised in the Public Investment Plan of the local government authority.

(2) The Executive Committee of a local government authority shall review and ensure consistency of the Public Investment Plan of the local government authority with the Medium-Term Development Plan and the Medium-Term Expenditure Framework.

Responsibilities of local government authorities

12. (1) The Metropolitan, Municipal and District Planning Coordinating Units of local government authorities shall be the focal units for public investment at the local government level.

(2) The Metropolitan, Municipal and District Planning Coordinating Units shall perform the following functions:

- (a) develop the respective Project Concept Notes, Pre-Feasibility and Feasibility Study Reports for all investment projects for local government authorities;
- (b) submit to the Regional Planning Coordinating Unit of the respective Regional Coordinating Council, Project Concept Notes, Pre-Feasibility Study and Feasibility Study Reports of all investment projects for review and recommendation for approval;
- (c) develop the Local Government Public Investment Plan consistent with the Medium-Term Expenditure Framework for approval by the General Assembly and submit same to the Regional Coordinating Council for inclusion in the Regional Composite Public Investment Plan;

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- (d)* monitor the Public Investment Management System to ensure that only prepared projects and investment projects with the Seal of Quality are in the Portfolio of Projects;
- (e)* report on all investment projects in the Portfolio of Projects that do not receive funding, to the Executive Committee of the respective local government authorities when submitting the composite budget;
- (f)* prioritise new investment projects for the consideration of the Executive Committee where there is fiscal space;
- (g)* consolidate investment projects in the Portfolio of Projects, which have been approved by the Executive Committees of local government authorities; and
- (h)* prepare analytical reports based on project data in the Public Investment Management System, to inform decision making by the local government authority to inform planning and budget management.

Public Investment Unit

13. (1) A covered entity shall have a Public Investment Unit as part of the directorate responsible for Policy Planning, Monitoring and Evaluation of the covered entity.

- (2) The Public Investment Unit shall
 - (a)* be responsible for project preparation and appraisal, selection and budgeting, implementation, monitoring and evaluation to ensure successful delivery of projects on time, within budget and in accordance with design specification;
 - (b)* be permanent, where investment projects constitute the permanent activity of the covered entity, or temporary, where it is established for the implementation of a particular investment project;
 - (c)* assist the covered entity in the preparation of the Medium-Term Development Plan consistent with the Medium-Term National Development Policy Framework and the National Infrastructure Plan;
 - (d)* coordinate the project identification, preparation and prioritisation process;

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- (e) develop Project Concept Notes for all investment projects in accordance with guidelines issued by the Minister and ensure the submission of the Project Concept Notes through the Public Investment Management System after securing the necessary approvals from the Principal Spending Officer;
- (f) ensure that all investment projects undertaken by the covered entity regardless of the source of funding or Government guarantees provided, are captured in the Public Investment Management System and updated accordingly;
- (g) undertake pre-feasibility and feasibility studies of investment projects and where necessary, assist in the procurement of a transaction advisor to support the Public Investment Unit to undertake such studies;
- (h) analyse or assess reports and any other project documents prepared by a transaction advisor to ensure the reports and documents meet standard requirements;
- (i) assist in the procurement of consultants, developers or contractors to execute investment projects;
- (j) ensure that procurement documentation, including the project or service agreement, is consistent with the financing agreements;
- (k) liaise with the Division responsible for public investment at the Ministry and other stakeholders in the delivery of the investment project;
- (l) prepare project work plans and ensure that the project work plan is adhered to and provide feedback;
- (m) develop the Public Investment Plan consistent with the Medium-Term Expenditure Framework;
- (n) in collaboration with the Budget Department of the covered entity, budget appropriately and manage the use of resources to effectively meet project milestones and specifications in the contract;
- (o) monitor the project management process and identify risks associated with the project management to ensure successful completion of investment projects;

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- (p) prepare and submit reports on financial, non-financial and the physical progress of all investment projects;
- (q) monitor and evaluate investment projects for effective delivery of capital projects and services and employ corrective actions, where necessary;
- (r) ensure the development of the requirements of the employer for project development; and
- (s) ensure the
 - (i) conduct of Value for Money Analysis for single sourced projects as specified in these Regulations; and
 - (ii) implementation of Value for Money Analysis recommendations as part of the project implementation.

Entity Project Committee

14. (1) A Principal Spending Officer of a covered entity shall establish an Entity Project Committee comprising

- (a) the Principal Spending Officer as the chairperson,
- (b) the head responsible for Budget,
- (c) the head responsible for Planning,
- (d) the head responsible for Procurement,
- (e) a maximum of three persons, with at least one expert and two others from the Ministry and the Office of the Attorney-General on ad hoc basis based on their technical knowledge and depending on the project to be implemented,
- (f) one officer from a covered entity relevant to the project, and
- (g) the head responsible for the Public Investment Unit.

(2) The head of the Public Investment Unit shall be the secretary to the Entity Project Committee.

Functions of the Entity Project Committee

15. An Entity Project Committee shall

- (a) review Project Concept Notes and recommend the submission of the Project Concept Notes to the Ministry;
- (b) review Project Pre-Feasibility Study Reports and Feasibility Study Reports and recommend the submission of the studies to the Ministry;

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- (c) review the Public Investment Plan of the covered entity, to ensure that the Public Investment Plan is consistent with the Medium-Term Expenditure Framework and recommend the approval of the Public Investment Plan;
- (d) monitor the implementation of all investment projects and review monitoring and evaluation reports of investment projects of a covered entity; and
- (e) assist a covered entity to implement recommendations in the monitoring and evaluation reports including external expert assessments of the investment projects and audit reports.

Experts and Transaction Advisors

Experts

16. (1) A covered entity may engage experts in different fields of study to support the respective roles of covered entities.

(2) For the purposes of subregulation (1), an expert is a person with not less than five years' experience in any field of expertise drawn from

- (a) a professional body;
- (b) academia;
- (c) industry; or
- (d) any other relevant body.

Transaction advisor

17. (1) Where a covered entity lacks the technical capacity for the development of documents in respect of investment projects including Pre-Feasibility and Feasibility Study Reports, the covered entity may procure the services of a transaction advisor in accordance with the Public Procurement Act, 2003 (Act 663).

- (2) A transaction advisor procured under subregulation (1) shall
 - (a) undertake the pre-feasibility study, feasibility study or any other related study; and
 - (b) report and submit to the covered entity, all documents related to the assignment and the project financial and economic model.

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- (3) A transaction advisor referred to under subregulation (1) shall not
- (a) participate in the implementation of the investment project for which the services were procured; and
 - (b) provide transaction advisory services to any bidder in the process of bidding towards participating in the implementation of the investment project in which that transaction advisor has previously provided advisory services.

Public Investment Management Process

Scope of investment project

18. (1) An investment project comprises
- (a) the procurement of works and acquisition of physical and other non-financial assets with a service life of more than one year;
 - (b) a functional whole that is usable for an extended period of time which is in excess of one year on completion;
 - (c) a number of smaller related investment projects for purposes of strategic planning and decision-making; and
 - (d) a project undertaken jointly by two or more covered entities that enter into an agreement to deliver on a common strategic objective.
- (2) The agreement referred to in paragraph (d) of subregulation (1) shall indicate the
- (a) rights and obligations of each covered entity; and
 - (b) contribution made by each covered entity to a pool of funds for the implementation of the project.
- (3) For the purposes of a project under paragraph (d) of subregulation (1), the Minister shall direct the Controller and Accountant-General to create a joint project account.
- (4) The Minister shall issue administrative guidelines
- (a) for covered entities to lodge funds into the project account referred to in subregulation (3); and
 - (b) to manage the funds in the project account.
- (5) The respective covered entity shall lodge funds in the project account referred to in subregulation (3) and manage the funds, in accordance with the guidelines issued by the Minister for that purpose.

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(6) Without limiting subregulation (1), an investment project may include the activities to be undertaken and the resources envisaged for the entire project life cycle, in accordance with clearly defined project objectives and outcomes.

Categories of investment projects

19. (1) An investment project shall be categorised into any of the following three tiers with reference to the capital expenditure estimated by the covered entity:

- (a) a first-tier investment project which includes small projects with a capital expenditure threshold of up to the Ghana Cedi equivalent of two million United States Dollars;
- (b) a second-tier investment project which includes mid-size projects with a capital expenditure threshold of above the Ghana Cedi equivalent of two million United States Dollars and up to the Ghana Cedi equivalent of five million United States Dollars; and
- (c) a third-tier investment project which includes big projects with a capital expenditure threshold exceeding the Ghana Cedi equivalent of five million United States Dollars.

(2) A covered entity which sponsors an investment project shall conduct a project appraisal to estimate the cost of that investment project.

Documentation, Preparation and Appraisal of Investment Project

Documents in respect of investment projects

20. (1) For the purpose of planning, execution, monitoring and reporting on the progress of an investment project, a covered entity shall prepare the following documents in respect of an investment project:

- (a) Project Concept Note;
- (b) Pre-Feasibility Study Report;
- (c) Feasibility Study Report;
- (d) Project Contract;
- (e) Project Execution Plan;
- (f) Project Progress Report;
- (g) Final Project Implementation Report;
- (h) Project Impact Assessment Report which is a Project Ex-Post Evaluation Report; and

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(i) any other relevant document or basic study required for preparing or formulating an investment project.

(2) The content of the documents prepared by a covered entity in respect of an investment project shall be in accordance with professional standards applicable to the field of the particular investment project and depend on the

- (a) type,
- (b) purpose, and
- (c) value,

of the investment project concerned.

(3) A covered entity shall upload the documents referred to in subregulation (1) onto the Public Investment Management System.

(4) The Minister shall issue guidelines on the content of the documents prepared by a covered entity in respect of an investment project in accordance with subregulation (1).

(5) The procedure for submitting and responding to the documents referred to in subregulation (1) shall be in accordance with these Regulations.

Investment Project Life Cycle

Stages of an investment project life cycle

21. The life cycle of an investment project consists of the following stages and sub-stages:

- (a) the pre-investment stage, which comprises the following sub-stages:
 - (i) project identification, planning and strategic fit assessment;
 - (ii) preparation of the investment project proposal and appraisal;
 - (iii) preparation of the Pre-Feasibility Study Report and appraisal;
 - (iv) preparation of the Feasibility Study Report and appraisal; and
 - (v) inclusion of the investment project in the Portfolio of Projects;
- (b) the investment stage, which comprises the following sub-stages:
 - (i) project selection and budgeting;
 - (ii) project procurement;

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- (iii) project contract; and
- (iv) project execution and monitoring; and
- (c) the project operation stage which comprises the following sub-stages:
 - (i) maintenance and registering of assets; and
 - (ii) project monitoring, evaluation and reporting.

Pre-Investment Stage

Project identification and planning

22. A covered entity which intends to implement an investment project in the medium-term shall

- (a) identify the investment project; and
- (b) include the investment project in the approved Medium-Term Development Plan.

Investment project proposal and appraisal

23. (1) A covered entity which intends to implement an investment project shall commence the investment project preparation process with the preparation of a Project Concept Note in accordance with guidelines issued by the Minister.

(2) A covered entity shall not initiate the preparation of a Project Concept Note for an investment project that is being implemented by another covered entity.

(3) Subregulation (1) applies to all investment projects, regardless of the funding source and investment cost categorisation.

(4) Only an investment project which is categorised as a first-tier investment project shall be prepared, appraised and approved for budgeting and implementation using the Project Concept Note, except in the case of a public private partnership which shall require a feasibility study.

(5) Depending on the complexity of the investment project, a covered entity may recommend a first-tier investment project to the Minister for approval to enable the covered entity concerned, proceed with the feasibility study.

(6) In the case of a local government authority, the Regional Planning Coordinating Unit shall

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- (a) appraise and approve the Project Concept Note for an investment project by the local government authority, and
- (b) upload the Project Concept Note and Appraisal Report of the investment project onto the Public Investment Management System.

(7) The Minister may delegate the issuance of the Seal of Quality for a first-tier investment project for a local government authority to the Regional Budget Officer.

(8) A Project Concept Note for an investment project developed by a department, an agency, a public corporation or a state-owned enterprise shall

- (a) be appraised by the respective Sector Ministry; and
- (b) in the case of a public corporation or a state-owned enterprise, the sector Ministry shall submit a report on the Project Concept Notes to the State Interests and Governance Authority to be uploaded onto the Public Investment Management System for approval by the Minister.

(9) A Principal Spending Officer shall, in respect of the preparation for investment projects,

- (a) ensure that Project Concept Notes for all investment projects are prepared by the Public Investment Unit of the covered entity in accordance with these Regulations,
- (b) ensure that the project proposal is undertaken using the logical framework analysis and the logical framework matrix developed in accordance with these Regulations, and
- (c) disallow the splitting up of a second tier or third tier investment project into smaller projects with the intention of avoiding any part of the public investment management process.

Pre-feasibility and appraisal

24. (1) A covered entity shall undertake a pre-feasibility study for an investment project which is categorised as a third tier investment project to identify and appraise alternative interventions that can be undertaken to solve the identified problem in line with the Medium Term Development Plan of the covered entity, consistent with the Medium Term National Development Policy Framework and the National Infrastructure Plan.

(2) The pre-feasibility study shall be carried out based on guidelines issued by the Minister.

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(3) Where the appraising authority approves the Pre-Feasibility Study Report, the appraising authority shall submit the Pre-Feasibility Study Report to the Ministry for appraisal.

(4) A Pre-Feasibility Study Report from a public corporation or state-owned enterprise, shall require the approval of the governing board of that public corporation or state-owned enterprise and the Sector Ministry before submission to the Ministry through the State Interests and Governance Authority for review and approval.

(5) Where the Ministry after a review of the pre-feasibility study concludes that the investment project can be undertaken under a public private partnership arrangement, the relevant policy guidelines and enactments pertaining to public private partnerships shall apply.

(6) Where the Ministry after a review of the Pre-Feasibility Study Report approves the Pre-Feasibility Study Report, the Principal Spending Officer shall proceed to undertake the feasibility study for the investment project.

(7) Where an investment project has not received a positive decision on the pre-feasibility study, the Minister may

- (a) recommend to the covered entity concerned to amend the scope of the investment project and undergo a repeated procedure and resubmit the study for consideration, or
- (b) reject the investment project.

Project feasibility and appraisal

25. (1) A covered entity shall undertake a feasibility study for a second-tier or third-tier investment project.

(2) The feasibility study shall be carried out based on guidelines issued by the Minister.

(3) The feasibility study shall be undertaken to improve the accuracy of key economic and social variables, by re-examining the blocks in the pre-feasibility using primary data to determine if the project shows the potential for success.

(4) A covered entity shall ensure that a feasibility study for a second tier or a third-tier investment project is prepared taking into consideration

- (a) the technical feasibility;
- (b) the financial and economic viability;

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- (c) the environmental and social impacts and safeguards;
- (d) the legal and regulatory issues; and
- (e) the fiscal and risk analysis in accordance with guidelines issued by the Minister.

(5) A feasibility study for a second-tier investment project shall indicate options for undertaking the investment project for consideration.

(6) Where the Ministry concludes that the investment project may be undertaken by a public private partnership arrangement, the relevant policy guidelines and enactments on public private partnership shall apply.

(7) The appraising authority shall, upon appraising the Feasibility Study Report of the investment project prepare and submit an Appraisal Report together with the Feasibility Study Report with recommendations to the Ministry for approval and issuance of the Seal of Quality.

(8) In the case of a public corporation or a state-owned enterprise, the Feasibility Study Report together with the Appraisal Report shall be approved by the governing board and the Sector Ministry of the public corporation or a state-owned enterprise before submission to the Ministry through the State Interests and Governance Authority for review and approval.

(9) The Minister may direct a review, update and re-appraisal of a Feasibility Study Report of an investment project where the investment project in the Portfolio of Projects has taken more than two years without funding or a budget provision, change of project scope, or *force majeure*.

(10) Where the Feasibility Study Report of an investment project is reviewed, updated and re-appraised, the approval process for investment projects outlined in these Regulations shall apply.

(11) Where the Ministry gives a positive decision on the Feasibility Study Report for an investment project, the Minister may issue a Seal of Quality for the investment project.

National parameters and conversion factors

26. A Principal Spending Officer shall, in carrying out the pre-investment phase, particularly the preparation and appraisal of pre-feasibility study and feasibility study, ensure that only parameters and conversion factors developed and administered by the Ministry and published on the website of the Ministry are applied.

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Portfolio of Projects

27. (1) All investment projects issued with a Seal of Quality by the Minister shall constitute the Portfolio of Projects.

(2) A covered entity shall select an investment project in the Portfolio of Projects to compete for funding and inclusion in the Public Investment Plan for approval and budgeting.

Investment Stage

Project selection and budgeting

28. (1) A covered entity shall budget for an investment project in accordance with the provisions in the Act and the Public Financial Management Regulations, 2019 (L.I. 2378).

(2) A covered entity shall

- (a) plan the cost of developing an investment project, including the preparation of Pre-Feasibility and Feasibility Study Reports as part of the cost of the investment project, and
- (b) budget appropriately for the pre-investment studies as part of the annual budget of the covered entity.

(3) A covered entity shall budget in the Ghana Integrated Financial Management Information System Budget Module, only an investment project which forms part of the approved Public Investment Plan.

(4) In furtherance of section 33 of the Act and regulations 67 and 68 of the Public Financial Management Regulations, 2019 (L.I. 2378), the Public Investment Plan consistent with the Medium-Term Fiscal Framework and Medium-Term Expenditure Framework approved by

- (a) the Executive Committee in the case of a local government authority, and
- (b) Cabinet,

shall be the mode for multi-year expenditure budgeting and commitments with respect to investment projects.

(5) Before an investment project is selected and factored into the Public Investment Plan and the budget, the Principal Spending Officer shall certify that

- (a) the details of the investment project are captured in the Public Investment Management System,

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- (b) detailed designs are completed and relevant approvals obtained,
- (c) the land for the investment project has been acquired and the corresponding compensation determined, paid and title to the land obtained,
- (d) the social and environmental safeguards have been dealt with and the persons affected by the investment project have been compensated, and
- (e) stakeholder consultations have been conducted.

(6) Despite paragraph (b) of subregulation (5), the preliminary design of an investment project which is to be undertaken by a public private partnership arrangement, may qualify the investment project to be included in the Portfolio of Projects, the Public Investment Plan and budget.

(7) An entity which is funding the investment project including a development partner shall only fund an investment project which has received the Seal of Quality from the Minister and is part of the Portfolio of Projects.

(8) These Regulations apply to an unsolicited project proposal from the private sector or a development partner.

(9) Counterpart funding requirements of an investment project which is funded by a development partner shall be considered in the development of the Public Investment Plan for approval and budgeted for accordingly.

(10) A commercial agreement and a financing agreement for the execution of an investment project shall only be signed and executed if the investment project is included in the approved Public Investment Plan, budgeted for, and appropriated by Parliament.

(11) A Principal Spending Officer shall ensure that all on-going investment projects, new investment projects to be funded with grants from development partners and new public private partnership projects or concessions that are wholly or partially funded by a private sector partner

- (a) are a first charge in the development of the Public Investment Plan and the budget of the covered entity within the constraints of the Medium-Term Expenditure Framework consistent with the Medium-Term Fiscal Framework; and

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(b) implemented and fully paid for before new investment projects are included in the Public Investment Plan and budget based on available fiscal space within the Medium-Term Expenditure Framework.

(12) A local government authority and the Ministry shall take into consideration the Portfolio of Projects including on-going investment projects and counterpart resource requirements in the development of the Medium-Term Expenditure Framework and sector budget ceilings.

(13) The Public Investment Plan shall form the basis of capital budget discussions at the budget policy and technical hearings and finalised by the local government authority and the Ministry as the case may be for the Executive Committee of the local government authority and Cabinet approval respectively.

(14) The Minister, a Principal Account Holder and a Principal Spending Officer shall ensure that budget allocation is not made to an investment project that does not form part of the approved Public Investment Plan.

(15) Subregulation (14) does not apply in an emergency situation that requires approval of Parliament and is funded from the Contingency Fund.

(16) The Ministry shall, in respect of subregulation (15), carry out a cost effectiveness analysis of the investment project in collaboration with the covered entity.

Project procurement

29. (1) A covered entity shall, in developing the Public Investment Plan and the budget for approval, take into consideration the procurement plan for the execution of the investment project.

(2) A covered entity shall commence the procurement process after Cabinet and Parliament have approved the Public Investment Plan and budget of the covered entity.

(3) A local government authority shall commence the procurement process after the Public Investment Plan and budget have been approved by the General Assembly of the local government authority.

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(4) The procurement process for the execution of an investment project shall be conducted in accordance with the Public Procurement Act, 2003 (Act 663) and any other relevant enactment.

(5) In the case of an investment project to be executed through a public private partnership arrangement, the relevant policy guidelines issued by the Minister and the enactments pertaining to public private partnerships shall apply.

(6) A covered entity may embark on the procurement process in respect of an investment project if

- (a) the investment project has gone through the pre-investment phase;
- (b) a Seal of Quality has been issued for the investment project by the Minister;
- (c) the investment project is captured in the approved Public Investment Plan;
- (d) the budget of the investment project has been appropriated by Parliament; or
- (e) in the case of a local government authority, the Public Investment Plan and budget has been approved by the General Assembly of the respective local government authority.

Unsolicited investment project and single source procurement

30. (1) A covered entity shall not implement an unsolicited investment project or single source procurement contract unless the unsolicited investment project proposal or single source procurement contract complies with all prerequisites of

- (a) the Act;
- (b) the pre-investment processes outlined in these Regulations;
- (c) any other relevant enactments; and
- (d) policy guidelines issued by the Minister to ensure good public financial management of such matters.

(2) In the case of an unsolicited investment project which is a public private partnership or concession, the proposal shall

- (a) demonstrate innovation; and
- (b) not place onerous conditions on Government.

(3) With respect to the procurement of an unsolicited public private partnership investment project or concession, the relevant policy guidelines and enactments pertaining to public private partnerships shall apply.

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(4) A single source procurement contract for an investment project which is not a public private partnership investment project or concession shall be considered for implementation by a covered entity if the exceptional circumstances specified in subsection (1) of section 40 of the Public Procurement Act, 2003 (Act 663) apply and shall be considered as a last option.

(5) An unsolicited proposal or single source procurement contract shall not come into effect unless the proposal or contract has complied with all the prerequisites of these Regulations.

(6) Pursuant to subsection (5) of section 33 of the Act, a single source procurement contract in respect of an investment project which is not a public private partnership project shall not be signed or come into effect unless the investment project is part of the Public Investment Plan and the contract has undergone a successful Value for Money Analysis by a qualified provider of the service approved by the Minister.

(7) The cost of a Value for Money Analysis conducted under subregulation (6) shall be borne by the contractor that submitted the single sourced investment project.

Project contract

31. (1) The Minister in consultation with the Public Procurement Authority and the Office of the Attorney General shall develop model or standard contract documents for investment projects to be adopted by a covered entity.

(2) In the case of termination, the Minister shall issue guidelines which shall include internationally accepted formula or methods to guide the determination and calculation of termination payment in the event that the contract for the execution of the investment project is terminated for any reason before the completion of the investment project.

Project execution and monitoring

32. (1) The Principal Spending Officer shall ensure implementation of the investment project as follows:

- (a) in consultation with the head of the Public Investment Unit, appoint a project manager for the execution, monitoring and evaluation of the investment project;

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- (b)* the project manager shall in consultation with the head of the Public Investment Unit, develop a project execution plan and submit the project execution plan to the Entity Project Committee for approval;
 - (c)* where the project execution, monitoring and evaluation is outsourced, the project manager shall approve the project execution plan prepared by the contractor and submit the project execution plan to the Entity Project Committee for concurrent approval;
 - (d)* the project manager shall implement the approved project execution plan;
 - (e)* a contract executed in respect of an investment project shall be uploaded onto the Public Investment Management System;
 - (f)* an investment project is delivered on time, within approved budget and reported on accordingly;
 - (g)* in a case where there are price variations and fluctuations, the provisions in the Public Procurement Act, 2003 (Act 663) and other relevant laws on procurement, the Act and the Public Financial Management Regulations, 2019 (L.I. 2378) and these Regulations apply;
 - (h)* the project manager through the head of the Public Investment Unit shall submit monthly, quarterly and annual Project Execution Reports to the Ministry through the appraising authority and the Public Investment Management System;
 - (i)* the head of the Public Investment Unit shall submit Project Monitoring Reports and Completion Reports after review by the Entity Project Committee to the Minister and the Director-General of the National Development Planning Commission through the Public Investment Management System; and
 - (j)* in the case of a local government authority, Project Monitoring Reports and Completion Reports are submitted to the Regional Planning Coordinating Unit.
- (2) A Regional Planning Coordinating Unit shall
- (a)* collate the Project Monitoring Reports and Completion Reports of the local government authorities within the region of the Regional Coordinating Council, and

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(b) submit the Project Monitoring Reports and Completion Reports to the Minister and the Director-General of the National Development Planning Commission through the Public Investment Management System.

(3) The management of a public corporation or a state-owned enterprise shall submit all Project Monitoring Reports on investment projects and Completion Reports approved by the respective governing boards to the State Interests and Governance Authority.

(4) The State Interests and Governance Authority shall submit the monitoring reports received under subregulation (3) to the Minister and the Director-General of the National Development Planning Commission through the Public Investment Management System.

Project Operation Stage

Maintenance and registration of asset

33. (1) The Principal Spending Officer of a covered entity shall ensure the routine and periodic maintenance of an asset created by an investment project.

(2) The Principal Spending Officer shall ensure that an asset created by the investment project is recorded in the Asset Register and reported on annually by the Fixed Asset Coordinating Unit of the covered entity in furtherance of subregulation (2) of regulation 156 of the Public Financial Management Regulations, 2019 (L.I. 2378).

Project monitoring, evaluation and reporting

34. (1) A covered entity shall be responsible for the ex-ante and ex-post assessment, monitoring and evaluation of an investment project for efficacy and efficiency in investment project delivery and reporting.

- (2) In furtherance of subregulation (1), a covered entity shall
- (a) monitor, evaluate and report on investment projects based on guidelines issued by the Minister and consistent with the monitoring and evaluation framework established by the National Development Planning Commission; and
 - (b) use the Public Investment Management System platform to facilitate the reporting requirement of the Annual Progress Report to the National Development Planning Commission on investment projects.

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(3) The conclusions and recommendations in the monitoring and evaluation report shall inform subsequent planning of similar investment projects by a covered entity.

Integrated Bank of Projects

35. (1) There is established by these Regulations, the Integrated Bank of Projects.

(2) The Integrated Bank of Projects shall form part of the Public Investment Management System within the Ghana Integrated Financial Management Information System, in furtherance of subsection (1) of section 4 of the Act and paragraph (j) of subregulation (3) of regulation 13 of the Public Financial Management Regulations, 2019 (L.I. 2378).

(3) The Ministry shall ensure that the Integrated Bank of Projects facilitates the

- (a) registration, preparation, selection and assessment of investment projects;
- (b) monitoring and evaluation of investment projects;
- (c) reporting on the execution of investment projects;
- (d) process workflow of the entire Public Investment Management System;
- (e) document management through a set of technical standards and practices that allows information retrieval; and
- (f) spatial visualisation of all investment projects and related data and information on geographic maps in the form of overlapping layers.

(4) The Ministry shall maintain, manage and grant access to the Integrated Bank of Projects by a covered entity.

(5) The Ministry may set user limits and assign or revoke access privileges for users of the Integrated Bank of Projects.

(6) The Minister shall issue guidelines on the use of the Integrated Bank of Projects.

Miscellaneous Provisions

Offences and penalties

36. (1) An officer of a covered entity or any other person who
- (a) provides inaccurate information in an investment documentation,
 - (b) intentionally inputs inaccurate information into the Integrated Bank of Projects,

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- (c) carries out concurrently the process in the pre-investment phase and the procurement process,
 - (d) fails to provide the reports required under these Regulations, or
 - (e) fails to comply with any provision in these Regulations,
- commits an offence and is liable on summary conviction to a fine of not less than one hundred and fifty penalty units and not more than two hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than two years, or to both.
- (2) A person who is convicted of an offence under subregulation (1) is, in addition to the penalty specified in that subregulation,
- (a) liable for any liability contracted on behalf of Government as a result of the contravention; and
 - (b) subject to disciplinary action including dismissal, demotion or suspension.

Guidelines

37. The Minister shall issue guidelines on the following:
- (a) Project Concept Note,
 - (b) pre-feasibility study,
 - (c) feasibility study,
 - (d) Public Investment Plan,
 - (e) Project Monitoring and Evaluation Report,
 - (f) Project Completion Report and Impact Assessment Report,
 - (g) economic appraisal of investment projects in general,
 - (h) economic appraisal of investment projects in key sectors, and
 - (i) Project Execution Plan with templates.

Interpretation

38. In these Regulations, unless the context otherwise requires,
- “appraising authority” means a body mandated to review and recommend investment projects for a Seal of Quality to be granted or rejected;
 - “concession” means the issue of a contractual licence by a covered entity to a private party to build, operate, maintain, rehabilitate or upgrade an infrastructure facility and to charge a user fee while paying a fee to the covered entity;

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- “evaluation” means a scientific analysis conducted periodically on policy, programme or investment project to objectively determine its effectiveness, efficiency, relevance, sustainability and impact;
- “ex-ante monitoring and evaluation” means the monitoring of targets set out in the project formulation, preparation, procurement, contracting, and execution up to the handover or commissioning phase in terms of timelines, cost and technical details including specifications, design and engineering requirements, environmental and other standards outputs;
- “ex-post monitoring and evaluation” means an evaluation conducted after the period of the commissioning of the investment project to the life span of the project, with the emphasis on the relevance, efficiency, effectiveness, impact and sustainability of the investment project with the aim of deriving lessons learned and recommendations to help improve future investment projects;
- “feasibility study” means a study undertaken to assess the technical, legal, economic, financial, social and environmental viability of undertaking an investment project;
- “Final Project Implementation Report” means a document that
- (a) explains the processes that were undertaken to transform the project execution plan into action, and
 - (b) presents a summary of the project execution with specifications, if the project has achieved the goals, with details of the budget performance;
- “Integrated Bank of Projects” means a web-based database for the processing and management of investment projects;
- “investment project” means any investment activities undertaken by a covered entity in relation to the national and local government authority development policies and strategies, with the aim of improving the delivery of public assets and services by use of public or publicly approved funds within a specific period of time;
- “logical framework analysis” means a project planning approach that analyses incremental causal relations in project planning including risks and assumptions;

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- “logical framework matrix” means a systematic tool for designing, planning, implementing, monitoring and evaluating of an investment project or a programme;
- “major investment project” means an investment project including a public private partnership Project
- (a) whose total investment cost is one per cent or more of total annual budget expenditure, and
 - (b) which is among the ten largest projects from five of the largest covered entities in terms of investment project expenditure;
- “milestone” means a significant point or event in a project or programme;
- “National Infrastructure Plan” means a plan which sets out the infrastructure objectives of the Medium-Term National Development Policy Framework and serves as a basis for prioritising infrastructure development for the achievement of national socio-economic development;
- “new project” means an investment project which has been prioritised and allocated funding as part of the Public Investment Plan but yet to be implemented;
- “on-going project” means an investment project whose implementation is in progress;
- “outcome” means the expected changes or effects on the intended beneficiaries occurring as a result of project or programme implementation;
- “output” means direct products or services stemming from the implementation of an investment project or programme;
- “physical and other non-financial assets” mean assets that have their values determined by physical and tangible characteristics including buildings, equipment and machinery;
- “Portfolio of Projects” means a subset of investment projects that
- (a) have been appraised and granted the necessary approvals in accordance with these Regulations;
 - (b) have received the Seal of Quality by the Minister;

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- (c) have been uploaded in the Integrated Bank of Projects of the Public Investment Management System; and
 - (d) are able to compete for funding against the rest of projects in the portfolio, but whose funding is yet to be confirmed;
- “pre-feasibility stage” means the preliminary stage of elaborating on a project idea, the project preparation to the appraisal conclusion stage where an investment decision is made;
- “pre-feasibility study” means a preliminary study undertaken to determine, analyse and select the best technical option to address an identified problem;
- “Pre-Feasibility Study Report” means the document that proves that a pre-feasibility study has been undertaken in accordance with these Regulations;
- “project” means a temporary developmental undertaking for the purpose of delivering specific products, services or results within a given budget and time frame;
- “project appraisal” means an analysis of a project to establish its fiscal, financial and technical viability, economic worthwhile, benefits to stakeholders and how risks associated with the project are identified and mitigated;
- “Project Concept Note” means a summary of a proposal containing
- (a) a brief description of the idea of the project; and
 - (b) the objectives to be pursued;
- “project documentation” means all documents related to an investment project required for an assessment of the financial, socio-economic, technical, legal, spatial, social, environmental and other impact assessment of an investment project, assessment of the impact of an investment project on the environmental and regional development and reporting;
- “Project Execution Plan” means a document which
- (a) specifies the manner in which projects are to be executed and monitored,

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- (b) serves as the main communication vehicle to ensure the project objectives are known, and
- (c) specifies the manner in which the project objectives will be accomplished;

“Project Impact Assessment Report” means a document that measures the effectiveness or otherwise of the chosen project alternative on the objectives and goals of the project after the project has been implemented;

“project life cycle” means a series of phases that represent the evolution of a project from the concept stage through delivery, growth, maturity to the retirement of the project;

“project manager” means an officer designated by a Principal Spending Officer to oversee the implementation of an investment project;

“Project Progress Report” means a document that explains in detail the extent to which a covered entity has gone towards the completion of an investment project;

“Public Investment Management System” means a web-based system that facilitates the preparation, appraisal, approval and management of investment projects throughout the life cycle of the project;

“Public Investment Plan” means a plan which is prepared, prioritised and costed as capital projects approved by Cabinet and is consistent with the Medium-Term Expenditure Framework;

“Public Investment Process” means the various phases of the investment project management cycle from project identification and planning, pre-feasibility and feasibility, selection and budgeting, implementation, monitoring, evaluation and reporting to the closure, sustainability and impact assessment of the project;

“public private partnership” means a form of contractual arrangement between a public authority and a private sector party, with clear agreement on shared objectives for the provision of public infrastructure and services traditionally provided by the public sector;

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- “Regional Composite Public Investment Plan” means the composite Public Investment Plans of local government authorities in a region that have been consolidated;
- “regional integrated budget” means a budget prepared by the Regional Coordinating Council that shows the collated and coordinated revenue and expenditure estimates of all departments and organisations under the Regional Coordinating Council taking into account the agenda being implemented by Government;
- “Regional Portfolio of Projects” means the consolidated portfolio of projects of local government authorities within a region;
- “Seal of Quality” means a certificate granted by the Minister stating that the Ministry of Finance is confident that the investment project has a positive economic and financial Net Present Value, and is technically, financially and economically viable;
- “strategic fit” means the review that ensures that an investment project is aligned with the Medium-Term Development Plan of the covered entity, consistent with the Medium-Term National Development Policy Framework and the National Infrastructure Plan;
- “transaction advisor” means a team of consultants or firm with the requisite expertise in varied areas of disciplines procured to advise a covered entity and produce relevant investment project documentation in accordance with these Regulations to inform the technical and financial viability of the investment project;
- “transaction advisory service” means an external advisory service rendered in respect of the diagnostic or implementation phases or both phases of an investment project process;
- “unfunded investment project” means an investment project in the Portfolio of Projects that has not received or allocated the required funds for its implementation within the budget year or over a period of time; and
- “Value for Money Analysis” means the process of carrying out

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- (a) an independent analysis or assessment to compare the financial impacts of the public delivery of an investment project against those of a private delivery of an investment project which is proposed by a private bidder or a hypothetical shadow bid at the pre-procurement stage; or
- (b) a comparison of estimating the whole-life cost of carrying out an investment project through a traditional approach against the estimation of the whole-life cost of an alternative delivery approach and the costs of the two approaches.

Transitional provisions

39. (1) The Ministry shall, within two years of the coming into force of these Regulations, secure technical pre-conditions for online access to the Integrated Bank of Projects.

(2) Until such a time that the investment project database referred to in subregulation (1) has been established, a covered entity shall submit project documentation to the appraisal authority, the Ministry and the National Development Planning Commission in hard copy and electronic formats for review and approval.

(3) Until such a time that model or standard contract documents are developed under regulation 31, a covered entity shall adopt the minimum contractual obligations in terms of general and specific conditions provided for by the Public Procurement Authority in a standard tender document and on the website of the Public Procurement Authority.

MR. KEN OFORI-ATTA
Minister responsible for Finance

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