

LICENSING AND SUPERVISION
OF BANKING BUSINESS
Corporate Governance DirectivesNo.SBB/…./2015

Whereas, corporate governance plays a vital role in maintaining the safety and soundness of financial system in general and banking sector in particular;

Whereas, corporate governance gives way to balanced risk taking and enhances business prudence, prosperity and corporate accountability with ultimate objective of realizing long term shareholders value, consumers' and other stakeholders interest;

Whereas, the National Bank of Ethiopia should ensure whether banks are soundly and prudently managed and directed;

Now, therefore, in accordance with articles 13(1a), 14(1,) 14(4b-d), 17(1), 28(2 & 3) and 59(2) of Banking Business Proclamation No. 592/2008, the National Bank of Ethiopia hereby issues these directives.

1. Short title

These directives may be cited as **"Corporate Governance Directives No. SBB/…../2015**"

2. Definitions

For the purpose of these directives, unless the context provides otherwise:

2.1. "**chief executive officer"** means a person, by whatever title that person may be referred to, who is primarily responsible for the day-to-day management of the affairs of a bank;

2.2. **"corporate governance"** means the process and structure used to direct and manage the business and affairs of a bank towards enhancing business prosperity and corporate accountability with ultimate objectives of realizing long term shareholders value, consumers' and other stakeholders interest ;

2.3. "**director**" means any member of the board of directors of a bank, by whatever title he/she/ it may be referred to;

2.4. **"employee"** means a chief executive officer, a senior executive officer or any other person who is appointed or hired by a bank to carry out its day-to-day operational activities;

2.5. **"financial institution"** means insurance company, bank, microfinance institution, postal savings, money transfer institution or such other similar institutions as determined by the National Bank or such other similar institution as defined by the National Bank;

2.6. **"influential shareholder"** means a person who holds directly or indirectly two percent or more of the total subscribed capital of a bank**;**

2.7. **"national bank"** means the National Bank of Ethiopia;

2.8. **"non-influential shareholder"** means any person who holds directly or indirectly less than two percent of the total subscribed capital of a bank;

2.9. **"person"** means any natural or juridical person;

2.10. **"related party** means;

on the one hand, an influential shareholder, a director, a chief executive officer, or a senior executive officer and/or the spouse or relation in the first degree of consanguinity or affinity of such shareholder, director, chief executive officer, or senior executive officer; and

on the other, a partnership, a common enterprises, a private limited company, a share company, a joint venture, a corporation or any other business organizations in which the shareholder, director, chief executive officer, senior executive officer of the bank and/or the spouse or relation in the first degree of consanguinity or affinity of such shareholder, director, chief executive officer, senior executive officer has 10% or more interest as shareholder, director, chief executive officer, or senior executive officer, owner or partner;

2.11. **"risk management program"** means a program that clearly identifies and measures inherent and significant risks of a bank together with strategy, policy and procedure for mitigation of such risks;

2.12. **"remuneration"** means board compensation and allowance paid to each director.

2.13. "**senior executive officer"** means any officer of a bank who, by whatever title he/she may be referred to, who is deputy to the chief executive officer or is directly reporting to the board of directors;

2.14. **"senior management"** means chief executive officer, senior executive officers, and any other official, as may be defined by individual bank's, responsible for day-to-day running of a bank.

3. Scope of Application

These directives shall be applicable to all banks.

4. General requirements

4.1. No bank shall carry out any transaction that is contrary to its own policies, the regulatory requirements of the National Bank and other applicable laws.

4.2. A director who in any matter transacts or causes to transact or an influential shareholder for whom a transaction is concluded in contravention of sub-article 4.1 herein above shall be:

4.2.1. prohibited from taking any new loans or renewing existing loans and conclude foreign currency related transactions with the bank in which he/she/it is an influential shareholder or director for three consecutive years effective from the date of identification of the violation;

4.2.2. suspended or removed from his/her/its seat on the board for at least three consecutive years effective from the date of identification of the violation;

4.2.3. prohibited from investing in new shares or buy existing shares in any financial institution for three consecutive years effective from the date of identification of the violation;

4.2.4. subjected to any other appropriate administrative action the National Bank deems necessary depending on the degree of violation.

4.3. The National Bank depending on the degree or frequency of incompliance may suspend or remove chief executive officers or senior executive officers who in any matter transact in contravention of sub-article 4.1 of these Directives.

4.4. Voting by proxy by a person in any shareholders meeting shall be limited to:

4.4.1. one person for influential shareholders; or
4.4.2. an aggregate of 5% of the total subscribed capital for non-influential shareholders.

5. Board of directors size and composition

5.1. A bank shall have at least nine directors.

5.2. The board may preferably comprise of directors who as a group provide a mixture of core competencies such as banking, finance, accounting, legal,

business administration, auditing, information technology and investment management.

5.3. The board of a bank shall comprise non-influential shareholders whose number shall not be less than one third (1/3) of the total board members elected separately by such shareholders provided that such shareholders hold at least 10% of the subscribed capital of the bank.

6. Ordinary general meeting of shareholders

6.1. The ordinary general meeting of shareholders of private banks shall:

6.1.1. ensure that only competent and reliable persons who can enrich and add value to the company are elected or appointed to the board of directors;

6.1.2. be responsible for the appointment of an external auditor; this power of shareholders and the amount of service fee payable to external auditors shall not be delegated to any other organ or body in the company's structure;

6.1.3. ensure that the board is held accountable and responsible for the inefficient and ineffective governance;

6.1.4. establish "Nomination Committee" elected from and by shareholders that is directly accountable to it, independent from board of directors and shall not have a seat on the board of the bank; and

6.1.5. specify the number of candidates to be shortlisted for board membership by the Nomination Committee. However, such number shall not be less than twice the number of board seats in the company; and

6.1.6. approve rules and procedures for nomination of potential candidates for the board by the Nomination Committee.

6.2. The ordinary general meeting of shareholders may fix fees payable by the bank to the Nomination Committee members, however, such fees shall not exceed at any time that of the board of directors' remuneration.

7. Nomination Committee

7.1. The number of nomination committee members shall not be less than five and the committee shall elect its own chairperson and secretary.

7.2. Nomination Committee shall be selected and appointed one year prior to the end of the term of outgoing board of directors and its duty shall be completed upon election of board of directors.

7.3. An employee of a bank shall not be member of Nomination Committee.

7.4. A Nomination Committee member shall not present himself/herself/itself as a candidate for board membership.

7.5. Nomination Committee shall:

7.5.1 be responsible for nominating candidates for board membership;

7.5.2 ensure that all board nominations and appointments shall pass through the Bank's defined process unless over 50% of board members are removed by shareholders or the National Bank before their terms of office; or unless over 50% of board members resign from board seats; or unless over 50% of them are unable to seat on the board for any reason;

7.5.3 give an opportunity to every shareholder to nominate a candidate for board membership by convenient means of communication well ahead of the date of the ordinary general meeting of shareholders which shall not be less than three months;

7.5.4 Where potential board members nominated by shareholders in response to calls made under article 7.5.3 herein above are none or fail to fulfill requirements set by law, policy or procedure, the nomination committee shall present its own candidates to ordinary general meeting of shareholders with full explanation;

7.5.5 ensure transparency and make sure that list of all shortlisted candidates be :

a) posted at visible places to all visitors of a bank or its branches**;**

b) published on newspapers that have wide circulation; and

c) posted on the company's webpage

at least one month before the date of ordinary general meeting of shareholders scheduled to conduct the election;

7.5.6 present the shortlisted candidates to ordinary general meeting of shareholders and handle the election process from the beginning to the end in line with applicable laws; regulations; and the National Bank directives; and the banks own articles and memorandum of association, policies and procedures;

7.5.7 ensure that two-third of the candidates for board memberships are nominated by all participating shareholders and one-third solely by non-influential participating shareholders as stipulated under sub-article 5.3 of these directives. Notwithstanding sub-article 5.3 of these directives, in case this proportion is not maintained in nomination process by shareholders, the Nomination Committee shall be responsible for the adjustment and ensuring the existence of the proportion.

8. Board of Directors

8.1. Appointment, approval and office term of Directors

8.1.1. A bank shall submit application to the National Bank for approval of directors within 20 working days from the date of their appointment;

8.1.2. Appointment of directors shall be subject to approval by the National Bank in accordance with the requirements stipulated under Requirements for Persons with Significant Influence in a Bank Directives No. SBB/54/12.

8.1.3. The National Bank shall approve board of directors within 30 working days from the date of receipts of all documents as required under sub-article 8.1.2 herein above.

8.1.4. A person shall not serve on his own behalf or representing any other shareholder as a director of the bank for more than six consecutive years. However, he/she/it may be re-elected after a lapse of six years.

8.1.5. Notwithstanding sub-article 8.1.4, hereinabove, if the shareholders of a bank wish to maintain continuity in the board and re-elect some of the existing board members, they may re-elect such persons for only one more term. The number of board members so re-elected shall, however, be limited to a maximum of one-third of the outgoing board members; and

8.1.6. The term of office of the outgoing directors of a bank may not terminate until written approval for the incoming directors is granted by the National Bank.

8.2. Qualifications and trainings

8.2.1. Nominated candidates to the board of a bank shall meet Requirements for Persons with Significant Influence in a Bank Directives No SBB/54/2012.

8.2.2. A bank shall give one training in a year to directors on priority basis on areas of financial analysis, corporate governance, applicable laws, regulations and directives and risk management and internal control.

8.2.3. The bank shall file certificate of training of directors with the National Bank.

8.3. Meetings

8.3.1. The board shall set up and put in use rules for the "manner of conducting board meetings".

8.3.2. Board meetings shall be held at least once in a month.

8.3.3. The board shall appoint a secretary.

8.3.4. The board shall fix meeting days and venue. The chairperson or the secretary of the board shall serve formal notice of meeting to each director, together with agenda items, at least three days earlier than the meeting day.

8.3.5. A director shall attend in person at least 75% of the board meetings of a bank within a year. Failure to do so, unless adequately justified and accepted by ordinary general meeting of shareholders, will render automatic cancellation of his/her seat on the board.

8.3.6. The board shall keep minutes of every meeting, sequentially numbered and signed by the members present.

8.3.7. The board shall ensure that its secretary shall maintain clear and comprehensive minutes and other relevant documents of any action deliberated during board meetings.

8.3.8. Board remuneration shall be paid to a director in proportion to his/her/its attendance of board meeting during the year.

8.4. **Responsibilities**

In addition to duties and responsibilities stated in laws, regulations, the National Bank directives, and articles and memorandum of association of a bank, the board of a bank shall at least be responsible for:

8.4.1. developing transparent rules and procedures for nomination of potential candidates for the board membership taking due consideration to the relevant directives of the National Bank.

8.4.2. where during the term of board of directors, if one or more of the directors have left the board, the surviving directors may appoint other persons to complete the period for which the directors who have left the board were appointed within 30 working days from the date of resignation. Their appointments shall be submitted to the next ordinary general meeting of shareholders for confirmation and same meeting may confirm their appointments or appoint other directors in their place;

8.4.3. establishing clear policies for shareholder relations with the bank and at least annually reviewing practices, aimed at clearly communicating the goals, strategies and achievements of the bank;

8.4.4. reviewing and approving strategies, policies, systems, annual business plans & budgets;

8.4.5. monitoring performance in implementing issues indicated under 8.4.4 herein above by setting key performance indicators (KPI); (Annex I)

8.4.6. reviewing and approving clear lines of responsibilities, delegation of authorities, segregation of duties and accountabilities for board of directors and senior management members;

8.4.7. reviewing and approving code of conduct for the board and senior management which at a minimum covers items listed under Annex II;

8.4.8. ensuring the establishment of code of conduct for the employees of the bank**;**

8.4.9. selecting and appointing chief executive officer; and approving senior executive officers who are qualified and competent to administer the affairs of the bank effectively and efficiently;

8.4.10. approving succession plan policy for chief executive officer and senior executive officers and effectively monitor its implementation;

8.4.11. ensuring that the operation of the bank is run prudently, and in accordance with relevant laws, regulations, policies, and procedures;

8.4.12. ensuring that the bank puts in place comprehensive risk management program;

8.4.13. ensuring an effective internal audit system, staffed with qualified personnel to perform internal audit functions, covering financial, operational and management audit is put in place;

8.4.14. approving equity investments, fixed assets and technology which have material nature, as may be defined by board of directors, concluded by the chief executive officer and senior executive officer of a bank**;**

8.4.15. approving policies aiming at avoiding self-serving practices and conflicts of interest including dealings of any form with related parties and monitoring their executions;

8.4.16. ensuring that the National Bank's examination report is considered as confidential by the directors and employees of the bank;

8.4.17. ensuring that appropriate and timely actions are taken to address the regulatory and supervisory concerns and instructions;

8.4.18. following up the implementation of findings and recommendations of on-site examination and off-site surveillance reports of the National Bank, external auditor, internal audit and risk management.

8.4.19. establishing and ensuring the effective functioning of various board sub-committees including, but not limited to, Audit Committee, Risk and Compliance Committee and Human Resource Affairs Committee (Annex III) which shall convene at least once in a month and report their resolution to the board of directors;

8.4.20. assessing semi-annually the effectiveness of the board, its committees, and individual directors in carrying out their responsibilities and reporting the outcomes annually to the ordinary general meeting of shareholders and the National Bank;

8.4.21. ensuring that appropriate management information systems (MIS) is established to produce reliable and timely information on the performance of the bank;

8.4.22. ensuring the capital adequacy of banks on on-going basis; and

8.4.23. ensuring minutes of the general meeting of shareholders are delivered to the National Bank within 20 working days from the date of the general meeting of shareholders and the timely registration with the appropriate government organ.

8.5. **Authority**

8.5.1. The board shall establish and document a formal schedule of matters specifically reserved for its decision as provided in the bank's Articles and Memorandum of Association to ensure that the direction and control of the bank is firmly retained in its hands; and

8.5.2. The schedule referred under sub-article 8.5.1of these directives shall at a minimum include the following matters:

a) Acquisitions and disposals of investment, fixed assets and technology of material nature ,as may be defined by the board of directors;

b) Authority level for core functions of the bank; and

c) Corporate policies on all matters (Annex IV).

9. Responsibilities of Chief Executive Officer

In addition to duties and responsibilities stated in laws, regulations, National Bank directives, and articles and memorandum of association of the bank, the chief executive officer shall at least be responsible for:

9.1. developing corporate strategies, policies, business plans & budgets which are subject to approval by the board before implementation (Annex IV);

9.2. developing, approving and implementing procedure manuals, guidelines and controls to address compliance with laws and regulations applicable to the bank's business environment and risk profile;

9.3. ensuring documents indicated under article 9.2 herein above are communicated to all concerned staff;

9.4. preparing organizational structure that clearly and appropriately assigns duties, responsibilities & authorities, and ensures segregation of duties;

9.5. allocating authorities , duties and responsibilities in well-defined job analysis;

9.6. providing the board with timely, relevant, and complete reports on the execution of plan performance;

9.7. preventing conflicts of interest in the bank;

9.8. developing management information system that adequately addresses the bank's business environment and risk profile, getting approval from the board and implementing it;

9.9. implementing an effective internal control system and risk management program of the bank; and

9.10. implementing timely corrective action on deficiencies and issues that have been raised or reported by the National Bank, external and internal auditors and risk managers**.**

10. Disclosures

10.1. The board and senior management shall be transparent to shareholders, depositors and other relevant stakeholders without breaching lawful and necessary confidentiality. To this end, a bank at a minimum shall disclose the following.

10.1.1. Each individual related party loan/foreign currency transactions, bank's fixed asset and technology transactions of material nature, as defined by board of directors to the National Bank within fifteen working days from the date of the transaction specifying the name, type of transaction and amount involved; and

10.1.2. report status of the transactions stated under 10.1.1 herein above at least once in a month,

through attestation by the board that the transaction has been carried out at arm's-length in compliance with the regulatory requirements, the bank's own policy and procedures;

10.1.3. The following on its website:

a) the board members, including their qualification, experience, and board sub-committees'; and

b) basic organizational structure, including line business structure; and

10.1.4. A copy of the last audited balance sheet and profit and loss accounts in respect of all of its operations at every place of its business, including its branches and in a conspicuous place throughout the year; and

10.1.5. Cause such balance sheet and profit and loss account, together with the notes thereto, to be published in a newspaper of wide circulation.

10.1.6. The exhibition and publishing of financial statements pursuant to sub-articles 10.1.4 and 10.1.5 hereinabove shall occur within two weeks after the annual shareholders' meeting.

11. Transitional Provisions

11.1. Banks shall comply with provisions of sub-articles 5.1, 5.3, 6.1.4, 8.4.4, 8.4.19 and 9.2 of these directives that require transitional arrangements latest within 365 days from the effective date of these directives.

11.2. Banks shall submit plan of action to the National Bank for compliance with provisions that require transitional arrangements within 60 days from the effective date of these directives. Such plan of action shall be approved by the National Bank.

11.3. Banks shall comply with all requirements of these directives not included in transitional arrangements in sub article 11.1 of these directives starting from the effective date of these directives.

12. Applicability of other laws

Nothing in these directives shall be construed to relive an insurer from complying with the provisions of the Commercial code, Public Enterprise Proclamation or any other relevant laws where applicable.

13. Repeal

The provisions of article 9 of the requirements for persons with Significant Influence in a Bank Directives No.SBB/54/2012, are hereby repealed and replaced by these Directives.

14. Effective date

These directives shall enter into force as of _____/2015

Annexes

Annex -I

Key performance indicators to monitor the performance of senior management should at least include:-

1. The bank's record of compliance with laws, regulations and board approved policies;
2. Internal audit, external audit, risk management findings, recommendations and rectifications;
3. Risk profile of the bank's against risk tolerance limits;
4. Timely execution of regulatory and supervisory concerns raised by the National Bank;
5. The timeliness, quality, and accuracy of management's recommendations and reports; and
6. Key business and financial performance indicators such as actual versus projected performance, trend performance, peer group comparisons and ratios.

Annex-II

The code of conduct to be established shall at least duly reflect:-

1. compliance with corporate values and policies of the bank and all relevant laws and regulations;
2. importance of evaluating problems in time and be oriented to preventing illegal and unethical actions such as bribery and corruption inside and outside the bank**;**
3. duty of care to the bank; duty of care refers to duty of directors and senior managements to act on an informed and prudent basis in decisions with respect to the bank ;
4. duty of loyalty to the bank; duty of loyalty refers to duty of the board and senior management to act in the interest of the bank. Duty of loyalty should prevent individual directors and senior management from acting in their own interest, or the interest of another individual or group, at the expense of the bank;
5. disallows behaviors that could result in the bank in any improper or illegal activities, such as money laundering, fraud, bribery or corruption. It should also discourage excessive risk taking activities and self-dealing and acceptance of gifts or favors;
6. duties to avoid conflict of interest situations. Directors and senior management should not directly or indirectly engage in any action, transaction and business activities that compete or conflict with the interest of the bank. If a conflict of interest arises or may arise, this is to be disclosed by an employee to the line manager, so that it can be dealt appropriately;

7. duty to use position, information and assets properly**.** Directors and senior management should not use their position, information acquired by virtue of position they hold, to obtain an advantage for themselves or someone else. Directors and senior management should not misuse bank's assets rather use in accordance with the terms on which they are provided;
8. confidentiality of bank's and third party information; confidential information received by a director and a senior manager in the course of the exercise of their duties remains the property of the bank and it is improper to disclose it, or allow it to be disclosed, unless that disclosure has been authorized by responsible organ of the bank. Director and senior managements should maintain the appropriate level of confidentiality at all times with respect to information or data pertaining to the bank's customers, suppliers and employees;
9. act fairly and impartially. Directors and senior management should avoid bias, discrimination, caprice or self-interest; demonstrate respect for others by acting in a professional and courteous manner; and
10. act with honesty and integrity. Directors and senior management should be truthful and transparent in their dealings; use their power responsibly.

Annex –III

Terms of References of Board Sub-Committees

The board shall at a minimum set-up the following sub-committees

1. AUDIT COMMITTEE

i. Objective

To provide independent oversight of the bank's financial reporting and internal control system and ensuring checks and balances within the bank

ii. Composition

The Audit Committee shall comprise **at least three directors.** At least one member should have **accounting or auditing expertise or experience in the field of finance**.

iii. Roles and Responsibilities

The Audit Committee should have explicit authority to investigate any matter within its terms of reference, full access to and co-operation by management and full discretion to invite any director or executive officer to attend its meetings, and reasonable resources to enable it to discharge its functions properly. The Audit Committee should have full and unrestricted access to information and be able to obtain independent professional advice. Duties of Audit Committee, among others, are as follows:

1. ensure fair and transparent reporting and prompt publication of the financial accounts;
2. oversee the functions of the Internal Audit Unit;
3. review the scope of the internal audit program, internal audit findings and recommend actions to be taken by management;
4. appoint, set compensation, evaluate performance and decide on the transfer and dismissal of the Chief Internal Auditor;
5. review the effectiveness of internal controls and risk management processes;
6. recommend the appointment and the removal of external auditors;
7. assess objectivity, performance and independence of external auditor;
8. review the external auditor's management letter and response;
9. approve the provision of non-audit service by the external auditor;

10. ensure that there are proper checks and balances in place so that the provision of non-audit services does not interfere with the exercise of independent judgment of the auditors;
11. regularly review the audit findings and ensuring that issues are being managed and rectified appropriately and in a timely manner;
12. review all related party transactions and keep the board informed of such transactions; and
13. check compliance with the policies & rules of the bank and proclamations, regulations, directives, guidelines of the National Bank and other relevant laws.

iv. Meeting

The committee should hold regular meetings, at least once every month and should report regularly to the full board.

2. RISK MANAGEMENT AND COMPLIANCECOMMITTEE

i. Objective

To oversee senior management's activities in managing credit, market, liquidity, operational, legal and other risk and to ensure that the risk management process is in place and functioning.

ii. Composition

The Risk Management and Compliance Committee should comprise at least three directors.

iii. Roles and Responsibilities

The Risk Management Committee is responsible at least for:

1. reviewing and recommending risk management strategies, policies and risk tolerance limits for board's approval;
2. reviewing and assessing adequacy of risk management policies and framework in identifying, measuring, monitoring and controlling risk and the extent to which these are operating effectively;
3. ensuring infrastructure, resources and systems are in place for risk management;
4. ensuring that the staff responsible for implementing risk management systems perform those duties independently of the bank's risk taking activities; and
5. reviewing management's periodic reports on risk exposure, risk portfolio composition and risk management activities.

iv. Meeting

The committee shall hold regular meetings, at least **once every month** and should report regularly to the full board.

3. HUMAN RESOURCE AFFAIRS COMMITTEE

i. Objective

Primary objective of Human Resource Affairs committee is to provide formal and transparent proposal on the employment and removal of senior management members if he/she is ineffective, errant or negligent in discharging his/her responsibilities and on the overall compensation/benefit systems of the bank.

ii. Composition

The Human Resource Affairs Committee should comprise **at least three directors.**

iii. Roles and Responsibilities

iv. The Human Resource Affairs Committee is responsible at least for:

Based on detailed study:

1. recommending a framework of hiring and replacing CEO, SEOs and other key senior management officers of the bank;
2. recommending to the whole board on removal of the CEO, SEOs and other key senior management officers of the company where they are found to be ineffective, errant or negligent in discharging their responsibilities;
3. recommending and monitoring of salaries and benefits for the CEO, SEOs and other key management officers and overall benefit packages (Bonus, Salary increment etc.,) of the bank ;
4. overseeing management succession planning and performance evaluation of CEO, SEOs and other key management officers;
5. ensuring that all directors receive an appropriate induction and continuous training in order to keep abreast with the latest developments in the industry; and
6. oversee any major changes on the overall benefit structure of the company.

v. Meeting

The committee shall hold regular meetings, at least once every quarter and shall report regularly to the full board.

Annex-IV

The minimum required policies, procedure manuals, and guidelines for a bank**:**

1. credit**;**
2. human resource management**;**
3. investment**;**
4. domestic and foreign banking operation**;**
5. liquidity management**;**
6. internal audit/control**;**
7. management information system/MIS**;**
8. planning and budgeting**;**
9. finance;
10. risk management**;**
11. fixed assets**;**
12. corporate governance**;**
13. detection and prevention of criminal activities**;**
14. outsourcing**;**
15. disclosure**;**
16. communication; and
17. procurement**.**