

Addis Ababa  
University

(Since 1950)



**ADDIS ABABA UNIVERSITY**

**COLLEGE OF LAW AND GOVERNANCE  
STUDIES**

**OVERSIGHT OF CORPORATE GOVERNANCE IN STATE OWNED  
BANKS AND INSURANCES: AN ASSESSMENT OF COMPETING LEGAL  
AND INSTITUTIONAL MANDATES**

**By**

**Shemsu Sirgaga**

**Advisor: - Prof. Tilahun Teshome**

**December, 2022**

**Addis Ababa, Ethiopia**

**APPROVAL SHEET BY THE BOARD OF EXAMINERS**

**OVERSIGHT OF CORPORATE GOVERNANCE IN STATE OWNED BANKS AND  
INSURANCES: AN ASSESSMENT OF COMPETING LEGAL AND INSTITUTIONAL  
MANDATES**

**Approved by Board of Examiners**

1. Name \_\_\_\_\_ Signature \_\_\_\_\_

2. Name \_\_\_\_\_ Signature \_\_\_\_\_

Advisor: - Prof. Tilahun Teshome Signature \_\_\_\_\_

## DECLARATION

I, Shemsu Sirgaga, hereby certify that the study paper I've written is entirely original to me and hasn't been submitted to or presented to any official body. Additionally, I properly referenced and recognized each and every source used.

Name: Shemsu Sirgaga

Signature: \_\_\_\_\_

## **ACKNOWLEDGEMENT**

First of all, let my special thanks go to ALLAH, for helping me to accomplish this paper. I would like to express my sincere appreciation and gratefulness to my advisor Prof. Tilahun Teshome for his comments and useful guidance throughout the course of this research paper.

I am also very grateful to the employees and mid-level managers and top managers of NBE, PEHA, Commercial Bank of Ethiopia, Development Bank of Ethiopia, Ethiopian Insurance Corporation, for their willingness to provide me with all the required data, to successfully complete this research work.

Last but not least, I would like to extend my special gratitude to my Colleagues at Federal Supreme Court for their contribution to the success of this research work and for their unlimited support throughout my study.

Shemsu Sirgaga

June, 2022

## Table of Contents

Contents	Page
ACKNOWLEDGEMENT .....	i
ACRONYMS.....	iv
<i>ABSTRACT</i> .....	v
CHAPTER ONE .....	1
INTRODUCTION AND OVERVIEW.....	1
1.1. Background of the Study.....	1
1.2. Statement of the Problem and Research Questions .....	3
1.3. Objectives of the Study .....	6
1.3.1. General Objective.....	6
1.3.2. Specific Objectives.....	6
1.4. Significance of the Study .....	6
1.5. Scope of the Study .....	6
1.6. Methodology of the Study.....	6
1.7. Limitations of the Study.....	7
1.8. Literature Review .....	7
1.8. Organization of the Study .....	8
CHAPTER TWO .....	10
CONCEPTUAL FRAMEWORK OF CORPORATE GOVERNANCE AND ITS REGULATION.....	10
2.1. The Notion of Corporate Governance.....	10
2.2. Corporate Governance Vis a Vis Management .....	11
2.3. Why Corporate Governance Matters .....	12
2.4. Factors that Shape Corporate Governance .....	13
2.4.1. Influence of the Economic Model on Corporate Governance .....	13
2.4.2. Influence of Legal Systems on Corporate Governance .....	14
2.5. The Special Nature of Corporate Governance in Bank and Insurance .....	14
2.6. The Role of Regulators and Supervisors on Corporate Good Governance of Financial Institutions.....	16
2.7. Regulation and Supervision of State Owned Financial Institution.....	17

2.8. Corporate Governance Principles and Practices.....	18
2.8.1. Responsibilities of Board of directors .....	18
2.8.2. Independence of Board of Directors. ....	18
2.8.3. Composition of Board of Directors .....	19
2.8.4. Qualification Board of Directors.....	20
2.8.5 The Role of Stakeholders in Corporate Governance of Banks and Insurances .....	20
CHAPTER-THREE .....	22
REGULATION AND SUPERVISION OF BANKS AND INSURANCES CORPORATE GOVERNANCE IN ETHIOPIA .....	22
3.1 Corporate Governance in Ethiopia .....	22
3.2 Regulation of Corporate Governance in Ethiopia .....	23
3.3 Corporate Governance of Financial Institution in Ethiopia .....	24
3.4 Regulation of Banks’ and Insurances’ Corporate Governance by NBE.....	27
3.4.1. The Role, size and Composition of Boards of Directors.....	28
3.4.2 Ownership Structure.....	32
3.4.3 Appointment and Approval of CEO.....	33
3.4.4 Remuneration of Board of Directors.....	33
3.4.5 Appointment and Approval of External Auditors.....	34
3.4.6 Approval of Investment Plan .....	35
3.5. Competing Legal Mandates Between Public Enterprises Holding and Administration and National Bank of Ethiopia .....	36
3.5.1. Structure, management and control of public enterprises .....	37
3.5.2. Powers of the Supervisory Authority/ PEHA / .....	38
CHAPTER FOUR.....	49
CONCLUSIONS AND RECOMMENDATIONS .....	49
4.1 Conclusions .....	49
4.2 Recommendation .....	52
4.2.1 Policy Measures .....	52
4.2.2 Legislative Measures .....	52
BIBLIOGRAPHY .....	54
ANNEXES.....	62

## **ACRONYMS**

CBE	Commercial Bank of Ethiopia
FDRE	Federal Democratic Republic of Ethiopia
NBE	National Bank of Ethiopia
PEHA	Public Enterprise Holding Administration

## **ABSTRACT**

*Governments participate in a variety of economic sectors for a number of objectives, including providing public services, fostering employment opportunities and raising revenue. The financial sector, particularly banks and insurance, is the most important one among the economic sectors. The same is true of the Ethiopian government, which owns very giant banks and insurers. One of the pillars of any successful company, whether it is public or private, is corporate governance. Corporate governance can either be self-regulatory or through intervention of government by a government regulatory/supervisory/ entity. Particularly, the financial sector requires stringent regulation and oversight. The NBE is authorized to act as the country's central bank, as well as a regulator and supervisor of its financial institutions. Simultaneously, PEHA is also given the authority to supervise state enterprises, which include government banks and insurance. This has been creating practical problems.*

*The study aims at investigation how regulation and supervision of corporate governance of state owned banks and insurers look like. To attain this, the study employs interviews, letters examinations, analysis of legal instruments and literature reviews. The thesis finds that there are gaps in the law and serious mandate overlap between the two supervisory authorities, NBE and PEHA. Further, the thesis proved happening of practical problems as a result of these mandate overlaps.*

*Accordingly, the thesis argues basing OECD principle of corporate governance that the power of supervisory authority shall be clearly demarcated. Furthermore, the regulator and supervisory authority shall be independent. Hence, the PEHA shall only act as shareholder to safeguard the interest of state and NBE shall regulate and give approvals when the law requires approval like other private banks and insurances.*

**Key Words:** *Banks, Corporate Governance, Insurance, State-owned*

# CHAPTER ONE

## INTRODUCTION AND OVERVIEW

### 1.1. Background of the Study

It is believed that financial sectors are inherently imperfect,<sup>1</sup> which quest for prudent regulation in order to avoid or mitigate negative impact of their failure on the socio-economic and political situation of a given country. Leaving financial sector to be regulated by the principle of demand and supply could result in serious problem to the economy of a given nation. Thus, implementation of good corporate governance practices in this area has great relevance for the success of individual financial institutions and the financial system as a whole.<sup>2</sup>

The basic objectives of regulating financial institutions are promotion of safety and soundness of the institutions and to protect them from failure, if possible, or to reduce the probability thereby protecting the interests of depositors and ensuring soundness of the overall operation of the sector.

Among other financial sectors, banks play pivotal role in the economic development of a given country through serving as a channel by collecting deposit from the general public and making loan service available for customers. Banks also finance huge government projects which are crucial to the economic development of a country.

Although, banks play a very important function for economic development, their activities are not transparent enough to be easily regulated. Studies show that “because of the opaque nature of banks, heavy government regulation on corporate governance works differently in the banking sector”.<sup>3</sup> Banks are generally more opaque than nonfinancial firms, and evidence suggests that informational asymmetries are larger in banks than in other sectors.<sup>4</sup>

---

<sup>1</sup> Tony Addison and Alemayehu Geda, *Ethiopia's New Financial Sector and Its Regulation*, World Institute for Development Economics Research (WIDER) of the United Nations University, Helsinki, Discussion Paper No. 2001/55, August 2001 available online <https://www.researchgate.net/publication/23984864> last accessed on June 20/2019.

<sup>2</sup> GT26- Corporate Governance: Regulation and Supervision Guidelines, © ASBA, 2013, P. 1”  
[]=-.

<sup>3</sup> Asnakech getenet Ayele, A.G. (2013) ‘*Revisiting the Ethiopian Bank Corporate Governance system: A Glimpse of the Operation of Private Banks*’, 2013(1) Law, Social Justice & Global Development Journal (LGD)

<sup>4</sup> Ibid.

Likewise, insurers play pivotal role for the economic development of a given country by; enabling mitigation of losses of business organizations; enhancing financial stability; promoting trade and commerce activities resulting in sustainable economic growth and development.<sup>5</sup> Thus, it is very essential to ensure the safety and soundness of the sector by implementing good corporate governance.

Despite extensive privatization, governments continue to own and operate financial institutions with the view, among other reasons, to using them as sources of income to finance different national mega-projects and other governmental activities, to which Ethiopia is not an exception.<sup>6</sup>

In Ethiopia too, although most of the financial institutions are privately owned, the strongest and most powerful banks and insurance company are still in the hands of the government.

The mandate of regulating both state owned and private banks and insurers is with the National Bank of Ethiopia (NBE).<sup>7</sup> In addition to the NBE, different regulatory agencies or authorities are accorded with the mandate of regulating some aspects of financial institutions. For instance Trade Competition and Consumers' Protection Authority is accorded with power of regulation to protect the business community and consumers from anti-competitive and unfair market practices<sup>8</sup>; the Financial Public Enterprises Agency which is replaced by Public Enterprises Holding and Administration Agency and later renamed as Public Enterprises Holding and Administration (PEHA), is also mandated with the power to supervise financial public enterprises to make them efficient, competitive and modern with a view to enabling them to serve as instruments in implementing government development policies.<sup>9</sup>

Thus, the study tries to examine the regulatory role of the NBE on corporate governance of state owned banks and insurers in comparison with the regulatory role of PEHA which is established

---

<sup>5</sup> Available at <https://www.hdfcergo.com> last accessed at 24/02/2022.

<sup>6</sup> World Bank (2014), *Corporate Governance of State- Owned Enterprises: A Toolkit*. DOI: 10.1596/978-1-4648-0222-5. Washington, DC: World Bank. License: Creative Commons Attribution CC BY 3.0 IGO

<sup>7</sup> The National Bank of Ethiopia Establishment (as Amended) Proclamation No. 591/2008 Article 4, 5 (7) (Here in after called NBE re-establishment Proclamation).

<sup>8</sup> Trade Competition and Consumer Protection Proclamation No.813/2013 Art-3(1).

<sup>9</sup> Financial Public Enterprises Agency Establishment Council of Ministers Regulation No. 98/2004, Article5: Definition of powers and duties of the executive organs of the federal democratic republic of Ethiopia proclamation No 1263/2021, Art-53(1 & 2) (here in after called PEHA Re-establishment Proclamation for convenience).

as autonomous government office <sup>10</sup> with the mandate of controlling and supervising public enterprises particularly government owned banks and insurers.

## **1.2. Statement of the Problem and Research Questions**

NBE was established as an autonomous government institution by Order No.30/1963 as an autonomous entity. This Order was repealed and replaced by several Proclamations by the governments that succeeded the Imperial Era, the latest one being Proclamation No. 591/2008. Article 5 of the Proclamation provides the mandates of NBE including regulation and supervision of financial institutions.

In relation to regulating financial sector, NBE is given with the power of regulating the corporate governance of financial institutions, notably banks and insurers, as per its establishment proclamation.<sup>11</sup>

On the other hand, Financial Public Enterprises Agency was established by Council of Ministers Regulation No. 98/2004 as an autonomous government office having its own legal personality as per Art-2 (2) of the Public Enterprises Proclamation No. 25/1992. This Agency was replaced by PEHAA which is established by Art-32 (15) of proclamation No 1097/2018. The newly established agency is mandated to take over the mandates which were given to the former “Financial Public Enterprise Agency” as per Art-5 (16) of Regulation No 445/2019. Art-16 of Regulation No. 445/2019 says that the Agency shall implement the power and duties given to a supervising authority of public enterprises by Proclamation No 25/1992. Recently, the name of the agency changed to Public Enterprise Holding and Administration (PEHA).<sup>12</sup>

When we closely consult the regulatory mandates of the NBE on one hand and the regulatory mandates of PEHA on the other hand, there are certain mandates which are given for both institutions simultaneously.

In relation to remuneration of board of directors, NBE is given the power to determine the maximum amount of remuneration which could be paid for the members of board of directors,

---

<sup>10</sup> Ibid.

<sup>11</sup> NBE Re-establishment Proclamation, note 7 above.

<sup>12</sup> PEHA Re-establishment Proclamation.

irrespective of whether they are private or state owned<sup>13</sup>. Basing this Proclamation, the NBE has enacted directives to fix the maximum amount of remuneration which could be paid for board of directors. In the case of directors who sit board of insurer the maximum annual remuneration is 100,000 (one hundred thousand)<sup>14</sup>; in the case of directors who sit on the board of bank the maximum annual remuneration is 150,000 (one hundred fifty thousand).<sup>15</sup> On the other hand, PEHA is also given with the power to fix the amount of remuneration for members of board of directors in the case of state owned banks and insurance companies.<sup>16</sup>

Regarding approval of the appointment of chief executive officers of banks, Banking Business Proclamation provides that the appointment of chief executive officer is subject to the approval of the NBE.<sup>17</sup> The Insurance Business Proclamation states that the NBE must first approve the appointment of chief executive officers of insurers before the appointment can take effect.<sup>18</sup> On the other hand, PEHA is accorded with the power to approve the appointment and dismissal of chief executive officers of public enterprises<sup>19</sup> which includes banks and insurers.<sup>20</sup> This demonstrates that both entities have the authority to approve the appointment and dismissal of the CEO of state-owned banks and insurers.

The NBE is granted the authority to approve the audit reports of the external auditors of banks without differentiating government and private banks.<sup>21</sup> In the same fashion audit reports of external auditors of insurers has to be approved by NBE.<sup>22</sup> On the other hand, PEHA is accorded with the power to approve external auditors' report on financial situation of public enterprises, which includes state owned banks and insurers as per Art-11 (9) of Public Enterprises Proclamation No. 25/1992 and Art-5(2), 5(16) of Regulation No 445/2019. This is also one area of power overlap between NBE and PEHA.

---

<sup>13</sup> Banking Business Proclamation, Art-14(4)(e)

<sup>14</sup> NBE Licensing and Supervision of Banking Business Directive No. SIB/43/2016, Limits on Board Remuneration and Number of Employees Who Seat on the Board of an Insurer, Art-4.1

<sup>15</sup> NBE Licensing and Supervision of Banking Business Directive No. SBB/67/2018, Limits on Board Remuneration and Number of Employees Who Seat on the Board of on Bank Board, Art-4.1

<sup>16</sup> Art-11 of Public Enterprises Proclamation and Art- 5(16) The Definition of Powers and Duties of the Public Enterprises Holding and Administration Agency Regulation No.445/2019 (here in after called Regulation No.445/2019).

<sup>17</sup> NBE Re-establishment proclamation, note 7 above.

<sup>18</sup> Insurance Business Proclamation No. Art-5(2).

<sup>19</sup> Regulation No. 445/2019, note 16 above, Art-5(13).

<sup>20</sup> *Ibid*, Art-6 and the annex with the Regulation.

<sup>21</sup> Banking Business Proclamation, Art-27(3)

<sup>22</sup> Insurance Business Proclamation, Art-31(4)

In relation to appointment and removal of members of directors, NBE is empowered to approve appointment and removal of board members of banks and insurers.<sup>23</sup> The Administration is simultaneously given the authority to appoint and dismiss board members.<sup>24</sup> The problem is what is going to be the fate of member of a board who is removed by the agency but his removal is not approved by NBE? Will he remain in his mandate without approval of NBE? If this is so, doesn't it defy the power of the Administration to remove a board member?

Furthermore, the Administration is accorded with the power to approve the investment plan of the public enterprises.<sup>25</sup> On the other hand, NBE has already issued a directive which determines the types of business in which banks and insurers may make investments and areas which they are prohibited from investing.<sup>26</sup>

These overlapping of powers call for interpretation and clarification, to avoid the possible difficulty during their practical implementation. Moreover, OECD (Organization for Economic Co-operation and development) Principles of Corporate Governance clearly provide that in order to insure effective corporate governance practice the division of responsibilities among different authorities in a jurisdiction should be clearly articulated and ensure that the public interest is served.<sup>27</sup>

## **Research Questions**

Based on the above problem the writer framed the following questions;

- i. What are the Competing Legal and Institutional Mandates which are accorded to the PEHA and NBE, regarding regulation of corporate governance of state owned banks and insurers?
- ii. What are the practical problems happening due to the competing legal and institutional mandates of the two entities?
- iii. What are the possible solutions to solve the problems?

---

<sup>23</sup> Insurance Business Proclamation, Art-15(2) and Banking Business Proclamation, Art-14(2)

<sup>24</sup> Public Enterprises Proclamation, Art-11(1)

<sup>25</sup> Ibid, Art-11(10)

<sup>26</sup> National Bank of Ethiopia Licensing and Supervision of Banking Business Directive No. SBB/65/2017, Limits on Investment of Banks.

<sup>27</sup> OECD (organization for economic co-operation and development) Principles of Corporate Governance 2004, pp. 18

### **1.3. Objectives of the Study**

#### **1.3.1. General Objective**

The main objective of the study is to examine the overlapping mandates of the NBE and PEHA on the regulation of corporate governance of state owned banks and insurers, to examine possible regulatory competitions and conflicts, to look into how the two entities practically carry out their legally granted authority in a cooperative manner, and to come up with solutions to the issues.

#### **1.3.2. Specific Objectives**

- i. To examine the competing legal and institutional mandates which are accorded to the PEHA and NBE, regarding regulation of corporate governance of state owned banks and insurers.
- ii. To assess practical problems happening due to the competing legal and institutional mandates of the two entities, if any.
- iii. Suggest possible recommendations for the problems based on finding of the study

### **1.4. Significance of the Study**

On top of the academic merits to future researchers interested in undertaking further studies in the area, it is also hoped that the study will inform policy makers and legislators of the apparent and real regulatory conflicts in the area and assist them in clearly demarcating the mandates of the two institutions.

### **1.5. Scope of the Study**

The study focuses on the overlapping mandates of NBE and PEHA on regulation of corporate governance of state owned banks and insurance companies only. It does not examine the roles of other aspects of the regulatory functions of the two entities.

### **1.6. Methodology of the Study**

The research used qualitative primary and secondary data and they have been collected in the following methods:

For Primary Data: Interviews were conducted as a primary source so as to find out how the legal rules stipulated are implementing. Informed consent from interviewees is one ethical consideration that was used. Documents: primary documentary sources including the FDRE Constitution, the National Bank of Ethiopia Establishment (as Amended) Proclamation No.

591/2008 and, “Banking Business Proclamation No. 592/2008 its amendment Banking (Amendment) Proclamation No. 1159/2019, “Insurance Business Proclamation No. 746/2012 and its amendment Insurance Business Amendment Proclamation, Public Enterprises Proclamation No. 25/1992, Regulation No.445/2019, NBE Directives on Directors remuneration, corporate governance and others, and other laws in the area of study were used. To this end review of published and unpublished materials, journals, and books were used to conceptualize and analyze issues. The collected data were analyzed using narration, description and logical reasoning approaches.

### **1.7. Limitations of the Study**

The researcher has faced different challenges in preparing this like, scarcity of locally conducted research findings to use as reference in the area of study, shortage of time because the researcher conducted it simultaneously performing public task, unavailability of government officials who could be interviewed.

### **1.8. Literature Review**

The term corporate governance is a fluid concept and is defined in different ways by scholars depending on the institution, author, country and legal tradition. The United Kingdom’s Code of corporate governance defines it as the system by which companies are directed and controlled.<sup>28</sup> Some others also define it as a system by which a business corporation is directed and controlled at its senior level in order to achieve its objectives, performance and financial management, accountability and integrity.<sup>29</sup> The ways in which lenders of capital to firms ensure themselves of receiving a return on their investment are the subject of the corporate governance debate.<sup>30</sup>

In relation to corporate governance of banking institution and insurance companies there are several studies conducted by different academicians and practitioners. Dureti Abate in her master’s thesis which is conducted on the topic” Ensuring Good Corporate Governance through Auditors: Appraisal of the Ethiopian Legal Regime Governing their Roles and

---

<sup>28</sup> The UK Corporate Governance Code (2014) p.1

<sup>29</sup> T.Karagiorgos, G.Drogalas , E. Gotzamanis and I. Tampakoudis , “*Internal Auditing as an Effective Tool for Corporate Governance*” Journal of Business Management , vol.2, no.1 (2010), p.18

<sup>30</sup> Jean Paul, Corporate governance and Value Creation (2005), The Research Foundation of CFA Institute, USA, p.1

Responsibilities”<sup>31</sup> stated in her findings she said that independence of auditors is very important to ensure good corporate governance. Requiring transparency from auditors is also recognized as an important measure to ensure good governance of companies.

Hussein Ahmed Tura in his article which is conducted on the topic” overview of corporate governance in Ethiopia: the role, composition and remuneration of boards of directors in share companies”<sup>32</sup> in his finding said that legal framework governing company governance in Ethiopia does not sufficiently address issues related to the roles, composition and remuneration of boards of directors in share companies. The relevant provisions of law among others do not also delineate between corporate management and corporate governance.

Asnakech in her article which is conducted on the topic “Revisiting the Ethiopian Bank Corporate Governance System: A Glimpse of the Operation of Private Banks”<sup>33</sup> said that the overall standard of corporate governance in Ethiopia is inadequate. She further argued that there is a major credibility problem in the Ethiopian banking regulatory environment, since the regulatory rules are enforced discriminately between state and private banks.

This study takes the themes discussed in the aforementioned works further and will critically analyze the power overlap between the two regulators, in relation to regulating corporate governance practice of state owned banks in Ethiopia which is not addressed yet.

## **1.8. Organization of the Study**

The study's first chapter gives a basic overview of the study, outlining its background, problem, statement, research questions, goals, objectives, scope, research methods, significance, constraints, and organizational structure.

The second chapter deals with the notions of corporate governance, its difference with management, importance, factors which determine corporate governance, The peculiar of corporate governance in the banking and insurance sectors and similar concepts.

---

<sup>31</sup> Dureti Abate (2016), *Ensuring Good Corporate Governance through Auditors: Appraisal of the Ethiopian Legal Regime Governing their Roles and Responsibilities*, AAU SGS.

<sup>32</sup> Hussein Ahmed Tura (2012), *overview of corporate governance in Ethiopia: The Role, Composition and Remuneration of Boards of Directors in Share Companies* , Mizan Law Review, Vol. 6 No.1.

<sup>33</sup> Ayele, A.G. (2013) ‘*Revisiting the Ethiopian Bank Corporate Governance system: A Glimpse of the Operation of Private Banks*’, Law, Social Justice & Global Development Journal (LGD).

The third chapter is dedicated on assessment of regulation and supervision of banks and insurances corporate governance in Ethiopia with a special focus on state owned banks and insurance corporate governance. The last chapter includes general conclusions and possible recommendations based on the findings of the research

## CHAPTER TWO

### CONCEPTUAL FRAMEWORK OF CORPORATE GOVERNANCE AND ITS REGULATION

#### 2.1. The Notion of Corporate Governance

The term corporate governance is an eclectic subject and there are various definitions present largely depend on the institution, author, country and legal tradition.<sup>34</sup> As it is discussed under the background of the study, the tremendous sum of writing accessible on the subject demonstrates that there are much differentiated definitions in connection to the concept of corporate governance.

For instance, corporate managers, investors, policy makers and lawyers define corporate governance as “a system of rules and institutions that determine the control and direction of the corporation and that define relations among key participants of a company”<sup>35</sup>

Based on the OECD principles of corporate governance, corporate governance includes a set of relationships between a company’s management, its board, shareholders and other stakeholders and provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.<sup>36</sup>

Juan Pedro Cantera tries to define corporate governance as;

*“The way institutions get organized to carry out the administration & control of their management. It is consists of the management structures of the institution (board of directors or equivalent hierarchic authority), management (senior management, including compliance officer & actuarial function) & control functions (audit committee, internal audit & external audit, among others) ”.*<sup>37</sup>

---

<sup>34</sup> Dureti Abate (2016), note 31 above, pp. 10

<sup>35</sup> Hussein Ahmed Tura (2012), note 32 above, p 45-76

<sup>36</sup> Bob Garratt, *Why Corporate Governance Matters and How to Measure and Improve Board Performance* (Nicholas Brealey publishing 2006), UK, P. 33 and Dureti Abate (2016), note 31 above, pp. 11

<sup>37</sup> Juan Pedro Cantera (2017), *Corporate Governance in Insurance Companies*, CBU Montevideo

Manuel Alfonso says the concept of corporate governance is defined by the authors, and not expressly defined because it encompasses different areas of interaction, such as management, ethical, legal, regulatory, structural, and behavioral aspects. The approach adopted, whether of the shareholder or the stakeholder, will determine the type of corporate governance that will be developed in a company, or in a country and the mechanisms through which its compliance will be verified. The field is continually evolving.<sup>38</sup>

What can be concluded from the diverse definitions available is that there is no uniform scope or content of corporate governance; Some focus on the relationship between shareholders and the company; some concentrate on the formal structure of the board, codes of board practice and corporate effectiveness; yet others believe the focus should be on the social responsibilities of corporations to a wider set of stakeholders.<sup>39</sup>

## **2.2. Corporate Governance Vis a Vis Management**

Governance and management are words that hold key role in relation to running an organization in a smooth and efficient manner. While there are governing bodies and managers both serving inside an organization, their roles and responsibilities should clearly be spelt out. Literally, whilst we see corporate governance and management, there appears to be no distinction among the two concepts with both being concerned with controlling an organization for the purpose of running it to attain the goals that have been set forth. Using the two words interchangeably contributes a lot for the confusion. However, there are differences between them.

Governance can be said to be representing the owners, or the interest group of people, who represent a firm, company or any institution.<sup>40</sup> Governance consists of a governing body, in our case the Board of Directors that appoints members of a Company's management and directs them on how they should conduct the business of the company.

---

<sup>38</sup> Manuel Alfonso Garzon Castrillon (2021), *The Concept of Corporate Governance*, Revista Científica "Visión de Futuro", Vol. 25, No. 2, pp. 178-194

<sup>39</sup> Dureti, 2016, note 31 above.

<sup>40</sup> Available at <<http://managementhelp.org/blogs/boards-of-directors/2010/08/27/the-changing-role-of-boards-and-management-as-companies>>. Retrieved on 4/15/2022.

On the other hand, management is all about doing things in the right way as per the direction of board of directors most of the time.<sup>41</sup> The responsibilities between governance and management also differ. Selecting senior executives, assessing their performance, authorizing plans/commitments and evaluating the organization's performance are all responsibilities of governance.<sup>42</sup> Management, on the other hand, is in charge of overseeing and improving the organization's overall performance. The implementation of governance system is the duty of management. It is the day to day executive organ or body in corporate governance.

### **2.3. Why Corporate Governance Matters**

Every single company, whether you are a start-up or well-established industry player, needs some form of a corporate governance strategy. It outlines the way your company handles decision-making, votes, timings, and who has what responsibilities between the CEO, stakeholders, and your board of directors.<sup>43</sup>

In the recent experience shows that companies are involved in and have an impact on the socioeconomic and political affairs of the countries in which they operate. As a result, ensuring a basic degree of excellent corporate governance is an issue of economic growth, democracy, and social justice.<sup>44</sup>

Potential investors needed to be confident that the firm's managers would not misappropriate company assets if outside equity was to be subscribed. Equity was viewed as unappealing and priced appropriately in the absence of such confidence.<sup>45</sup>

In more stable times, companies that had financed rapid growth with significant debt obligations found it impossible to maintain that growth. Besides, the crisis had systemic ramifications, since unpaid trade creditors were forced into bankruptcy, and financiers, including the major banks, were left with non-performing debts.<sup>46</sup>

Latest financial heists by western firms have shocked the world with their scope and ingenuity, highlighting the dire repercussions of poor corporate governance and emphasizing the

---

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Available at: [3 Reasons You Need Corporate Governance - Holded](#), Retrieved on 4/29/2022

<sup>44</sup> Dureti Abate (2016), note 31 above, pp. 12

<sup>45</sup> Kevin Keasey et al, note 46 above, pp. 7-8

<sup>46</sup> Ibid

importance of addressing governance issues.<sup>47</sup> Following a series of business failures and scams in the United States, as well as several high-profile scandals in Russia and the Asian crisis, corporate governance challenges have risen to the fore in developing and transitional economies. The scandals also demonstrate how corporate governance issues cut across national borders.<sup>48</sup>

Increase in importance of private, market-based investment process underpinned by good corporate governance for most economies has also raised corporate governance issues in sectors that were previously state held.<sup>49</sup>

The advent of globalization which predominantly involve economic integration result with too many cross-border issues in corporate governance, technological progress, liberalization and opening up of financial markets, trade liberalization, and other structural reforms make good governance more important, but also more difficult.<sup>50</sup>

## **2.4. Factors that Shape Corporate Governance**

Corporate governance reflects the economic, historical, cultural and legal characteristics of a given country, its business history and corporate landscape.

The following are some of the underlying factors that shape the corporate governance structure<sup>51</sup>

### **2.4.1. Influence of the Economic Model on Corporate Governance**

The economic model in use shapes and influences company governance in particular jurisdictions. Corporate governance is influenced by the relationships and exchanges among the economic entities who dominate a market. The US version, for example, is sometimes described as market-oriented, with a greater emphasis on unrestricted competition, i.e. the "winner take all" criteria. The government establishes the regulatory framework through various regulators with the mandate of regulating firms, and then allows market forces and actors to compete. Other countries, such as Germany and France, place a higher value on collaboration and consensus

---

<sup>47</sup> A. Naciri (ed.), *Corporate Governance Around the World* (Taylor & Francis e-Library, 2008), pp.

<sup>48</sup> Dureti Abate (2016), note 31 above, pp. 12

<sup>49</sup> Udo C. and Alexander N. (2007), *Developments in Corporate Governance*

<sup>50</sup> Dureti Abate (2016), note 31 above, pp. 12

<sup>51</sup> Dejene Alamirew (2014), *Assessing Corporate Governance of Ethiopian Private Limited Companies: With Particular Emphasis on Making Board of Directors Compulsory to Such Companies*, A Thesis Submitted SGS AAU, pp. 22

among economic and market participants. These two models, as well as other modifications in various countries, have a substantial impact on corporate governance.<sup>52</sup>

#### **2.4.2. Influence of Legal Systems on Corporate Governance**

Shareholders have priority over other stakeholders in common law countries like England and America. In most civil law countries, the law and/or numerous governance regulations require that the company's interest, which the combined interests of the various stakeholders, takes precedence.<sup>53</sup> This is a significant distinction with far-reaching repercussions. The reasoning in common law countries is primarily founded on the notion that if directors look out for the long-term interests of shareholders, they will be seen to have looked out for the corporation's other stakeholders as well.<sup>54</sup>

#### **2.5. The Special Nature of Corporate Governance in Bank and Insurance**

Indeed, governments and regulators use corporate governance to supplement financial oversight, which explains why this field is becoming more regulated. In a nutshell, regulation mandates that boards of directors and their risk committees oversee financial organizations' risk taking and management. As a result, corporate governance serves the supervisory objectives to the extent that it should prevent financial institutions from taking excessive risks.<sup>55</sup>

Banks and other financial firms have unique corporate governance structures. This is supported by empirical evidence, much of which was acquired after the financial crisis. Banks with traditional, shareholder-oriented corporate governance performed worse than banks with less shareholder-prone boards and less shareholder power. Bank and other financial institutions special governance is strongly ingrained in supervision law and regulation. The purpose of (non-bank) corporations has recently been the subject of heated debate. Stakeholder governance,

---

<sup>52</sup> Ibid.

<sup>53</sup> Hussein Ahmed Tura (2014), note 32 above, pp. 169-171

<sup>54</sup> Eric Hontz and Aleksandra Shkolnikov (2009), *USAID the Center for International Private Enterprise(CIPE), Corporate Governance*, The Intersection of Public and Private Reform, P. 30.

<sup>55</sup> [Understanding the Role of Corporate Governance in Financial Institutions: A Research Agenda | Oxford Law Faculty](#), Accessed on 5/11/2022

namely creditor or debt holder governance is more crucial to banks than shareholder governance.<sup>56</sup>

Concerning special nature of financial institution on corporate governance the Basel Committee on Banking Supervision stated as follows

“Banking supervision cannot function as well if sound corporate governance is not in place and, consequently, banking supervisors have a strong interest in ensuring that there is effective corporate governance at every banking organization”.<sup>57</sup>

A bank’s failure to follow good practices in corporate governance and the lack of effective governance are among the most important internal factors which may endanger the solvency of a bank. Corporate governance in banks differs from the standard (typical for other companies), which is due to several issues.<sup>58</sup>

- The bankruptcy of a bank raises social costs, which does not happen in the case of other kinds of entities’ collapse; this affects the behavior of other banks and regulators; regulations and measures of safety net substantially change the behavior of owners, managers and customers of the banks; rules can be counterproductive, leading to undesirable behavior management (take increased risk) which expose well-being of stakeholders of the bank (in particular the depositors and owners);
- Between the bank and its clients there are fiduciary relationships raising additional relationships and agency costs;
- problem principal-agent is more complex in banks, among others due to the asymmetry of information not only between owners and managers, but also between owners, borrowers, depositors, managers and supervisors;
- The number of parties with a stake in an institution’s activity complicates the governance of financial institutions. To sum up, depositors, shareholders and regulators are concerned

---

<sup>56</sup> Klaus J. Hopt (2021), Corporate Governance of Banks and Financial Institutions: Economic Theory, Supervisory Practice, Evidence and Policy, European Business Organization Law Review, Vol. 22, pp. 13.

<sup>57</sup> Basel Committee on Banking Supervision (1999), *Enhancing Corporate Governance for Banking Organizations*, pp. 1

<sup>58</sup> Monika Marcinkowska (2012), *Corporate Governance in Banks: Problems and Remedies*, Financial Assets and Investing, No. 2, pp. 48. For Further Discussion, read: D.T. Llewellyn (2002), M. Marcinkowska (2009) P. Cincanelli, J.A. ReyesGonzalez (2000, June), B.E. Gup (2007), R. Adams, H. Mehran (2003, April).

with the robustness of corporate governance mechanisms. The added regulatory dimension makes the analysis of corporate governance of opaque banking firms more complex than in non-financial firms.

The unique features of financial institutions necessitate strict government regulation through bank supervisors and a range of financial laws and regulations. The interface between these elements determines how well the performance of financial institutions conforms to the best interest of shareholders, while complying with regulatory standards. Hence, for shareholders and regulators the financial institutions (especially banks and insurance) corporate governance framework is critical for their success and its daily operations.<sup>59</sup>

One of the most typical features of banks' risk profile is their exposure to contagion risk. Contagion, which is at the core of the concept of systemic risk, refers to the possibility that failure of a bank spreads to other banks in the system.<sup>60</sup>

Hence, do to these unique feature of financial institution their corporate governance require serious attention and regulation.<sup>61</sup>

## **2.6. The Role of Regulators and Supervisors on Corporate Good Governance of Financial Institutions**

It is impossible to define good governance in isolation. It can only be understood in the context of the numerous constituencies and expectations it is supposed to serve. Customers, counterparties, and others with whom a company does business define good governance in terms of efficiency and quality a well-governed company provides efficient, high-quality services and goods in a timely way.<sup>62</sup>

---

<sup>59</sup> Asnakech Getnet Ayele (2013), note 3 above, pp. 3; Spong, K, R, and Sullivan, R, J. (2007), *Corporate Governance and Bank Performance*, Journal of Economics Literature No. G21, G34, p.1; see also Tandelilin, E, Kaaro, H, and Mahadwartha, P (2007), *Corporate Governance, Risk Management, and Bank Performance: Does Type of Ownership Matter?* EADN Working Paper No. 34, pp. 2.

<sup>60</sup> Larisa Dragomir, European Prudential Banking Regulation and Supervision The Legal Dimension, European banking at the beginning of the third millennium, Banking and market structures, (Taylor & Francis e-Library, 2010) pp. 29-30

<sup>61</sup> Asnakech Getnet Ayele (2013), note 3 above.

<sup>62</sup> Gary M. Welsh (1999), *Good Governance and Commercial Banks*, Current Developments in Monetary and Financial Law, Vol. 1, pp. 393.

Given the critical financial intermediation role of banks in an economy, corporate governance is critical to gaining and sustaining public trust and confidence in the banking sector.<sup>63</sup> Investor confidence is essential for such organizations to get enough funding.<sup>64</sup> An effective corporate governance system should rely less on strict adherence to statutory codes and regulatory standards and more on the creation of adaptable internal compliance procedures tailored to the risk level and nature of the financial organization.<sup>65</sup>

According to the Basel Committee on Banking Supervision the board and senior management are primarily responsible for the governance of the bank, and supervisors should assess their capacity and performance in this regard. To this end, Supervisors has the responsibility to perform: Guidance on expectation of sound corporate governance; make comprehensive evaluation of banks' corporate governance.<sup>66</sup>

## **2.7. Regulation and Supervision of State Owned Financial Institution**

State-owned enterprises including financial institution face some distinct governance challenges arising from the fact that their ownership is exercised by government officials on behalf of the general public.<sup>67</sup> The key distinction of state-owned financial institutions is the fact that a state simultaneously can act as an owner, manager, creditor and regulator. The government, as the agent of population, at the same time acts as the principal, entrusts the management of state-owned banks, by the way of delegation the management functions, to state institutions which delegate them to other performers.<sup>68</sup> State-owned financial institutions are vulnerable to political

---

<sup>63</sup> Mena EECED Investment Programme, *Improving Corporate Governance in The Middle East and North Africa, Policy Brief on Corporate Governance of Banks Building Blocks* (draft for discussion purposes, Working Group 5, pp. 3

<sup>64</sup> ASX Corporate Governance Council (2019), *Corporate Governance Principles and Recommendations*, 4th Edition February 2019, pp. 1

<sup>65</sup> Biruk Tesfaye Kebede (2018), note 45 above, pp. 23-24

<sup>66</sup> Id, pp. 24

<sup>67</sup> OECD (2015), *OECD Guidelines on Corporate Governance of State-Owned Enterprises*, 2015 Edition, OECD Publishing, Paris, pp. 9. <http://dx.doi.org/10.1787/9789264244160-en>

<sup>68</sup> Smovzhenko T. S. et al (2019), *Corporate Governance in State Owned Banks*, pp. 77: DOI: 10.18371/fcaptop.v2i29.171882

interference, particularly in countries with weak governance and institutional structures, leading to unsound lending practices and inefficiencies.<sup>69</sup>

## **2.8. Corporate Governance Principles and Practices**

In many legal systems and prominent corporate governance principles, regulations are usually found as legal requirements where no deviation is allowed, comply or explain rules where any deviation needs to be accompanied by the reason for deviation.<sup>70</sup>

Some of the basic principles of corporate governance are discussed herein below.

### **2.8.1. Responsibilities of Board of directors**

The board of directors owes all shareholders a duty of care. When competing interests amongst shareholders are perceived, board members must pay special attention to their responsibilities. The Board of Directors is in charge of overseeing executive management as representatives of the shareholders. To avoid impeding the Board of Directors' ability to exercise control, the board's chairperson shall not be responsible for executive management at the same time. When it comes to creating value for shareholders, a well-composed board and well-organized board work are essential.<sup>71</sup>

As a result, the principles are intended to apply to all board arrangements and argue that boards should act "in good faith, with due attention and care," and in the company's and shareholders' best interests.<sup>72</sup>

### **2.8.2. Independence of Board of Directors.**

Nowadays, the importance of the independence of directors is subject of discourse among corporate circles and academics. Recent literature on corporate governance is replete with recommendations of various committees on the desirability of having non-executive,

---

<sup>69</sup> Mark Adams et al (2022), *Regulating, Supervising, and Handling Distress in Public Banks*, IMF Monetary and Capital Markets Department, pp. 4.

<sup>70</sup> Dureti (2016), note 31 above, pp. 22

<sup>71</sup> Nordea Funds Ltd, *Corporate Governance Principles*, pp. 4, Folajimi et al, *Principles of Corporate Governance and Effective Boards, Board of Directors Effectiveness and Corporate Governance* Taylor and Francis (eds), (2019)

<sup>72</sup> Gebeyaw Simachew Bekele (2012), *A Critical Analysis of the Ethiopian Commercial Code in Light of OECD Principles of Corporate Governance*, Institute of Advanced Legal Studies School of Advanced Study University of London, pp. 20

independent directors on the boards of companies to promote better corporate governance practices. For instance, the OECD Principles of Corporate Governance provides that board independence usually requires that a sufficient number of board members be employed by the company and not be closely related to the company or its management through significant economic, family or other ties. Non-executive directors should be independent of management and free from any business or other relationship that could interfere with their independent judgment.

### **2.8.3. Composition of Board of Directors**

The composition of board of directors denotes the numbers of members of board of directors and type of directors that participate in the work of the board. A company may have managing or whole time directors who are in charge of the day-to-day conduct of the affairs of a company, and they are together with other team members collectively known as ‘management’ of the company. A company may also have part time non-executive directors who have nothing to do with the day to day management of the company. Effective company boards would be composed largely of outside independent directors, and that effective boards have to separate the functions of management and control.

**Size:** In determining appropriate board size, directors should consider the nature, size and complexity of the company as well as its stage of development. Larger boards often bring the benefit of a broader mix of skills, backgrounds and experience, while smaller boards may be more cohesive and may be able to address issues and challenges more quickly. Research finding shows proper board size has positive impact on financial companies performance and the good corporate governance too.<sup>73</sup>

---

<sup>73</sup> Maria Malik et al (2014), Governance and Firm Performance Applying Pareto Approach, Is It Cultural Phenomena? The Journal of Applied Business Research Vol. 30, No. 5.

**Composition:** The composition of a board should reflect a diversity of thought, backgrounds, skills, experiences and expertise and a range of tenures that are appropriate given the company's current and anticipated circumstances and that. Collectively, enable the board to perform its oversight function effectively.<sup>74</sup>

The composition of the board has a direct effect on the company's activities. Generally, the composition of the board refers to the proportion of inside and outside directors serving on the board. Boards of directors include both executive and non-executive directors.<sup>75</sup>

#### **2.8.4. Qualification of Board of Directors.**

Top-of-the-line governance solutions will be useless if a company does not have the right people on the board with the right skills, education, and experience, as well as the necessary structure. Board Capability refers to the educational qualifications of individual board members. Individual board members' experiences are important in making decisions. Advanced-degreed board members assist firms through a combination of competences and abilities that helps in the formation of diverse perspectives on decision-making. Additional qualified members would broaden the knowledge base, encourage board members to investigate various options, and develop a more compassionate approach to issue solving.<sup>76</sup>

#### **2.8.5 The Role of Stakeholders in Corporate Governance of Banks and Insurances**

In relation to the mandate of board of directors of banking institution and top managers of banks, there are two equally computing arguments. There are scholars who argue that the role and mandate of boards and company's managers should be maximizing shareholders profit by disregarding the interests of stakeholders. Some others also say that board directors should direct the company not only for the interests of shareholders but also for the interests of various stakeholders who make "firm specific investments" within the company.<sup>77</sup>

---

<sup>74</sup> Principles of Corporate Governance, Harvard Law School on Corporate Governance; [Principles of Corporate Governance \(harvard.edu\)](#), accessed on 5/15/2022

<sup>75</sup> Abel Atlabachew Tadesse (2017), *Assessment on Corporate Governance Practice: The Commercial Bank of Ethiopia*, SGS College of Business and Economics AAU, pp. 14

<sup>76</sup> Abdurazak (2017), note 60 above, pp. 38

<sup>77</sup> Gebeyaw Simachew Bekele (2012), note 94 above, pp. 31.

According to the proponents of the second view bank and insurance creditors and employees are entitled to be represented in board members and other stakeholders have also an influential voice in the governance of the company. However, through time these two contending approaches converge into another theory called an “enlightened shareholders value” approach. According to this approach, for the long term profit maximization of shareholders and sustainability of the company, the decisions of the board should align the interest of shareholders’ profit maximization with the interest of stakeholders.<sup>78</sup>

The organization should also cooperate actively with its stakeholders in creating wealth, jobs and a financially sound enterprise.<sup>79</sup>

External stakeholders are significant because they have significant influence over the corporation. However, in order to prioritize its level of attention, the company should identify its major stakeholders (based on their power and influence on the organization). Because it is impossible to please all stakeholders, the organization must strike a balance between satisfying its own objectives and those of its stakeholders.<sup>80</sup>

Having said this as an introduction of some conceptual issues, the next chapter shows regulation of corporate governance of banks and insurances in Ethiopia.

---

<sup>78</sup> Ibid.

<sup>79</sup> Kingsley O. Mrabure and Alfred Abhulimhen-Iyoha (2020), note 101 above, pp. 293-300

<sup>80</sup> Id, pp. 305-306

## CHAPTER-THREE

### REGULATION AND SUPERVISION OF BANKS AND INSURANCES CORPORATE GOVERNANCE IN ETHIOPIA

#### 3.1 Corporate Governance in Ethiopia

Business can be carried out in the form of sole proprietorship or using business organizations. The same is true under Ethiopia law.<sup>81</sup> The business organizations further classified in to partnership and companies. Three kinds of company are recognized under the new commercial code.<sup>82</sup> These are one man Company<sup>83</sup>, Share Company and Private Limited Company.<sup>84</sup>

The term corporate governance defined in various legislations. For instance the Code of Corporate Governance for Public Enterprise defined it as;<sup>85</sup>

*...the framework of rules, structural relationships, systems and processes within an enterprise by which powers and duties are exercised and controlled through building an environment of trust, transparency and corporate accountability necessary to enhance business prosperity, foster long-term investment, financial stability and business integrity.*

Control of the company is left in the hands of a few directors and managers, who may be controlled by block holders in the worst case scenario.<sup>86</sup> Minority shareholders become subjugated.

Financial institutions, banks and insurances in particular, are subject to additional regulatory proclamations and subsidiary directives. As a result, companies operating in banking must follow the Banking Business Proclamation No.592/2008 with its amendment Proclamation No. 1159/2019 as well as the NBE Regulations, Directives and Procedures. Insurance Business Proclamation No. 746/2012 with its amendment Proclamation No. 1163/2019, as well as the

---

<sup>81</sup> For instance, the new Federal Democratic Republic of Ethiopia Commercial Code Proclamation No. 1243/2021 (here in after called New commercial code)

<sup>82</sup> Ibid.

<sup>83</sup> See Art-174 cum with 534 and following provisions of the new commercial code. It introduced one-person private limited company. This form of company is newly introduced form of company.

<sup>84</sup> New Commercial Code, Art-174.

<sup>85</sup> Code of Corporate Governance for Public Enterprise No. 501/2020, Art-2/1/ (Here in after called Code of Corporate Governance of Public Enterprise).

<sup>86</sup> Fekadu Petros Gebremeskel (2010), *Emerging Separation of Ownership and Control in Ethiopian Share Companies: Legal and Policy Implications*, Mizan Law Review, Vol. 4 No. 1 pp. 27.

NBE's directives and procedures, must be followed by insurance companies. Micro financing Institutions are governed by Proclamation No.626/2009 and its amendment 1164/2019, NBE directives and procedures issued by the NBE. Likewise, public enterprises are obliged to follow the rules issued by respective supervisory authority.<sup>87</sup>

### **3.2 Regulation of Corporate Governance in Ethiopia**

Regulation can be government regulation and self-regulation. Self-regulation has been a feature for many industries and professions throughout the world. Self-regulation is a universal occurrence. It exists in various sectors of economy. The existence of self-regulation has confused many people for a long time due to the conventional belief that a private organization can never achieve efficient and effective market discipline given its internal conflict of interest. Some people and also government use this to explain the need for government regulation.<sup>88</sup>

The Ethiopian economy is undergoing a transition. It has benefited from reforms over the past two decades, which have brought market economy, privatization, and liberalization in the financial system.<sup>89</sup> This paves the way for establishment of companies. Ethiopia is dedicated to Basic Values for Corporate and Organizational Governance. These Basic principles include:

- Being trustworthy in all business dealings;
- Being accountable to owners, employees, and creditors;
- Being responsible to stakeholder groups and society; and
- Being transparent in communication and publication.<sup>90</sup>

There are various regulatory laws especially for financial institutions. This regulation can be carried out through various organs. The National Bank establishment proclamation (as amended) states;

*The purpose of the National Bank is to maintain stable rate of price and exchange, to foster a healthy financial system and to undertake such other related activities as are conducive to rapid economic development of Ethiopia*

---

<sup>87</sup> One thing it should be clear here is, the supervising authority is not sector specific.

<sup>88</sup> Chang Ma (2018), *Self-Regulation Versus Government Regulation: An Externality View*, pp. 8

<sup>89</sup> Available at [Corporate Governance Code | Ethiopian Institute of Corporate Governance \(EICG\) \(addischamber.com\)](http://addischamber.com), retrieved on 7/8/2022

<sup>90</sup> Ibid

Furthermore, Art-4/7/ states the NBE has the power to license and supervise banks, insurers and other financial institutions. Hence, it has regulatory power over financial institutions.

On the other hand, there is a distinct legal regime and regulatory bodies for corporate governance of public enterprises.<sup>91</sup> The most notable of those public enterprises are financial institutions.

### **3.3 Corporate Governance of Financial Institution in Ethiopia**

Corporate Governance comprised the leadership structures of an institution (the Board or equivalent hierarchical authority, and its Committees), management (Senior Management), and those regarding control (Internal and External Audit, among others); as well as any practices adopted to manage, oversee and control daily business activities, within the framework of the applicable laws and regulations. These practices should allow the entity to establish its objectives, determine the necessary means to reach them, and monitor their compliance. In all cases, performance should be in accordance with the best interests of the institution, its shareholders, depositors and creditors, and respecting consumer rights and those of other groups of interest.<sup>92</sup>

Societies across the world pass through different regulatory mechanism. Peoples in America and Europe are presently significantly wealthier than they were 100 years ago, but they are also significantly more regulated. Peoples reside in homes and apartment complexes whose construction is highly regulated, from zoning to the choice of materials to fire rules.<sup>93</sup>

Individual businesses decide what to produce, how much to produce, how to fix price, and what inputs to utilize in a market economy. Workers and consumers make decisions about how much money to spend, save, work, and what to buy. Markets distribute products and services according to their highest and best uses through the interaction of supply and demand.<sup>94</sup> The companies decide how to govern themselves. However, this is not always the case due to the reason stated above.

---

<sup>91</sup> FDRE Public Enterprise Proclamation No. 25/1992, Art-10/1/.

<sup>92</sup> Multimedia Investment Fund Members of the IDB Group (2013), *Corporate Governance: Regulation and Supervision Guidelines*, ASBA, pp. 12

<sup>93</sup> Whipple V. N. Jones (2005), *Understanding Regulation, European Financial Management*, Vol. 11, No. 4, 439–451

<sup>94</sup> Susan E. Dudley and Jerry Brito, *Regulation: A Primer* (ercatus center George Mason University, 2012), pp. 65

Financial activity is inherently risky, but without risk taking, businesses could not expand or innovate, and households would be unable to purchase durable goods, education, and housing that could not be financed out of current income. Financial regulation aims to balance the benefits of finance with the risks that it poses.<sup>95</sup>

Governments regulate financial institutions for two main purposes. The first is consumer protection. This is much the same reason they regulate public utilities and telecommunications: to provide a framework of rules that can help prevent the excesses and failures of a market left entirely to its own devices.<sup>96</sup> Second, regulation in the financial sector has the additional goal of maintaining financial stability, a clear public good that justifies a more elaborate framework of regulation and supervision.<sup>97</sup>

As stated above after 1992 when the new EPRDF government comes to power a free market economy was declared and as a result several private firms have flourished. Regarding the financial sector even though it has been opened for domestic investors it remains closed for the entry of foreign financial institutions, for this reason it remains less developed than many developing countries including its neighbors for example; Kenya, Sudan and Uganda.<sup>98</sup>

Due to the financial sector's significance for Ethiopia's economic development, the government has adopted a cautious approach to reform. The Ethiopian government chooses to implement financial liberalization through (a) gradualism: gradual opening up of private banks and insurance businesses, as well as progressive liberalization of the foreign currency market. (b) Increasing domestic competitiveness prior to full liberalization, enhancing the NBE's capacity for regulation and oversight, granting banks autonomy, and enhancing the interbank money market.<sup>99</sup>

The financial sector in Ethiopia consists of formal, semiformal and informal institutions. The formal financial system is a regulated sector which comprises of financial institutions such as banks, insurance companies and microfinance institutions. The saving and credit cooperative are

---

<sup>95</sup> IN FOCUS (2022), *Introduction to Financial Services: The Regulatory Framework*, Congressional Research Service,

<sup>96</sup> Here we can mention consumer protective laws.

<sup>97</sup> Available at [Economic Issues No. 32 - Should Financial Sector Regulators Be Independent? \(imf.org\)](https://www.imf.org/publications/economic-issues/2022/01/01/should-financial-sector-regulators-be-independent) retrieved on 7/6/2022

<sup>98</sup> Melesse Asfaw (2014), *Financial Regulation and Supervision in Ethiopia*, Journal of Economics and Sustainable Development, Vol.5, No.17, pp. 64.

<sup>99</sup> Id, pp. 67

considered as semi-formal financial institutions, which are not regulated and supervised by National Bank of Ethiopia (NBE). The informal financial sector in the country consists of unregistered traditional institutions such as *Iqub* (Rotating Savings and Credit Associations) *Idir* (Death Benefit Association) and money lenders.<sup>100</sup>

In the Ethiopian context formal financial sector includes National Bank of Ethiopia (NBE), commercial banks (owned by private and public), Development Bank of Ethiopia (DBE), insurance companies (both public and private) and microfinance (MF) institutions (owned by regional governments, associations and individuals).<sup>101</sup>

The NBE as the regulator of the financial institutions, markets and auxiliaries enforces the existing regulations through banking, insurance and microfinance supervision departments organized in it. The banking and insurance supervision departments of the NBE also sometimes attempt at assessing their regulatory and supervisory practices against the core principles of the Basle Committee on Banking Supervision (BCBS) and the International Association of Insurance Supervisors (IAIS).<sup>102</sup>

Public firms must be able to withstand the intense rivalry put forth by private businesses, even while they exist to serve a delicate public interest with the goal of making a profit. This implies that in order to maintain their competitiveness in the market, they must have an appropriate organizational structure and effective management methods. Both goals will not be achieved if the state owner directly interferes in the operation of the business while claiming to be safeguarding its ownership interests. During the previous administration, we had a number of public enterprises, but they were unable to achieve their goals because of the state's unlawful and direct interference with their internal operations.<sup>103</sup>

The preamble of public enterprise proclamation states;

---

<sup>100</sup> Yifredew Adamu Bizualem (2019), Financial Sector in Ethiopia

<sup>101</sup> Esmael Abdu | (2022) *Financial distress situation of financial sectors in Ethiopia: A review paper*, Cogent Economics & Finance, Vol. 10 No. 1, pp. 2

<sup>102</sup> Abay Yimer, S. (2011). *Financial market development, policy and regulation: the international experience and Ethiopia's need for further reform*, pp.

<sup>103</sup> Dagnachew Asrat and Addissie Shiferaw, *Law of Public Enterprises and Cooperatives Teaching Material*, JLSR, pp. 80

*It is necessary to create an organizational structure whereby public enterprises can enjoy management autonomy and thus enable them to be efficient, productive and profitable as well as to strength their capability to operate by competing with private enterprises.*

According to the Public Enterprise Proclamation, wholly state-owned organizations are considered public enterprises and are thus governed by the same Proclamation.

One can find no consensual or generally agreeable definition of public enterprise. Moreover, it is called by different terminologies and these cause confusion public undertaking, public enterprise, public corporation, national enterprise, state-owned enterprise, governmental enterprise.<sup>104</sup> Therefore, corporate governance of these enterprises is regulated by supervisory authority, which is called Public Enterprises Holding and Administration.<sup>105</sup>

### **3.4 Regulation of Banks' and Insurances' Corporate Governance by NBE**

One of the most significant internal reasons that could imperil banks' and insurers' solvency is their inability to adhere to strong corporate governance rules and principles.<sup>106</sup> The basic goals of corporate governance, taking into account the corporate "democracy", which is the widespread engagement of stakeholders, corporate fairness, openness, and accountability.<sup>107</sup> For the financial system and economy to operate effectively, public confidence is required. To achieve and keep this confidence, effective corporate governance practices are essential. This may not be achieved through self-regulation.<sup>108</sup>

The NBE, aware of the fundamental role of corporate governance in maintaining the solvency and security of the financial system, has issued two practically identical directives: the first is applicable to the banking industry (SBB/71/2019) and the second to the insurance industry (SIB/188/2020). There are also other related directives like Limits on Board Remuneration and Number of Employees who seat on the Board.<sup>109</sup> In order to avoid the feared problem, it is

---

<sup>104</sup> Id, pp. 44

<sup>105</sup> Definition of Powers and Duties of the Executive Organs Proclamation No. 1263/2021, Art-53

<sup>106</sup> Monika Marcinkowska (2012), note 80 above, pp. 48.

<sup>107</sup> Ibid.

<sup>108</sup> Monika Marcinkowska (2013), *Regulation and self-regulation in banking: in search of optimum*, Bank i Kredyt Vol. 44 No. 2, 119-158.

<sup>109</sup> Limits on Board Remuneration and Number of Employees who seat on the Insurance and Bank Board, NBE Directives No. SIB/43/2016 and SBB/67/2018 respectively (here in after called Directive on Board remuneration).

important to identify the focus areas of corporate governance. Although there are many points, mainly those who have a close relationship with this study will be covered as follows;

- The role, size, organization and composition (members) and the functioning of the board and the assessment of its work;
- Ownership structure; avoiding concentration;
- Appointment of CEO;
- By making the compensation plan of board members and executives clear align managerial interests with investors (Remuneration);
- Appointment of external auditors;
- Approval of investment plan and activities;
- Transparency of the financial institution (Disclosure);

### **3.4.1. The Role, size and Composition of Boards of Directors**

The Board of Directors is a body of elected or appointed members/*may not be members/* who jointly oversee the activities of a company. It is sometimes simply referred to as “the board.” A board’s activities are determined by the powers, duties and responsibilities delegated to it or conferred on it by authority outside itself. “Director” may be defined as “a person having control over the direction, conduct, management or superintendence of the affairs of the company”.<sup>110</sup> The definition of “director” is nowhere given under the Commercial Code of Ethiopia. The term is defined under Article 2(6) of the Banking Business Proclamation No. 592/2008 and Art-2(10) of “Insurance Business Proclamation No. 746/2012 as “any member of the board of directors of a bank, by whatever title he may be referred to.” In this definition, the important factor to determine whether a person is a director is to refer to the nature of the office and its duties (being a member of board).<sup>111</sup>

#### **A. The Role of the Boards of Directors**

In companies with dispersed ownership, shareholders are usually unable to closely monitor management, its strategies and its performance for lack of information and resources. Thus, the role of the board of directors is to fill this gap between the uninformed shareholders as principals and the fully informed executive managers as agents by monitoring the agents more closely.

---

<sup>110</sup> Fekadu Petros, *Ethiopian Company Law*, (Far East Trading PLC), 2012 (Amharic).

<sup>111</sup> Hussein Ahmed Tura (2012), note 32 above, pp. 56-57

An effective board also employs operational procedures that enhance board performance and decision-making, such as forming board committees and offering directors specialized training and evaluation.<sup>112</sup>

## **B. Size of the Board**

Board size is crucial for the success of boards and to the performance of companies. The effectiveness of member discussion and the board's capacity to make the best corporate decisions are influenced by the size of the board. Finding the ideal board size is essential because too large a board may adversely affect corporate governance effectiveness beyond what is reasonable. If the size is too few it hinders possibility of getting diverse views. However, there has been an ongoing and contentious discussion about the ideal board size in the literature on corporate governance. Whether a large or small board may enhance a company's success is a contentious question, and studies have found conflicting evidence regarding the link between board size and business performance.<sup>113</sup> While some argue in favor of having a high number of boards, others argue in the opposite direction about the impact of board size on a company's success.<sup>114</sup>

The new commercial code under title six chapter four Art-296 on the management of the company states that;

*A company shall have not less than three or more than thirteen directors who shall be elected by the shareholders. Two-thirds of members of the board of directors may not play a role in the day-to-day management of the affairs of the company.*

Banking Business Proclamation Art-14/4, b/ and Insurance Business Proclamation Ar-15/4, b/ empower the NBE to set the minimum number of board of directors for bank and insurances respectively.

The NBE's Bank Corporate Governance Directive dictates the minimum number of directors in a bank which shall be nine.<sup>115</sup> Similar stipulation exists in Insurance Corporate Governance Directive.<sup>116</sup>

---

<sup>112</sup> A Toolkit (2014), *Corporate Governance of State-Owned Enterprises*, World Bank Group, pp. 159

<sup>113</sup> Biruk Tesfaye Kebede (2018), note 45 above, pp. 26

<sup>114</sup> Yohannes Tesemma (2016), *Corporate Governance Policy and Its Effects on the Performance of Private Banks in Ethiopia - A Comparative Analysis*, A Master's Thesis AAU, pp. 62

<sup>115</sup> NBE Bank Corporate Governance Directive No. SBB/71/2019, Art-5.1 (here in after called Banks' Corporate Governance Directive)

### C. Board of Directors: composition and organization

Since the professional board is ultimately in charge of the company's stewardship and performance, its makeup and operation have a big influence on how the company is governed and consequently how well it performs financially and operationally. An effective board must comprise highly qualified and competent directors capable of exercising objective, independent judgment to guide strategy development and monitor management.<sup>117</sup>

Individual board members' backgrounds matter when making decisions. Board members with advanced degrees benefit organizations by bringing a variety of skills and competencies to the table, which helps to generate different points of view when making decisions. The presence of more qualified members would broaden the board's knowledge base, encourage members to consider alternatives, and enhance a more compassionate approach to problem-solving.<sup>118</sup>

Concerning the composition of the board the new commercial code under title six chapter-four Art-296 (on the management of the company) states that;

*.....two-thirds of members of the board of directors may not play a role in the day-to-day management of the affairs of the company.*

This seems to imply existence of the non-executive board of director become mandatory. It is to preserve the check and balance. In addition, non-shareholders may be members of board. However, their number shall not exceed 1/3 of the total membership of the board of directors.<sup>119</sup> A legal person can be a director as per the proclamation.<sup>120</sup> On the qualification of directors, the commercial code further stipulates the directors shall be of a good moral character; fulfill minimum age, no record of conviction on breach of trust, compliance of other mandatory requirements stipulated by law.<sup>121</sup> An important point with respect to financial institutions is that employees of banks and insurances cannot be a member of board of directors.<sup>122</sup>

---

<sup>116</sup> NBE Insurance Corporate Governance Directives No.188/2020, Art-5.1 (here in after called Insurances' Corporate Governance Directive)

<sup>117</sup> A Toolkit (2014), note, 141 above, pp. 159.

<sup>118</sup> Biruk Tesfaye Kebede (2018), note 45 above, pp. 12-13

<sup>119</sup> New Commercial Code, Art-296/2/

<sup>120</sup> Id, Art-296/4/

<sup>121</sup> Id, Art-297

<sup>122</sup> Art-5 of NBE Directives on Board Remuneration.

The NBE re-establishment proclamation cumulative with Art-4/1, g/ of Banking Business proclamation shows that the directors, the chief executive officer and senior executive officers of the bank shall meet the qualification criteria prescribed by the National Bank. Fulfilling such requirement is also a precondition for licensing of banks. During the authorization process, supervisors should evaluate the financial institution's Corporate Governance as one of the main elements. Similar stipulation exists on the insurance business proclamation Art-4/1, g/. Basing these laws, the NBE on the corporate governance directives dictates the composition of board of directors. Accordingly, it dictates the board may preferably comprise of directors whose competencies are on the area of finance, banking, accounting, economics...etc. It shall also include female directors, if eligible candidates are available among the shareholders.<sup>123</sup> The Directives also oblige the board to comprise non-influential shareholders as a member and elected by themselves when there are non-influential shareholder.<sup>124</sup> Their number depends on the amount of share they hold in the prescribed capital. *Non-influential shareholder* means any person who holds directly or indirectly less than two percent of the total subscribed capital of an insurer or bank.<sup>125</sup>

NBE issued Directives which deal with the appointment and selection criteria for membership in the board of directors of banks. The Directives set selection criteria such as education, employment, propriety, age, financial soundness and etc. According to these Directives, at least seventy five percent of a bank's board members shall hold a minimum of first degree or equivalent from a recognized higher learning institution; and the remaining board members should, at least, complete general secondary school.<sup>126</sup>

#### ❖ **Committees within the Board**

Although boards play a crucial role in corporate governance, little is known about how they are internally structured, particularly the composition of the board committees. Identification, evaluation, and nomination of a new director for the board are all responsibilities of the nomination committee. The nominating committee is crucial to make sure that the directors are

---

<sup>123</sup> NBE Directives on Banks' and Insurances' Corporate Governance Art-5/2/-5/4/.

<sup>124</sup> Id, Art-5.4.

<sup>125</sup> Id, Art-2/9/.

<sup>126</sup> Look for instance NBE Licensing and Supervision of Banking Business Amendment for New Bank Licensing and Approval of Directors and CEO Directive No. SBB/39/2006.

well-selected so that they can raise the bank's and insurance's worth.<sup>127</sup> The same is true for other committees. There the law stipulates the necessity of formation of other committees with specific requirements.<sup>128</sup>

### 3.4.2 Ownership Structure

One of the basic concerns that must be taken into account in corporate governance is the ownership structure. No one, excluding the Federal Government of Ethiopia, is permitted to possess more than 5% of the total shares of a bank or insurance company, either individually, jointly, or with a child under the age of 18 who is directly related to them in the first degree by consanguinity.<sup>129</sup> The amount of shares that may be held by regional governments in a bank transformed from a micro-finance institution is determined by the NBE. An influential shareholder of any bank or insurance may not acquire shares in other banks or insurances.<sup>130</sup> There are also other restrictions in order to avoid connected insolvency/bankruptcy. There is no issue of conflict of interest in connection with ownership in public enterprise because both public enterprise proclamation and code of corporate governance for public enterprise define public enterprise as;

*“Enterprise” means a wholly state owned public enterprise established pursuant to this Proclamation to carry on for gain manufacturing, distribution, service rendering or other economic and related activities.*<sup>131</sup>

As a result, per the public enterprise proclamation, the state must fully own the enterprise that will be regulated by it. So, there is no issue with the ownership arrangement. Furthermore, NBE directives also recognize exclusion of federal government from this requirement.<sup>132</sup>

---

<sup>127</sup> Biruk Tesfaye Kebede (2018), note 45 above, pp. 17

<sup>128</sup> Annex III of both Insurance and Bank's Corporate Governance Directives.

<sup>129</sup> Art-11/1/ and 12/1/ of Banking Business Proclamation No. 592/2008 (here in after called Banking Business Proclamation) and Insurance Business Proclamation No. 746/2012 (here in after called Insurance Business Proclamation) respectively.

<sup>130</sup> Id, Art-11/4/ and 12/3/.

<sup>131</sup> Art-2/1/ and 2/4/ of Public Enterprise Proclamation and Code of Corporate Governance of Public Enterprise note 113 above respectively.

<sup>132</sup> Look for instance at NBE Directive on Time Limit for Reduction and/or Relinquishing Shareholdings Directives No. SIB/35/2013.

### 3.4.3 Appointment and Approval of CEO

On the appointment of CEO (General Manager) of a company the new commercial code states;<sup>133</sup>

*A company shall have a general manager appointed by the board of directors; the general manager shall be accountable to the board of directors.*

However, it only talks about appointment of chief executive of a company and does not talk about approval. Art-14/2/ of Banking Business Proclamation on the other hand states that;

*Appointment of any director, chief executive officer or senior executive officer of a bank at the time of licensing or at any other time may not be valid unless written approval is granted by the National Bank.*

Similar stipulation exists under insurance business proclamation Art-15/2/. The approval shall be in written form. Accordingly, the mere appointment is not sufficient to be CEO or chief executive of banks and insurance. However, in practice PEHA simply inform to the NBE its approval without securing written approval.<sup>134</sup>

### 3.4.4 Remuneration of Board of Directors

There are two main issues regarding directors' remuneration. The first is, whether directors are entitled to remuneration as of right or not and the second is, the amount of remuneration.<sup>135</sup> Hussein argues that remuneration should not be mandatory and is not mandatory under Ethiopian legal system too.

Good corporate governance encourages management to maximize shareholders' wealth. Better compensation plan contributes for success of a company. However, Compensation and incentives for CEOs and board members are not always clearly linked to improved managerial performance and the maximum of shareholder wealth, and there may be agency problems and conflicts of interest. In order to avoid overpaying senior executives and directors and preventing wealth transfer to the prejudice of shareholders, internal policies at the corporate level must be

---

<sup>133</sup> New Commercial Code, Art-337/1/.

<sup>134</sup> Interview with Ato Tariku Gezahegn, Secretary of BOD of Development bank, on Sene 02/2014 4:00 Addis Ababa.

<sup>135</sup> Hussein Ahmed Tura (2012) note 32 above, pp. 69

carefully created. Companies should be aware that pay plans are used as a tool in governance systems as well as a means of luring valuable executive talent.<sup>136</sup>

Executives and directors are not properly controlled in their virtual self-awards of stock options and directors' remuneration linked to share performance through share options have resulted in encouraging a focus on short-term growth with destructive long-term consequences.<sup>137</sup> In order to address the conflict of interest regulators empowered to set a limit.

The NBE is authorized to set the maximum limit of remuneration of board of directors of financial institutions.<sup>138</sup> Following this the NBE determined the maximum remuneration.<sup>139</sup> Accordingly, the maximum remuneration is decided to be 100,000 and 150,000 for insurances' and banks' directors per annum respectively.<sup>140</sup> Monthly allowance is 4,000 and 10,000 ETB. In addition, the director's remuneration is in proportion to the attendance.<sup>141</sup> Hussein argues against the maximum limit of remuneration and recommends that it shall be decided by committee organized for that purpose.

Remuneration levels potentially impact candidate quality, for better and for worse.<sup>142</sup> Due to this some argue against the maximum limit.<sup>143</sup>

### **3.4.5 Appointment and Approval of External Auditors**

Auditors are important organs of corporate governance under any system. As a result, they protect the interest of the shareholders against the excessive or unauthorized powers of board of directors. Auditors are popularly regarded as “watch dogs” of the interests of shareholders. To

---

<sup>136</sup> Jinnatul Raihan Mumu et al (2021), *Corporate governance and remuneration: a bibliometric analysis*, JABES 28 (4), pp. 241-251.

<sup>137</sup> A. C. Fernando (2006), *Corporate Governance: Principles, Policies, and Practices*, (Pearson Education), p.206.b

<sup>138</sup> Art-14/4/e/ and 15/4/e/ of Banking and Insurance Business Proclamations respectively.

<sup>139</sup> Limits on Board Remuneration and Number of Employees Who sit on a Bank and Insurance Board Directive No. SBB/67/2018 and SIB/43/2016 respectively.

<sup>140</sup> Id, Art-4.

<sup>141</sup> Banks' and Insurances' Corporate Governance Directives, Art-10.3.8.

<sup>142</sup> OECD (2021), *Ownership and Governance of State-Owned Enterprises: A Compendium of National Practices 2021* <<https://www.oecd.org/corporate/ownership-and-governance-of-state-owned-enterprises-a-compendium-of-national-practices.htm>>

<sup>143</sup> Hussein Ahmed Tura (2012), note 32 above, pp. 76

this end, a strong and independent auditor is vital as a guardian for the protection of the interest of shareholders.<sup>144</sup>

It's the shareholders' meeting that is empowered to appoint auditors in case of private financial institutions (share companies) in Ethiopia.<sup>145</sup> Internal auditing is often seen as an overall monitoring activity with responsibility to management for assessing the effectiveness of control procedures. As a result of such responsibility to the management of a company, internal auditors are called "the eyes and ears of management" and there is no legal requirement to appoint an internal auditor in the Commercial Code. Therefore, the term auditor in the Commercial Code stands for and addresses external auditor.<sup>146</sup>

### **3.4.6 Approval of Investment Plan**

One of the most salient relationships in economic life is the positive link between investment and economic growth. Of special interest for a discussion on corporate governance is the economy's ability to match commercially viable projects with the financial resources that are required to actually turn an idea into a profitable enterprise. To be sure, capital is only one among several important inputs that are needed to build a competitive company.<sup>147</sup>

In the case of financial institutions, the capital is not only the owners' money but also that of depositors and the premium paying clientele. Hence, the investment plans need to be carefully prepared and regulated.

Recognizing the scenario, both banking and insurance business proclamations authorized NBE to regulate and approve the investment plans of banks and insurances.<sup>148</sup>

---

<sup>144</sup> Lemessa Berber Wogena (2019), *Overview of the Position of Auditors in the Corporate Governance under the Ethiopian Commercial Code in Lights of International Benchmarks*.

<sup>145</sup> New Commercial Code, Art-394/2/.

<sup>146</sup> Dureti Abate (2016) note 31 above.

<sup>147</sup> Mats Isaksson (1999), Investment, Financing and Corporate governance: The Role and Structure of Corporate Governance Arrangements in OECD Countries, Seminar on Corporate he Baltics.

<sup>148</sup> Art-22/1/ and 25 of Banking and Insurance Business Proclamations

### **3.5. Competing Legal Mandates Between Public Enterprises Holding and Administration and National Bank of Ethiopia**

The core concept of ‘public enterprise’ has two faces or dimensions. These are the enterprise and public aspect. If one or the other of the dimensions is not present, the body cannot be described as a public enterprise. *Enterprise aspect* includes existence of production of goods and service by that entity and such product shall be marketed at a price. The revenue shall cover at least the costs. The activity is based on the entrepreneurial idea of investment and return. On the other hand, the public dimension includes; there must be a public ownership. Here, the share of the government may vary. The establishment of a public enterprise has in mind the attainment of some public policy goals. The public control is important. However, existence of public control shall be consistent with their autonomy.<sup>149</sup>

There is a confusion regarding categories of state-owned enterprises in Ethiopia. The enterprises in which state or public authorities have ownership rights do not all have the same status and therefore they may be regulated by different laws. Some of the state-owned entities are regarded as public enterprises in accordance with the Public Enterprise Proclamation, and therefore they are governed by the same Proclamation.<sup>150</sup> The remaining state-owned entities, that do not satisfy the requirements of the Public Enterprise Proclamation, lack the status of public enterprise so they are regulated by the Commercial Code and other mandatory laws.<sup>151</sup>

In Ethiopia functionally, public enterprise may be broadly classified as financial institutions (insurance, banking), promotional and development undertakings, and commercial & industrial undertakings.<sup>152</sup>

Government departments are inherently weak to run commercial enterprises efficiently and on sound business lines due to the existence of rigid procedure, red-tape and delay in their functioning. While there must be a mechanism through which the accountability of public enterprises to the state owner is ensured, too much control may destroy their efficiency and thus defeat the very purposes for which they have been created. The success of the public enterprise

---

<sup>149</sup> Dagnachew Asrat and Addissie Shiferaw, note 132 above, pp. 44

<sup>150</sup> Public Enterprise Proclamation, Art-2/1/.

<sup>151</sup> Here, noting the definition given by Public Enterprise proclamation under Art-2/2/ for the term “Enterprise” is crucial. It states “*totally owned*”.

<sup>152</sup> Dagnachew Asrat and Addissie Shiferaw, note 132 above, pp. 45

would be ensured by efficient management alone when it has to compete with private enterprises in the same sector. And efficient management would be secured only when the public enterprise is entrusted with operational autonomy.<sup>153</sup>

Recognizing the importance and necessity of autonomy, the public enterprise proclamation empowered supervising authority to conduct supervision and realize the public interest. It allows the Council of Ministers to establish supervising authority.<sup>154</sup> However, autonomy of supervising authority is under issue.<sup>155</sup>

### **3.5.1. Structure, management and control of public enterprises**

Chapter three of Public Enterprise Proclamation is about organization and management of public enterprises. As per Article 10 of the Proclamation each enterprise shall, among others, have a Supervising Authority, a Management Board and a General Manager (and Deputy General Manager as may be necessary).<sup>156</sup> The management board is the highest decision-making body in the enterprise. However, not all decisions that pertain to the enterprise are left to the board. The examination of the powers of boards of Ethiopian state owned enterprises can be located in a general narrative on the power of boards of state-owned enterprises.

Public Enterprises Proclamation dictates each public enterprise shall have supervising authority.<sup>157</sup> This authority implies the establishment of supervising authority. Later on *Financial Public Enterprises Agency* established by Council of Ministers Regulation No. 98/2004 as an autonomous government office having its own legal personality. This agency is replaced by Public Enterprises Holding and Administration Agency, which is established by Article 32 (15) of proclamation No. 1097/2018. The newly established agency is mandated to take over the mandates which were given to the former “financial public enterprise agency” as per article 5(16) of The Definition of Powers and Duties of the Public Enterprises Holding and Administration Agency Regulation No.445/2019. Public Enterprises Holding and Administration

---

<sup>153</sup> Asrat, D., & Shiferaw, A. (2009), *Law of Public Enterprises and Cooperatives: Teaching Material*, Justice and Legal System Research Institute of Ethiopia, pp. 80

<sup>154</sup> Public Enterprise Proclamation, Art-2/2/.

<sup>155</sup> For instance, the director and his deputy is appointed and removed by the government and the agency is accountable to the government (Art-7 of Regulation No. 445/2019).

<sup>156</sup> E Tsegaw (2015), *The Legal Status of State-owned Share Companies in Ethiopia*, Beijing Law Review Vol. 7 No. 13, pp. 212-214.

<sup>157</sup> Public Enterprise Proclamation, Art-10/3/. This proclamation empowered Council of Ministers to establish supervising authority under Art-2/2/

Agency again changed its name to Public Enterprises Holding and Administration (PEHA) as per Art-53 of proclamation No 1263/2021<sup>158</sup> which is accountable to the Ministry of Finance.<sup>159</sup> The proclamation retained powers, duties and organization of the administration to be as provided under regulation No 445/2019.

### **3.5.2. Powers of the Supervisory Authority/ PEHA /**

Article 5(16) of PEHA establishment regulation No. 445/2019 says that Public Enterprises Holding and Administration (PEHA) shall implement the power and duties given to a supervising authority of public enterprises.

## ***5. Powers and Duties of the Agency***

*The Agency (the administration) shall have the following powers and duties:*

*16/ The Agency shall implement the powers and duties given to a Supervising Authority of Public Enterprises by Proclamation No. 25/1992, With respect to Public Enterprises made accountable to it;*

PEP Article 11 lists the powers of supervisory authority. Furthermore, the agency (now the administration) is empowered to enact directive regarding corporate governance of public enterprise.<sup>160</sup> Based on this the administration enacted Code of Corporate Governance.<sup>161</sup> The administration is also endowed (provided) with the power to approve external auditors' report on financial situation of public enterprises.<sup>162</sup>

There are similar powers and responsibilities given for NBE and Public Enterprise Holding and Administration simultaneously on the areas of corporate governance. When we see the NBE powers and responsibilities, Art-5/7/ of the NBE establishment proclamation states;

## ***5. Powers and Duties of the National Bank***

*7/.....license and supervise banks, insurers and other financial institutions*

---

<sup>158</sup> Definition of Powers and Duties of the Executive Organs Proclamation No. 1263/2021.

<sup>159</sup> Id, Art-87/4/.

<sup>160</sup> The Definition of Powers and Duties of the Public Enterprises Holding and Administration Agency Regulation No. 445-2019, Art-5/3/ and /4/ (Here in after called Regulation No. 445/2019).

<sup>161</sup> Code of Corporate Governance, note 114 above.

<sup>162</sup> Article 11(9) of Public Enterprise Proclamation and Article 5(2) & 5(16) of Regulation No. 445/2019.

The proclamation defines Banks as<sup>163</sup>;

*“Banks” mean companies licensed by the National Bank to undertake banking business and banks owned by the Government*

Similar way of defining style is followed for insurers.<sup>164</sup> This shows the power of NBE seems extended to regulate and supervise government owned banks and insurances too. Again, similar definitions exist under Banking and Insurance business proclamations.<sup>165</sup> Due to the study's emphasis on the corporate governance of banks and insurances, the author makes an effort to investigate each of the two supervisory organs powers on regulation of corporate governance and the legal frameworks below;

### **A. Appointment of Board of Directors**

Both banking and insurance business proclamations empower NBE to approve appointment of board members of banks and insurances.<sup>166</sup> Every director shall get the approval of NBE. One may argue that the proclamations do not exclude government owned banks and insurances.<sup>167</sup> The definition provided for the terms "banks" and "insurers" can be used as support for such an argument. On the other hand, in the case of public enterprises, the power to appoint and remove the board of directors is granted for supervisory authority.<sup>168</sup> When considering NBE's authority to license all financial institutions, the situation becomes more difficult.<sup>169</sup> The NBE establishment proclamation doesn't put distinction between government and private financial institutions. This is because the definition given for banks and insurers in the proclamation includes government banks and insurers too. The NBE also has the authority to approve directors prior to granting a license. All banks and insurances shall get license from NBE before they start their business.<sup>170</sup> NBE checks corporate governance of any financial institution before giving license.<sup>171</sup> Can NBE reject a director that has been appointed by the supervisory authority? What

---

<sup>163</sup> NBE Establishment Proclamation (as amended), Art-2/3/.

<sup>164</sup> *ibid*, Art-2/8/.

<sup>165</sup> Insurance and Banking Business Proclamation, Art-2/4/ and 2/1/.

<sup>166</sup> Banking Business Proclamation Art-14/4, b/ and Insurance Business Proclamation Ar-15/4, b/.

<sup>167</sup> Note the explanation given above regarding the definition of banks and insurances.

<sup>168</sup> Public Enterprise Proclamation, Art-11/1/.

<sup>169</sup> Look at Art-5/7/ of NBE Establishment Proclamation (as amended),:

<sup>170</sup> Art-3 of Banking and Insurance Business Proclamations.

<sup>171</sup> For instance, look at Art-4/1/ of NBE Establishment Proclamation (As Amended).

would happen in the event that the answer was affirmative? What purpose does having separate supervisory power serve in this situation?

While there is a gap in the law, when we look at what is in practice PEHA appoints and announces board appointments without first receiving written approval from NBE. Ato Efreem continues, "While it is within NBE's mandate to reject or repudiate the nomination of the BOD, it finds difficult to do so because doing so would raise some political issues given that most often those nominated by PEHA are powerful politicians and prominent government officials."<sup>172</sup>

Additionally, there was a real-case involving the appointment of the BOD of state-owned banks. The incident took place in the Commercial Bank of Ethiopia (CBE). In this instance, PEHA appointed four (four) BOD members to CBE. The public was made aware of the individuals who had been chosen, and they had already begun working. By chance, NBE discovered that 4 members of the BOD had been chosen by PEHA to serve on the board of CBE, and they had already begun their duties without seeking and receiving written consent from NBE.<sup>173</sup>

After learning this, NBE sent a letter to the CBE requesting a formal justification for the breach of the mandatory legislative requirement that the CB obtain NBE's written consent before engaging a newly appointed BOD to their job. Following receipt of the letter from NBE, CBE contacted PEHA in order to discuss and resolve the matter with NBE regarding who has the authority to approve members of the BOD for state-owned banks.<sup>174</sup>

PEHA submitted a letter to the NBE in response to the CBE's letter. In the letter, PEHA stated that, in accordance with Article 11(1) & (2) of Proclamation No. 25/1992, PEHA is legally granted appointment and removal of BOD of public enterprise, including the CBE. The SBB/70/2019 NBE directive's article 3(2) further stipulates that the NBE must carry out its mandate while taking other institutions' mandates into consideration. This is in addition to the proclamation.

Thus according to the letter as per the aforementioned legal provisions appointment of BOD of public enterprises (including government owned financial institutions) is the mandate of PEHA

---

<sup>172</sup> Interview with Ato Efreem Baraki, Chief Legal expert at Legal Department Directorate of NBE, on 9/10/2014 E.C 5:30 at Addis Ababa.

<sup>173</sup> Ibid.

<sup>174</sup> Ibid

and approval of NBE is not mandatory.<sup>175</sup> It is evident from the exchange of letters between the two institutions that the mandates given to the institutions are unclear.

On the other hand, NBE argues that PEHA acts as shareholder whereas NBE is a regulator. As a shareholder PEHA does not have the mandate of regulating state owned banks and insurance companies. Although, when we see the face value, it seems that there are some sort of legal contradictions, the provisions of the law have to be interpreted and executed based on the understanding here above.<sup>176</sup>

### **B. Determining the Size of Boards of Directors**

The new commercial code Art-296 stipulates the number of directors in a board, which is three up to thirteen. Banking Business Proclamation Art-14/4, b/ and Insurance Business Proclamation Ar-15/4, b/ empowered the NBE to decide the minimum number of board members of banks and insurances. When the public enterprise proclamation dictates the formation of managing board of an enterprise it set the minimum and maximum number of board members which are three and twelve respectively<sup>177</sup>, the NBE directives for Bank and Insurance corporate governance dictate the minimum number of board members to be nine without stipulating the maximum which is potentially thirteen as per the new commercial code.<sup>178</sup> This shows existence of clear contradiction between the two laws. It might be argued that the NBE's guidelines for corporate governance do not apply to government-owned banks and insurance companies.<sup>179</sup> The directives do not, however, completely exclude government-owned banks and insurance companies.

### **C. Determining the Composition of Boards of Directors**

Composition of board of public enterprise is stipulated under the public enterprise proclamation. One-third of the board members shall be elected by worker's assembly and the remaining are by supervising authority.<sup>180</sup> The proclamation is not clear from where the assembly elect board members. Is it from workers? It doesn't also answer who appoint chairman, although the

---

<sup>175</sup> Letter written by PEHA dated Miazia/April/ 6/2013 E.C and Interview with Ato Efrem Baraki, note 211 above.

<sup>176</sup> Ibid.

<sup>177</sup> Public Enterprise Proclamation Art-12/1/. Similar stipulation is also exist under Art-6/5/ of Code of Corporate Governance for Public Enterprise, note 114 above.

<sup>178</sup> The New Commercial Code Art-296/1/ and Art-5.1 of both Banking and Insurance Corporate Governance Directives.

<sup>179</sup> Art-3/2/ of NBE Banks and Insurances Corporate Governance Directives.

<sup>180</sup> Art-12/2/ of Public Enterprise Proclamation.

proclamation states chairman shall be elected based on experience, profession and competence. The supervising authority can remove any director, if it has sufficient ground to believe that he is unfit. Even the authority can remove a director appointed by workers assembly with notification for the assembly.<sup>181</sup>

Art-6/2/ of Code of Corporate Governance of public Enterprise states;

*The composition of board members shall maintain a diversity of views, experience, intangible qualities like interpersonal skills, communication skills, diplomacy, leadership, commitment, and ethical integrity*

However, still the code lacks clarity and does not possess the criteria dictated under NBE's directives for private banks and insurers. For instance, as stated above at least 75% of directors shall have a minimum of first degree.<sup>182</sup> Further, unlike the requirements stated in the code of corporate governance of public enterprise, NBE's Directives need special expertise in accounting, finance...etc. As per the public enterprise a public enterprise board may contain a director who serves as board of director in other public enterprise as far as such enterprise is not a competing enterprise.<sup>183</sup> However, a director in a bank or insurance cannot serve as director of other bank or insurance. There is also a prohibition to be a director on a legal person who holds more than 10 percent shareholding in such financial institution.<sup>184</sup> Furthermore, it makes inclusion of female director mandatory if there is eligible candidate. In order to protect minority shareholder, the board should comprise non-influential shareholders, if there is/are influential shareholders in the bank/insurance.

The other contradiction is when the NBE Directives states the term of office of a director is a maximum of three years with the probability of re-election the Public Enterprise Proclamation fixes the three years minimum and five years' maximum. Only one third of members of a board can be re-appointed as per the directives of NBE<sup>185</sup>, although there is no such kind of restriction in public enterprise.<sup>186</sup>

---

<sup>181</sup> Id, Art-12/4/.

<sup>182</sup> Look for instance NBE Directive No. SBB/39/2006.

<sup>183</sup> Art-12/4/ of Public Enterprise Proclamation

<sup>184</sup> Art-16/3/ of Insurance Business Proclamation and Art-15/3/ of Banking Business proclamation.

<sup>185</sup> Banking and Insurance Corporate Governance Directive, Art-10.1.5 and 10.1.6.

<sup>186</sup> Art-12/6/ of Public Enterprise Proclamation

The NBE under its directives totally prohibited workers from being a member of board of directors.<sup>187</sup> However, the public enterprise proclamation mandatorily dictates the workers assembly to appoint board members of public enterprise. The issue is can the worker's assembly appoint a worker as a board member? There is no restriction in the public enterprise proclamation. Giving the workers assembly to appoint one third of board members seems to allow existence of worker's representative in the board.

The banking and insurance business proclamations do not forbid the participation of employees in the BOD; rather, they permit NBE to put the maximum number of employees permitted. One may also bring up the issue of the PEP and NBE Directives' relative legal standing. The legality of NBE Directives that completely forbid workers from serving on the BOD is up for debate. As per the hierarchy of the law the directive can't override the proclamation. There was also practical contestation. However, PEHA wrote a letter claiming its own power to decide on the inclusion of workers in the BOD of state owned banks and insurances.<sup>188</sup>

#### ❖ **Committees within the Board**

There are different committees within the board. For instance, the following committees exist in public enterprise board; audit and risk management committee, finance committee, strategy and business development committee. Similar committees exist in private banks and insurances companies. However, there is no nomination and election committee in public enterprise. In addition to that, NBE's directives oblige each committee to include three directors as a member.<sup>189</sup> This is not the case in public enterprise.

#### **D. Appointment and Approval of CEO**

In case of private companies as the writer mentioned above, the board of directors of a company is empowered to appoint CEO (General Manager and/or chief executive) for the company.<sup>190</sup> This appointment is not the final step to serve as CEO of a company in case when a company is

---

<sup>187</sup> Limits on Board Remuneration and Number of Employees Who sit on a Bank and Insurance Board Directive No. SBB/67/2018 and SIB/43/2016, Art-5

<sup>188</sup> Interview with Ato Tesfa Tola, Legal Director of PEHA, on Ginbot 3/2014 E.C 4:00, Addis Ababa.

<sup>189</sup> Annex III of NBE Banks and Insurances Corporate Governance Directives.

<sup>190</sup> New Commercial Code, Art-337/1/.

bank or insurance. It has to be approved by NBE as stated above.<sup>191</sup> However, in case of public enterprise the power to approve the appointment of chief executive is given to the supervising authority, Public Enterprise Holding and Administration.<sup>192</sup> This implies the power to appoint chief executives is reserved for the board of each banks and insurances.

There is clear contradiction between the NBE's and PEHA's power on approval of appointment of chief executives of banks and insurances. The banking and insurance business proclamations empower NBE to give its approval on the appointment of *any banks and insurances chief executives* [Emphasis added]. This seems the stipulations include government owned banks and insurances chief executives too. Because as stated above the term *any banks' and insurances' chief executive* incorporates the government owned banks and insurances. On the other hand, PEHA establishment regulation 445/2019 gives this power to the administration. This demonstrates that authority to approve the appointment of the CEO of state-owned banks and insurances is simultaneously given to both entities.

There is also a belief that the power of two supervising authorities is unclear and contradictory too.<sup>193</sup> The Ministry of Justice (the then office of Attorney General) gave its comment in this regard, made clear that it was aware of conflicting institutional and legal responsibilities in its explanation. However, in the end, it claimed that NBE approval should be required for appointments of BOD as well as CEO for state-owned banks and insurance without giving sufficient justification.<sup>194</sup>

#### ❖ **Removal and Suspension of Board members and Chief Executives**

NBE has the power to remove or suspend any board member, general manager or chief executives of banks and insurances.<sup>195</sup> The same is true in case of public enterprise in which the

---

<sup>191</sup> Art-14/2/ and 15/2/ of Banking and Insurance Business Proclamation respectively.

<sup>192</sup> Regulation No.445-2019, note 199, Art-5/13/

<sup>193</sup> Interview with Ato Mesfin Getachew, Legal Department Directorate Director of NBE on Miazia 20/2014 E.C 3:00 at Addis Ababa; Ato Addisu Duressa, Corporate Compliance Director at Ethiopian Commercial Bank, on Miazia 21/2014 E.C 4:00 at Addis Ababa; Ato Fikadu Yami, Ethiopian Insurance Corporation Legal Directorate Litigation Director, on Miazia 28/2014 E.C at Addis Ababa.

<sup>194</sup> A letter sent to NBE by Ministry of Justice dated on 16/6/2014 E.C under Reference No. MoJ/02/A-2/272 exists in the hands of the researcher.

<sup>195</sup> Art-17/1/ and 18/1/ of Banking and Insurance Business Proclamations respectively.

administration has the power to remove board member from the board of directors.<sup>196</sup> Shall the decision of administration (PEHA) be approved by the NBE? What would be the fate, if the NBE fails to approve PEHA's decision to remove from board member? This shows there is a clear mandate overlap. Approving twice is also redundancy.

### **E. Remuneration of Directors**

The PEHA is empowered to decide on the allowance to be paid for the board members of public enterprise.<sup>197</sup> There is no restriction on the maximum amount of remuneration and allowance to be paid for directors in case of public enterprise. However, NBE empowered to decide on the amount of remuneration to be paid for board directors of banks and insurance operating in Ethiopia.<sup>198</sup> Accordingly, as stated above the NBE issued directives and set a maximum limit on directors' remuneration.<sup>199</sup> However, there is no such restriction in public enterprise. In addition, the director's remuneration is in proportion to the attendance.<sup>200</sup> What would be the consequence, if PEHA set its own scale of remuneration for board members and chief executives? Is it illegal? Practically, there have been problems. Recently, the board of directors of Commercial Bank of Ethiopia decided to follow the directives of national bank of Ethiopia on the directors' remunerations. However, the PEHA immediately wrote a letter on *Hidar 23/2014 E.C* which states, the board of directors as well as government owned banks and insurances are accountable to it (PEHA). Hence, they shall follow its circulars rather than the directives of NBE.<sup>201</sup>

In this regard some argue, due to the fact that NBE's duty is to set the maximum threshold while PEHA provides the criteria, method, and precise amount of remuneration to be paid for the BOD,

---

<sup>196</sup> Public Enterprise Proclamation, Art-11/1/ and Code of Corporate Governance of Public Enterprise note 114 above, Art-5/1/. However, there is no stipulation as to suspension.

<sup>197</sup> Art-11/3/ of Public Enterprise Proclamation

<sup>198</sup> Art-14/4/e/ and 15/4/e/ of Banking and Insurance Business Proclamations.

<sup>199</sup> Limits on Board Remuneration and Number of Employees Who sit on a Bank and Insurance Board Directive No. SBB/67/2018 and SIB/43/2016 respectively.

<sup>200</sup> Ibid, Art-10.3.5

<sup>201</sup> A letter sent to Board of Directors of Commercial Bank of Ethiopia on *Hidar 23/2014 E.C*; exists in the hands of the researcher.

there is no apparent conflict between the mandates of PEHA and NBE in relation to fixing the remuneration of BOD.<sup>202</sup>

However, the above argument is not convincing because when we see the PEP it says PEHA fix the amount of remuneration/allowance/ to be paid for BOD; the same power is given to the NBE. How a person can argue that PEHA has no mandate to fix the amount of remuneration for board of directors as per art 11(3) of PEP beyond the maximum threshold fixed by NBE? The law has to be clear whether NBE or PEHA which has the mandate of fixing the amount of remuneration of BOD of state owned enterprises.

#### **F. Appointment of Auditors**

It is the power of shareholders to appoint external auditors.<sup>203</sup> Supervising authority on behalf of the state (as shareholders) is empowered to appoint external auditors for public enterprises (government owned banks and insurances).<sup>204</sup> At the same time NBE is empowered to approve auditors appointed by banks and insurances.<sup>205</sup> Does the NBE have the power to approve or reject the appointment of auditors by the supervisory authority? There is no clear answer in the proclamations.

#### **G. Approval of Audit Report**

NBE is authorized to approve the audit report of external auditors of banks and insurances.<sup>206</sup> On the other hand, PEHA is accorded with the power to approve external auditors' report on financial situation of public enterprises which includes state owned banking and insurance companies.<sup>207</sup> Is the approval of administration sufficient enough? This is also one area of power overlap between the National Bank of Ethiopia and Public Enterprise Holding and Administration.

---

<sup>202</sup> Interview with Ato Sewagegn Chane, Financial Head of PEHA, on Ginbot 1/2014 E.C 3:30, Addis Ababa; Ato Tesfa Tola, Legal Director of PEHA, on Ginbot 3/2014 E.C 4:00, Addis Ababa.

<sup>203</sup> Art-394/1/ of new commercial code.

<sup>204</sup> 11/4/ of Public Enterprise Proclamation.

<sup>205</sup> Art-24 and 28 of Banking and Insurance Business proclamations respectively.

<sup>206</sup> Banking and Insurance Business Proclamations, Art- 27(3) and 31/4/

<sup>207</sup> Public Enterprise Proclamation, Art-11/9/ and Public Enterprise Holding Administration Establishment Regulation, Art-5/2/ and 5/16/

In this regard Ato Fikadu Yami and Ato Addisu Duressa argue that, there is apparent overlapping of mandates of NBE and PEHA in relation to approval of external audit and approval of investment plan of the respective banks and insurance companies. It is also creating problem.<sup>208</sup> Regarding to the approval of external auditors audit report both PEHA and NBE have the mandate of approving the external audit report however the criteria and area of focus is different. i.e PEHA focus on the overall financial status of the enterprises whereas NBE focus on the prudential regulation.

### **H. Approval of Investment Plan**

The advantage of engaging in banking and insurance business is collection of deposits (premium). Investment is made possible by this. The return will be rewarding if the investment is in a sector that is profitable. However, impulsive investing could have negative results. Some sectors are also very risky. This may eventually affect the public who deposits his money and the shareholders too. That is why regulators of financial institutions put restriction on investment of banks and insurances.

Due to the aforementioned factors, the NBE is also authorized to regulate and supervise bank and insurance investments.<sup>209</sup> Following this, it has enacted directives on the restriction of investments of banks and insurances.<sup>210</sup> Every insurer has to plan and operate according to the directives issued for regulation of investments.<sup>211</sup> The same is true for banks. The scope of application of the directive for limitation of investment plan is over all banks and insurances operating in Ethiopia.<sup>212</sup> What then would happen to investment plans approved by government banks and insurers but not by NBE but which are approved by the supervising authority? Is it mandatory to get the approval of NBE? These kinds of questions are not answered in the legislations. The two institutions' respective mandates clearly intersect.

---

<sup>208</sup> Interview with Ato Addisu Duressa, Corporate Compliance Director at CBE on Ginbot 25/2014 E.C 5:00, Addis Ababa; Ato Fikadu Yami, Litigation Director at Ethiopian Insurance Corporation on Ginbot 30/2014 4:30, Addis Ababa.

<sup>209</sup> Look at Art-22/1/ and 25 of Banking and Insurance Business Proclamations

<sup>210</sup> Look for instance NBE Limitation on Investment of Banks Directive No. SBB/65/2017

<sup>211</sup> Insurance Business Proclamation, Art-25/2/.

<sup>212</sup> Look at Art-3 of NBE Limitation on Investment of Banks Directive No. SBB/65/2017.

## I. Disclosure of Information

The NBE is authorized to demand the disclosure of any types of information if it deems it necessary.<sup>213</sup> The proclamation states:

### *Art-28 Disclosure of Information*

*Every bank shall, within a time period to be determined by the National Bank, send to the National Bank duly signed financial statements and other reports as prescribed by it.*

The NBE establishment proclamation doesn't exclude government banks and insurances from this duty. This can be understood from the definition given for the term banks and insurance. The code of corporate governance of public enterprise also dictates the responsibility of disclosure of information to it.<sup>214</sup>

One of the major principles in OECD principle of corporate governance is "*the division of responsibilities among different authorities should be clearly articulated and designed to serve the public interest*". Effective enforcement also requires that the allocation of responsibilities for supervision, implementation and enforcement among different authorities is clearly defined so that the competencies of complementary bodies and agencies are respected and used most effectively.<sup>215</sup>

---

<sup>213</sup> NBE Establishment Proclamation (as amended) Art-22: Banking and Insurance Business Proclamation, Art-28 and 33 respectively.

<sup>214</sup> Art-21 of Code of Corporate Governance of Public Enterprise, note 114 above.

<sup>215</sup> OECD (2015), G20/OECD Principles of Corporate Governance, OECD Publishing, Paris.  
<http://dx.doi.org/10.1787/9789264236882-en>

## CHAPTER FOUR

### CONCLUSIONS AND RECOMMENDATIONS

#### 4.1 Conclusions

In spite of widespread privatization, governments still own and run public enterprises in important sectors like finance, infrastructure and manufacturing. In many low and middle-income countries as well as large emerging market economies, public enterprises have persisted and even grown. Indeed, several public enterprises are now among the biggest investors, businesses, and participants in the capital markets worldwide. For instance, we can mention Ethio-Telecom and CBE in Ethiopia. In many nations, public enterprises in strategic sectors are becoming more frequently used as instruments for faster growth and policy implementation.

Although there is no universally accepted definition, public enterprises are a kind of corporations in which the government typically owns all or a portion of the stock. The financial sector is the most important of the sectors in which public firms engage. Whether a company is private or public, corporate governance is crucial. It improves operational performance of public enterprises. Reduce risk of corporate crises and scandals and is particularly important to curb problem financial crises. From owners' perspective it is very important for shareholders too.

Public enterprises law predates the Constitution since there was one during the era of the Dergue too. At present the governing law is Proclamation No. 25/1992. Accordingly, different public enterprises are established and the already existing ones are re-organized. The proclamation with the aim of giving relative autonomy authorized council of ministers to establish supervisory authority for public enterprises by regulation called (recently, Public Enterprise Holding and Administration). The proclamation and establishment regulation regarding corporate governance empowered the administration among others to appoint and remove members of the board, appoint chairman of the board, fix allowance to be paid for the board, appoint external auditors, approve investment plans...etc. Accordingly, it has issued code of corporate governance of public enterprise.

On the other hand, NBE is established as autonomous entity and regulatory organ with the power of licensing and supervision of financial institutions including banks and insurances. NBE is

further empowered by the banking and insurance business proclamations to regulate and supervise corporate governances of banks and insurances.

However, there are contentions between the two institutions. As the name implies PEHA is a supervisory authority. At the same time NBE is empowered to regulate and supervise banks and insurers operating in Ethiopia. The OECD Principle of corporate governance provides there shall be clear mandate between deferent authorities to harvest the fruits of good corporate governance.

This research tried to appraise oversight of corporate governance in state owned banks and insurances focusing on an assessment of competing legal and institutional mandates between the PEHA and NBE. In doing so, the research tried to show issues and mandate overlap between the institutions.

The followings are some of potential issues that need to be addressed; issue of competing legal and institutional mandates which are accorded to the PEHA and the NBE, regarding regulation of corporate governance of state owned banks and insurance companies. The specific issues are regarding appointing and approval of BOD members, determining and approving the size and composition of BOD, composition of committees within the BOD, Appointment and approving of CEO and top executives, fixing remuneration of BOD and top executives, Appointment and approval of external auditor, approval of external auditor's audit report, approval of investment plan and disclosure of information of state owned banks and insurances. The paper also assessed the practice of regulation and supervision of corporate governance.

Regarding the appointment of BOD, the banking and insurance business proclamations empowered NBE to approve appointment of any member of BOD of banks and insurances. Every director shall get approval before commencement. The proclamations define banks and insurers including government owned banks. PEHA empowered to appoint BODs. If there is agreement PEHA serves as shareholder, it can only appoint BODs and the approval is the mandate of NBE. However, practically there was contention in this regard.

Concerning determining the size of the board members there are three laws which are the commercial code which puts three to thirteen directors for companies. The banking and insurance proclamations empower NBE to fix the minimum number of board members needed. However, PEP follows the former commercial code trend in which the number of BOD ranges

from three up to twelve. Since, the government banks and insurances are public enterprise their board members ranges 3-12. However, it's the NBE empowered to fix the minimum number within the range, which is nine and it shall be applicable.

The composition of BOD of government banks and insurances needs to hold board members from workers by the appointment of assembly. The NBE under its directives totally prohibited workers from being a member of board of directors. This seems in contravention of its power, because there is no legislation which empowers NBE to ban workers from membership in the board. Composition of sub-committees is also another overlap. The NBE obliges at-least three directors in each committee but not in the case of PEHA.

There is clear contradiction between the NBE's and PEHA's power on approval of appointment of chief executives of banks and insurances. The banking and insurance business proclamations empower NBE to give its approval on the appointment of any banks and insurances chief executives. On the other hand; PEHA establishment regulation gives this power to the administration. This demonstrates that authority to approve the appointment of the CEO of state-owned banks and insurances is simultaneously given to both entities. Power to removal and suspension of board members and chief executives is also given for both PEHA and NBE.

Mandate overlap is also exists concerning remuneration of BOD and chief executives. The PEHA is empowered to decide on the allowance to be paid for the board members of public enterprise under Art-11/3/ of PEP. NBE empowered to decide on the amount of remuneration to be paid for board directors of banks and insurances operating in Ethiopia under banking and insurance business proclamations.

On the approval of the external auditor, the external audit report, the investment strategy, and information disclosure, there are also blatant discrepancies. Findings thus indicate a conflict between the mandates of NBE and PEHA, which has led to practical issues.

When we see the exchange of latter between the two institutions it clear that there is ambiguity in relation to the mandate accorded to the institutions. Thus the law has to put the mandate of both institutions in a very clearly demarcated manner. There should be a clear cross-reference between the legal documents which provide legal mandates to the respective institutions. For instance, if the legislator believes that appointment of BOD of public enterprise should have to

be approved by the NBE, there should be a clear provision which oblige PEHA to ask and get written approval of NBE before publicizing the appointment of BOD and letting them to start their job.

## **4.2 Recommendation**

The researcher suggests the following actions be taken, and the relevant organs should take them seriously, based on the discussions that have already taken place:

### **4.2.1 Policy Measures**

There is no issue as to the necessity of regulation which can be conducted via regulator. There shall be also an organ which can persist and defend the interest/share of state as shareholder. However, the role of regulatory organ and supervisory authority has to be clarified as a matter of financial policy.

As it is clearly indicated under Article 2(2) of PEHA proclamation No 25/1992 Supervising authority” means an authority that is designated by the Council of Ministers with a view to protecting the ownership rights of the State. Thus, it is plausible to conclude that PEHA is established with view of protecting the ownership rights of the State.

However, the mandates given to PEHA like approving; the appointment and dismissal of CEO of state owned banks and insurance companies, investment plan of the respective institutions, external audit reports and fixing the remuneration to be paid for the members of BOD are not mere supervisory role of owner rather they are regulatory mandates.

Regulatory mandates are accorded to both PHEA and NBE simultaneously causing serious problem regarding the practical applicability of the mandates of the two government organs.

Therefore, PEHA as a supervisory authority should only be given with the mandates which would enable it to protect the ownership rights of the state. The problems cannot totally be solved without a clear policy stand.

### **4.2.2 Legislative Measures**

It is evident from the legal analysis, interviews and exchange of letters between the two institutions that the mandates given to the institutions are unclear and overlapping.

One can argue that PEHA is re-established as an independent organ of the government as per Article 53 of proclamation No 1263/2021 and empowered to exercise the mandates given under regulation No 445/2019 and proclamation No 25/1992 whereas, NBE is established as per proclamation No 591/2008 and its power and mandates are provided under this proclamation; hence as per the canons of legal interpretation, the latest law which is proclamation No 1263/2021 enacted by similar body prevails over the former law which is proclamation No 591/2008. However, we cannot come up with lasting solution simply by applying cannons of interpretation.

In order to avoid this confusion, the law maker should properly delineate the roles of both institutions and the legal instruments that give the corresponding institutions their legal mandates should clearly cross-refer one another. For instance, if the legislator thinks that the NBE should have to approve the appointment of the BOD of a public enterprise, there should be a clear provision requiring PEHA to request and obtain the NBE's written approval prior to publicizing the appointment of the BOD and allowing them to begin their duties.

## BIBLIOGRAPHY

### Laws

Banking Business Proclamation, 2008, Proclamation No. 592/2008. Fed.Neg.Gaz, 14th Year No 57.

Code of Corporate Governance for Public Enterprise No. 501/2020, Art-2/1/.

Constitution of the Federal Democratic Republic of Ethiopia Proclamation, 1995, Proclamation No. 1/1995, Fed Neg Gaz 1st Year No. 1

Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, 2018, Proclamation No 1097/2018, Fed.Neg.Gaz, 25th Year No.

Definition of Powers and Duties of the Executive Organs Proclamation, 2021, Proclamation No. 1263/2021, Fed.Neg.Gaz, 28th Year No.4.

Federal Democratic Republic of Ethiopia Commercial Code, 2021, Proclamation No. 1243/2021, Fed.Neg.Gaz, Extraordinary Issue.

Financial Public Enterprises Agency Establishment Council of Ministers, 2004, Regulation No. 98/2004.

Insurance Business Proclamation, 2012, Proclamation No. 746/2012, Fed.Neg.Gaz, 18 th Year No. 57.

National Bank of Ethiopia Establishment Proclamation (as amended), 2008, Proclamation No. 591/2008, Fed.Neg.Gaz, 14th Year No 50.

National Bank of Ethiopia Licensing and Supervision of Banking Business Directive No. SIB/43/2016, Limits on Board Remuneration and Number of Employees who Seat on the Board of an Insurer.

National Bank of Ethiopia Licensing and Supervision of Banking Business Directive No. SBB/67/2018, Limits on Board Remuneration and Number of Employees who Seat on the Board of on Bank Board.

National Bank of Ethiopia Licensing and Supervision of Banking Business Directive No. SBB/12/1996, Limits on Investment of Banks.

National Bank of Ethiopia Licensing and Supervision of Banking Business Directive No. SBB/65/2017, Limits on Investment of Banks.

National Bank of Ethiopia Licensing and Supervision of Banking Business Directive No. SBB/70/2019, Requirements for Persons with Significance Influence.

National Bank of Ethiopia Licensing and Supervision of Banking Service, Banking Corporate Governance Directive No. SBB/71/2019

National Bank of Ethiopia Licensing and Supervision of Banking Service, Requirements for Persons with Significant Influence in a Bank Directives No. SBB/70/2019

National Bank of Ethiopia Licensing and Supervision of Banking Service, Bank Corporate Governance Directive No. SBB62/2015

National Bank of Ethiopia Licensing and Supervision of Banking Service, Insurance Corporate Governance Directive No. SIB/42/2015

National Bank of Ethiopia Licensing and Supervision of Insurance Business Directive No. SIB/35/2013, Time Limit for reduction and/or Relinquishing Shareholdings.

National Bank of Ethiopia Licensing and Supervision of Insurance Business Directive No. SBB/39/2006, Amendment for New Bank Licensing and Approval of Directors and CEO.

Public Enterprise Proclamation and Code of Corporate Governance of Public Enterprise No. 501/2020

The Definition of Powers and Duties of the Public Enterprises Holding and Administration Agency Regulation, 2019, Regulation No. 445-2019.

Trade competition and consumer protection proclamation no.813/2013 article 3(1)

## **Books, Journal Articles and Working Papers**

A Toolkit (2014), *Corporate Governance of State-Owned Enterprises*, World Bank Group,

A Toolkit (2014), note 31 above.

A. C. Fernando (2006), *Corporate Governance: Principles, Policies, and Practices*, (Pearson Education)

A. Naciri (ed.), *Corporate Governance Around the World* (Taylor & Francis e-Library, 2008)

Abay Yimer, S. (2011). *Financial market development, policy and regulation: the international experience and Ethiopia's need for further reform.*

Abdurazak (2017), *Corporate Governance and its Effect on Financial Performance of the Ethiopian Private Commercial Banks*, Accounting and Finance Department College of Business and Economics Addis Ababa University.

Abel Atlabachew Tadesse (2017), *Assessment on Corporate Governance Practice: The Commercial Bank of Ethiopia*, SGS College of Business and Economics AAU.

ASBA, *Corporate Governance: Regulation and Supervision Guidelines*, (2013 OMIN), 13.

Asnakech Getenet Ayele, A.G. (2013) 'Revisiting the Ethiopian Bank Corporate Governance system: A Glimpse of the Operation of Private Banks', Law, Social Justice & Global Development Journal (LGD).

Asrat, D., & Shiferaw, A. (2009). *Law of Public Enterprises and Cooperatives: Teaching Material*, Justice and Legal System Research Institute of Ethiopia.

ASX Corporate Governance Council (2019), *Corporate Governance Principles and Recommendations*, 4th Edition February 2019.

Basel Committee on Banking Supervision (1999), *Enhancing Corporate Governance for Banking Organizations*, pp. 1

Bijan Bidabad and Mahshid Sherafati (2019), *Bank Information Disclosure, Financial Transparency and Corporate Governance in Rastin Banking*, International Journal of Shari'ah and Corporate Governance Research Vol. 2, No. 1.

- Biruk Tesfaye Kebede (2018), *Policy and Practices of Corporate Governance in Commercial Banks of Ethiopia: The Case of Commercial Bank of Ethiopia (CBE)*, St. Mary's University School of Graduate Studies.
- Bob Garratt, *Why Corporate Governance Matters and How to Measure and Improve Board Performance* (Nicholas Brealey publishing UK, 2006).
- Borlea, Sorin Nicolae and Achim, Monica-Violeta (2013), *Theories of Corporate Governance*, Studia Universitatis "Vasile Goldis" Arad. Seria stiinte economice; Arad Vol. 23, Issue 1..
- Brian R. Cheffins (2012), *The History of Corporate Governance*, Law Working Paper N°.184/2012, University of Cambridge and ECGI
- Chang Ma (2018), *Self-Regulation Versus Government Regulation: An Externality View*, pp. 8
- Dagnachew Asrat and Addissie Shiferaw, *Law of Public Enterprises and Cooperatives Teaching Material*, JLSR.
- Dejene Alamirew (2014), *Assessing Corporate Governance of Ethiopian Private Limited Companies: With Particular Emphasis on Making Board of Directors Compulsory to Such Companies*, A Thesis Submitted in Partial Fulfillment for the Requirement of LL.M AAU
- Dureti Abate (2016), *Ensuring Good Corporate Governance through Auditors: Appraisal of the Ethiopian Legal Regime Governing their Roles and Responsibilities*, LL.M Thesis, AAU SGS.
- E Tsegaw (2015), *The Legal Status of State-owned Share Companies in Ethiopia*, Beijing Law Review Vol. 7 No. 13.
- Eric Hontz And Aleksandra Shkolnikov (2009), *USAID the Center for International Private Enterprise(CIPE), Corporate Governance*, The Intersection of Public and Private Reform.
- Esmael Abdu | (2022) *Financial distress situation of financial sectors in Ethiopia: A review paper*, Cogent Economics & Finance, Vol. 10 No. 1.
- Fekadu Petros Gebremeskel (2010), *Emerging Separation of Ownership and Control in Ethiopian Share Companies: Legal and Policy Implications*, 4(1) Mizan Law Review, pp. 2.
- Fekadu Petros, *Ethiopian Company Law*, (Far East Trading PLC), 2012 (Amharic).

- Gary Herrigel, *Corporate Governance: History Without Historians*, (Oxford: Oxford University Press, 2006)
- Gary M. Welsh (1999), *Good Governance and Commercial Banks*, Current Developments in Monetary and Financial Law, Vol. 1, pp. 393
- Gebeyaw Simachew Bekele (2012), *A Critical Analysis of the Ethiopian Commercial Code in Light of OECD Principles of Corporate Governance*, Institute of Advanced Legal Studies School of Advanced Study University of London.
- GT26- Corporate Governance: Regulation and Supervision Guidelines, © ASBA, 2013.
- Haitham Nobanee and Nejla Ould Daoud Ellili (2016), *The Impact of the Mandatory Corporate Governance Disclosures on the Banking Growth in UAE: Islamic versus Conventional Banks*, Corporate Ownership and Control, Vol. 12 Issue 1.
- Hussein Ahmed Tura (2012), *Overview of Corporate Governance in Ethiopia: The Role, Composition and Remuneration of Boards of Directors in Share Companies*, Mizan Law Review, Vol. 6 No.1.
- IN FOCUS (2022), *Introduction to Financial Services: The Regulatory Framework*, Congressional Research Service,
- Jean Paul (2005), Corporate governance and Value Creation, The Research Foundation of CFA Institute, USA.
- Jelena Jovanović and Biljana Grujić (2016), *Historical Development of Corporate Governance as the Basis for Current Corporate Trends*, ЕКОНОМИКА, Vol 16 No. 1.
- Jinnatul Raihan Mumu et al (2021), *Corporate governance and remuneration: a bibliometric analysis*, JABES 28 (4).
- Juan Pedro Cantera (2017), *Corporate Governance in Insurance Companies*, CBU Montevideo
- Kevin Keasey (ed) et al, *Corporate Governance Accountability, Enterprise and International Comparisons*, (John Wiley & Sons Ltd, The Atrium, Southern Gate, Chichester, West Sussex PO19 8SQ, England 2005)
- Kingsley O. Mrabure and Alfred Abhulimhen-Iyoha (2020), *Corporate Governance and Protection of Stakeholders Rights and Interests*, Beijing Law Review.
- Klaus J. Hopt (), *Corporate Governance of Banks and Financial Institutions: Economic Theory, Supervisory Practice, Evidence and Policy*, European Business Organization Law Review, Vol. 22.

- Larisa Dragomir, European Prudential Banking Regulation and Supervision the Legal Dimension, European banking at the beginning of the third millennium, Banking and market structures, (Taylor & Francis e-Library, 2010).
- Lemessa Berber Wogena (2019), *Overview of the Position of Auditors in the Corporate Governance under the Ethiopian Commercial Code in Lights of International Benchmarks*.
- Manuel Alfonso Garzon Castrillon (2021), *The Concept of Corporate Governance*, Revista Científica "Visión de Futuro", Vol. 25, No. 2.
- Maria Malik et al (2014), *Governance and Firm Performance Applying Pareto Approach, Is It Cultural Phenomena?* The Journal of Applied Business Research Vol. 30, No. 5.
- Mats Isaksson (1999), Investment, Financing and Corporate governance: The Role and Structure of Corporate Governance Arrangements in OECD Countries, Seminar on Corporate Governance in the Baltics.
- Melesse Asfaw (2014), *Financial Regulation and Supervision in Ethiopia*, Journal of Economics and Sustainable Development, Vol.5, No.17, pp. 64.
- Mena EECED Investment Programme, *Improving Corporate Governance in The Middle East and North Africa, Policy Brief on Corporate Governance of Banks Building Blocks* (draft for discussion purposes, Working Group 5, pp. 3
- Monika Marcinkowska (2012), Corporate Governance in Banks: Problems and Remedies, Financial Asset and Investing No. 2/2012.
- Monika Marcinkowska (2013), *Regulation and self-regulation in banking: in search of optimum*, Bank i Kredyt Vol. 44 No. 2.
- Multimedia Investment Fund Members of the IDB Group (2013), *Corporate Governance: Regulation and Supervision Guidelines*, ASBA, pp. 12
- Nordea Funds Ltd, Corporate Governance Principles, pp. 4, Folajimi et al, Principles of Corporate Governance and Effective Boards, Board of Directors Effectiveness and Corporate Governance Taylor and Francis (eds), (2019)
- OECD (2015), G20/OECD Principles of Corporate Governance, OECD Publishing, Paris.  
<http://dx.doi.org/10.1787/9789264236882-en>

- OECD (2021), Ownership and Governance of State-Owned Enterprises: A Compendium of National Practices 2021 <<https://www.oecd.org/corporate/ownership-and-governance-of-state-owned-enterprises-a-compendiumof-national-practices.htm>>
- OECD (organization for economic co-operation and development) Principles of Corporate Governance 2004 p 18
- Oladipo Olowosegun and Tankiso Molo (2021), *Corporate governance disclosures in the annual reports of Nigerian banks*, Independent Research Journal in the Management Sciences.
- Pankaj M. Madhani (2016), *Study of Corporate Governance and Disclosure Practices: Old Economy versus New Economy Firms*, Great Lakes Herald Vol. 10, No. 2.
- Principles of Corporate Governance, Harvard Law School on Corporate Governance; Principles of Corporate Governance (harvard.edu), accessed on 5/15/2022
- Reza Demissie Reta (2018), *Corporate Governance and Its Effect on Performance of Ethiopian Private Commercial Banks*, AAU College of Business and Economics Master of Business Administration Program.
- Spong, K, R, and Sullivan, R, J. (2007), *Corporate Governance and Bank Performance*, Journal of Economics Literature No. G21, G34, p.1; see also Tandelilin, E, Kaaro, H, and Mahadwartha, P (2007), *Corporate Governance, Risk Management, and Bank Performance: Does Type of Ownership Matter?*, EADN Working Paper No. 34.
- Susan E. Dudley and Jerry Brito, *Regulation: A Primer (ercatus center George Mason University, 2012)*.
- T.Karagiorgos, G.Drogalas , E. Gotzamanis and I. Tampakoudis , “Internal Auditing as an Effective Tool for Corporate Governance ” , Journal of Business Management , vol.2, no.1 (2010).
- Tony Addison and Alemayehu Geda, Ethiopia’s New Financial Sector and Its Regulation, World Institute for Development Economics Research (WIDER) of the United Nations University, Helsinki ,Discussion Paper No. 2001/55, August 2001 available online <https://www.researchgate.net/publication/23984864> last accessed on June 20/2019.
- Udo C. and Alexander N. (2007), Developments in Corporate Governance
- Wan Fauziah Wan Yusoff and Idris Adamu Alhaji (2012), *Insight of Corporate Governance Theories*, Journal of Business & Management Volume 1, Issue 1.

- Washington, DC: World Bank. License: Creative Commons Attribution CC BY 3.0 IGO
- Whipple V. N. Jones (2005), *Understanding Regulation, European Financial Management*, Vol. 11, No. 4.
- World Bank. 2014. *Corporate Governance of State- Owned Enterprises: A Toolkit*. DOI: 10.1596/978-1-4648-0222
- Yifredew Adamu Bizualem (2019), Financial Sector in Ethiopia
- Yohannes Tesemma (2016), *Corporate Governance Policy and Its Effects on the Performance of Private Banks in Ethiopia - A Comparative Analysis*, A Master's Thesis AAU, pp. 62
- Mekonen Kassahun Hagos and Melesse Asfaw, Financial Regulation and Supervision in Ethiopia, Journal of Economics and Sustainable Development, Vol.5, No.17, 2014 Ethiopian Civil Service University available online [www.iiste.org](http://www.iiste.org) ISSN 2222-1700 (Paper) ISSN 2222-2855
- Tony Addison<sup>1</sup> and Alemayehu Geda, Ethiopia's New Financial Sector and Its Regulation, World Institute for Development Economics Research (WIDER) of the United Nations University, Helsinki ,Discussion Paper No. 2001/55, August 2001 available online <https://www.researchgate.net/publication/23984864>

## Internet Sources

- <<http://managementhelp.org/blogs/boards-of-directors/2010/08/27/the-changing-role-of-boards-and-management-as-companies>>, Retrieved on 4/15/2022.
- <<http://www.differencebetween.net/miscellaneous/difference-between-guidelineandpolicy>>, accessed on 4/11/2022
- <[the difference between corporate governance and corporate management | sig.org](#)>, accessed on 4/12/2022
- [3 Reasons You Need Corporate Governance - Holded](#), Retrieved on 4/29/2022
- [Corporate Governance Code | Ethiopian Institute of Corporate Governance \(EICG\) \(addischamber.com\)](#), retrieved on 7/8/2022
- [Economic Issues No. 32 - Should Financial Sector Regulators Be Independent? \(imf.org\)](#) retrieved on 7/6/2022

Ethiopia updates corporate governance in banks and insurance companies available online on <http://progresomicrofinanzas.org/en/>

<https://www.hdfcergo.com> last accessed at 24/02/2022.

NBE's Monetary Policy Framework available on <https://www.nbe.gov.et/pdf/>

Samuel Maireg Biresaw, the principles of corporate governance in Ethiopian financial sector a commentary, online available at <https://www.researchgate.net/publication/326881360>

Understanding the Role of Corporate Governance in Financial Institutions: A Research Agenda | Oxford Law Faculty, Accessed on 5/11/2022

## ANNEXES

Letters exchanged between NBE and PEHA

Opinion of Ministry of Justice on the contention between NBE and PEHA



በመንግስት የፋይናንስ የልማት ድርጅቶች የዳይሬክተሮች ቦርድ አባላት፣ ዋና ሥራ አስፈጻሚና ከፍተኛ ሥራ አስፈጻሚዎች ሹመት ጋር በተያያዘ በባንኩ እና በመንግስት የልማት ድርጅቶች ይዞታና አስተዳደር ኤጀንሲ /የአሁኑ በመንግስት የልማት ድርጅቶች ይዞታና አስተዳደር/ መካከል የአረዳድ ልዩነትና አለመግባባት መኖሩን በመጥቀስ ለተጠየቀ ጥያቄ አስተያየታችንን እንደሚከተለው ሰጥተናል፡፡

በመንግስት የልማት ድርጅቶች ይዞታና አስተዳደር ኤጀንሲን /የአሁኑ የመንግስት የልማት ድርጅቶች ይዞታና አስተዳደር /ተግባርና ኃላፊነት ለመወሰን በወጣው ደንብ ቁጥር 445/2011 አንቀጽ 2(1) ላይ "የመንግስት የልማት ድርጅት" ማለት በመንግስት የልማት ድርጅቶች አዋጅ ቁጥር 25/1984 አንቀጽ 2(1) ላይ የተመለከተውን ትርጓሜ የሚያሟላ ድርጅት ወይም አክሲዮኖቹ ሙሉ በሙሉ በመንግስት ባለቤትነት የተያዙ አክሲዮን ማህበር ሆኖ በሌሎች ሕጎች ወይም በመንግስት ውሳኔ የተለየ ተቆጣጣሪ ባለሥልጣን የተሰየመላቸውን ድርጅቶች እንደማይጨምር ተደንገዋል፡፡ በዚህ ደንብ አንቀጽ 6 ላይ ኤጀንሲው ደንቡ ጋር በተያያዘው አባሪ የተዘረዘሩትን የልማት ድርጅቶች እንደሚቆጣጠር የተደነገገ ሲሆን ከደንቡ ጋር በተያያዘው አባሪ (አባሪ 1) ሥር ከተዘረዘሩት የመንግስት የልማት ድርጅቶች መካከል የኢትዮጵያ ንግድ ባንክ፣ የኢትዮጵያ ልማት ባንክ እና የኢትዮጵያ መድን ድርጅት የመንግስት (የፋይናንስ) የልማት ድርጅት ተደርገው ከተራ ቁጥር 5-7 ተዘርዝረው ይገኛሉ፡፡

የኤጀንሲውን ሥልጣንና ተግባር በተመለከተም በደንብ ቁጥር 445/2011 አንቀጽ 5(4) ላይ ኤጀንሲው የመንግስት የልማት ድርጅቶች አስፈላጊ ችሎታ፣ ልምድ እና ዕውቀት ባላቸው ሰዎች የሚመሩበትን ሥርዓት የመዘርጋትና ተግባራዊነቱን የማረጋገጥ ሥልጣን የተሰጠው ሲሆን በዚህ ደንብ አንቀጽ 5(16) ላይ ደግሞ ኤጀንሲው ለአርሱ ተጠሪ የተደረጉትን የመንግሥት የልማት ድርጅቶች በሚመለከት በአዋጅ ቁጥር 25/1984 ለመንግሥት የልማት ድርጅቶች ተቆጣጣሪ ባለሥልጣን ተሰጥተው የነበሩ ሥልጣንና ተግባራትን በሰራ ላይ የማዋል ሥልጣን እንዳለው ተደንገኖ ይገኛል፡፡ በዚህም መሰረት ኤጀንሲው በመንግስት የልማት ድርጅቶች አዋጅ ቁጥር 25/1984 አንቀጽ 11(1) እና (2)



The image shows a handwritten signature in blue ink on the left. To its right is a circular official stamp. The stamp contains a central emblem with a star and a scale of justice. The text around the emblem is in Amharic: "የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ገንዘብ ጥቅል" and "የግዴታ ሚኒስቴር". Below the emblem, the English text "Ministry of Justice" is visible.

ወይም መድን ሰዌ ዳይሬክተር፣ ዋና ሥራ አስፈጻሚ ወይም ከፍተኛ ሥራ አስፈጻሚ ሹመት በብሔራዊ ባንክ በጽሁፍ ማጽደት ያለበት ሥለመሆኑ በግልጽ የተደነገገ በመሆኑ፣ ምንም እንኳን እነዚህ ሁለት የሀገር ማዕቀፎች ግልጽ የሆነ መግረስ የሚታይባቸው ቢሆንም እንደኛ ሥለባንኮችና መድን ሰዌ ድርጅቶች (የመንግስትም ሆኑ የግል) አጠቃላይ አስተዳደርና ሥለዳይሬክተሮች፣ ዋና ሥራ አስፈጻሚዎችና ከፍተኛ ሥራ አስፈጻሚዎች እጅግም በሚመለከት የወጡት የባንክና የመድን ሥራ አዋጆች ድንጋጌዎች ልዩ እና በአዋጅ ደረጃ የወጡ ህጎች በመሆናቸው፣ ሁለተኛ እነዚህ ድንጋጌዎች በሌላ አዋጅ በግልጽ ያልተሻሩ በመሆናቸው እና እስካልተሻሩ ድረስ የኤጀንሲውን/አስተዳደሩን ሥልጣንና ተግባር ለመወሰን የወጣው ከላይ የተጠቀሰው ደንብ በእነዚህ አዋጆች ለብሔራዊ ባንክ የተሰጡትን ሥልጣንና ተግባራት ቀሪ የሚያደርገው አይሆንም።

በተጨማሪም በመንግስት የልማት ድርጅቶች አዋጅ ቁጥር 25/1984 አንቀጽ 4 ስር አግባብነት ያላቸው የንግድ ህግ ድንጋጌዎች በድርጅቶች/በአዋጅ ቁጥር 25/1984 መሰረት በተቋቋሙ/በሚቋቋሙ የልማት ድርጅቶች (ባንኮችና መድን ሰዌ ድርጅቶች) ላይ ተፈጻሚ እንደሚሆኑ ተደንግጓል። ይህም የባንክ ስራ አዋጅ፣ የመድን ስራ አዋጅ፣ የንግድ ህግ መድብል እና ሌሎች የንግድ ህጎች እንደ አግባብነታቸው በመንግስት የልማት ድርጅቶች ላይ ተፈጻሚ እንደሚሆኑ ያሳያል።

ሥለሆነም በመንግስት የፋይናንስ ልማት ድርጅቶች (በንግድ ባንክ፣ በልማት ባንክ፣ መድን ድርጅት) የሚሾሙ የዳይሬክተሮች ቦርድ አባላት፣ ዋና ሥራ አስፈጻሚዎችና ከፍተኛ ሥራ አስፈጻሚዎች ልክ እንደማንኛውም የባንክና መድን ሰዌ ተቋም ዳይሬክተር እና ሥራ አስፈጻሚ ተጀሚዎቹ ብሔራዊ ባንክ ያወጣውን የብቃትና ችሎታ መመዘኛ መሰፈርት ሊያሟሉና ሹመታቸው በብሔራዊ ባንክ በጽሁፍ ሊፀድቅ ይገባል።







**ለኢትዮጵያ ንግድ ባንክ የዳይሬክተሮች ቦርድ  
አዲስ አበባ፤**

**ጉዳዩ፡- የዳይሬክተሮች ቦርድ አባላት ወርሃዊ የስብሰባ አበልና ማበረታቻ**

**አከፋፈልን ይመለከታል፤**

የባንኩ የዳይሬክተሮች ቦርድ ህዳር 21 ቀን 2014 ዓ.ም በቁጥር በአ/ተአ/009/2021 በጻፈው ደብዳቤ ለዳይሬክተሮች ቦርድ አባላት የሚከፈል ወርሃዊ አበልና ዓመታዊ ማበረታቻ ክፍያ የአስተዳደር ይሁንታ ሳይጠየቅ የኢትዮጵያ ብሔራዊ ባንክ ባወጣው መመሪያ ቁጥር SBB/67/2018 አንደሚፈጸም ገልጿል።

የመንግስት የልማት ድርጅቶች ይዞታና አስተዳደር የልማት ድርጅቶችን በልማት ድርጅቶች ማቋቋሚያ አዋጅ ቁጥር 25/1984 አንቀጽ 11 ንዑስ አንቀጽ (1) እና (3) መሠረት የልማት ድርጅቶችን በብቃት ሊመሩ የሚችሉ የቦርድ አባላት እየመደቡ፤ ኃላፊነታቸውን ሳይወጡ ሲቀር እያንሳ አንዲሁም ለቦርድ አባላት ሊከፈል የሚገባውን የማበረታቻ ክፍያ በውጤት ላይ ተመስርቶ እየወሰነና እየመራ እንደሚገኝ ይታወቃል።

በተጨማሪም በመንግስት የልማት ድርጅቶች ይዞታና አስተዳደር ማቋቋሚያ ደንብ ቁጥር 445/2011 አንቀጽ 5 ንዑስ አንቀጽ 3 እና 4 መሠረት የልማት ድርጅቶች የቦርድ አባላት ምልመላ፣ መረጣና ምደባ መመሪያ፣ የቦርድ አባላት የግንባራ አፈጻጸም መመሪያ እና የቦርድ አባላት የስብሰባ አበልና የማበረታቻ ክፍያ አፈጻጸም መመሪያ እና የመሳሰሉት የአሰራር ስርዓቶች በማክረጃት እና ተግባራዊ እንዲሆኑ በማድረግ የመንግስትን የባለቤትነት መብት በህጉ ባገኘው ስልጣኑ መሠረት በልማት ድርጅቶች እያስከበረ ይገኛል።

ይሁንና የባንኩ የዳይሬክተሮች ቦርድ አግባብ ባልሆነ መልኩ የልማት ድርጅቶች ከተቋቋሙት አዋጅ እና ደንብ ውጪ የኢትዮጵያ ብሔራዊ ባንክ ለዳይሬክተሮች ቦርድ የሚከፈል የስብሰባ አበል እና ማበረታቻ ክፍያ ጣሪያ አስመልክቶ ለሁሉም ባንኮች ያወጣውን መመሪያ በመጥቀስ የባንኩን መመሪያ ቁጥር SBB/71/2019 አንቀጽ 3.2 ላይ የተገለጸው ወደጎን በመተው የአስተዳደር ይሁንታ ሳይጠይቅ እንደሚፈጸም አስታውቋል።

PBX 251-001-661-09-09  
251-011-661-10-45

Fax 011-661-97-34  
E-mail: info@pehaa.gov.et  
Website w.w.w.pehaa.gov.et



DEC-03  
አርቢ፡ አብነት  
አክሲዮኖች  
27444-1000(11835)  
አዲስ-አበባ-ኢትዮጵያ  
Addis Ababa, Ethiopia  
Risk  
+ d/c 2 d

የኢትዮጵያ ብሔራዊ ባንክ ያወጣው መመሪያ እንደ ተቆጣጣሪ አካል ለዳይሬክተሮች ቦርድ ሊከፈል የሚገባውን የክፍያ ጣሪያ /limits on remuneration/ ሲሆን አስተዳደርም የተቋቋሙትን ደንብ ተከትሎ ባወጣው አሁን በስራ ላይ ያለው መመሪያ "የመንግስት የልማት ድርጅቶች የሥራ አመራር ቦርድ የስብሰባ አበልና የማበረታቻ ክፍያ አፈጻጸም መመሪያ ቁጥር 006/2012" የብሔራዊ ባንክ ጣሪያ በጠበቀ መልኩ እና ክልሎች የመንግስት የልማት ድርጅቶች የተሻለ ክፍያ በመኖሩ የመመሪው አካል አድርጎ ሲሰራበት ቆይቷል።

በመሆኑም ለዳይሬክተሮች ቦርድ አባላት ሊከፈል የሚገባው የስብሰባ አበልና ዓመታዊ ማበረታቻ ክፍያ በመንግስት የልማት ድርጅቶች የሥራ አመራር ቦርድ የስብሰባ አበልና የማበረታቻ ክፍያ አፈጻጸም መመሪያ ቁጥር 006/2012 በተጨማሪም ሚያዝያ 04 ቀን 2013 ዓ.ም በቁጥር መ.ል.ድ /178-220/29/01 በወጣው ስርዓተ-መሰረት ሆኖ አሁን የተገፈው ደብዳቤ አስተዳደር ሳይፈቅድ

ይሁን ሃሳብ ሃጻድሬክተር ቢድ ለገዛ ባህን መልኩ ሃላፊ ድርጅቶች በተቋቋመበት አዋጅ እና ደንብ ውጪ የኢትዮጵያ ብሔራዊ ባንክ ለዳይሬክተሮች ቦርድ የሚከፈል የሰብሰባ አበል እና ማበረታቻ ክፍያ ጣሪያ አስመልክቶ ለሁሉንም ባንኮች ያወጣውን መመሪያ በመጥቀስ የባንኩን መመሪያ ቁጥር SBB/71/2019 አንቀጽ 3.2 ላይ የተገለጸው ወደጎን በመተው የአስተዳደር ይሁንታ ላይጠይቅ እንደሚፈጸም አስታውቋል።



PBX 251-001-861-09-09  
251-011-861-10-45

Fax 011-861-9734  
E-mail: info@pehaa.gov.et  
Website w.w.w.pehaa.gov.et

DEC-03  
አርቶ: አብነት  
አክቲቭ ክፍያ  
27444-1000(11835) Risk  
አዲስ-አበባ-ኢትዮጵያ  
Addis Ababa, Ethiopia  
+ሰር/20

የኢትዮጵያ ብሔራዊ ባንክ ያወጣው መመሪያ እንደ ተቆጣጣሪ አካል ለዳይሬክተሮች ቦርድ ሊከፈል የሚገባውን የክፍያ ጣሪያ /limits on remuneration/ ሲሆን አስተዳደሩም የተቋቋመበትን ደንብ ተክትሎ ባወጣው አሁን በስራ ላይ ያለው መመሪያ "የመንግስት የልማት ድርጅቶች የሥራ አመራር ቦርድ የሰብሰባ አበልና የማበረታቻ ክፍያ አፈጻጸም መመሪያ ቁጥር 006/2012" የብሔራዊ ባንክ ጣሪያ በጠበቀ መልኩ እና ክልሎች የመንግስት የልማት ድርጅቶች የተሻለ ክፍያ በመፍቀድ የመመሪው አካል አድርጎ ሲሰራበት ቆይቷል።

በመሆኑም ለዳይሬክተሮች ቦርድ አባላት ሊከፈል የሚገባው የሰብሰባ አበልና ዓመታዊ ማበረታቻ ክፍያ በመንግስት የልማት ድርጅቶች የሥራ አመራር ቦርድ የሰብሰባ አበልና የማበረታቻ ክፍያ አፈጻጸም መመሪያ ቁጥር 006/2012 በተጨማሪም ሚያዝያ 04 ቀን 2013 ዓ.ም በቁጥር መ.ል.ድ /178-220/29/01 በወጣው ሰርኩላር መሰረት ሆኖ አሁን የተፃፈው ደብዳቤ አስተዳደር ላይ ለማስተካከል የሌለበት መሆኑን ለአስተዳደር እንደመሆኑ መጠን አስተዳደር አዋጅና ደንብን ተክትሎ የሚያወጣቸውን የአሰራር ስርዓቶች የመፈጸምና የማስፈጸም ኃላፊነቱን በተገቢው መልኩ እንዲወጣ እያሳሰብን ከዚህ ውጪ ተፈጽሞ ቢገኝ ተጠያቂነት የሚያስከትል መሆኑን እንገልጻለን።



ከሠላምታ ጋር  
የባንኩ ስርዓት

**ግልባጭ:**

- > ለገንዘብ ሚኒስቴር
- > ለኢትዮጵያ ንግድ ባንክ  
አዲስ አበባ
- > ለዋና ዳይሬክተር
- > ለአፕራክስ ዘርፍ ም/ዋና ዳይሬክተር
- > ለዎርፖሬት ሽርናንስና ፋይናንስ ስርዓት ዳይሬክቶሬት  
የመ/ል/ድ/ይ/አ



**የኢትዮጵያ ንግድ ባንክ የዳይሬክተሮች ቦርድ**  
**The Board of Directors of the Commercial Bank of Ethiopia**

ስ.ቁ. +251-11-552 21 42  
 Tel. +251-11-550 99 52

አዲስ አበባ - ADDIS ABABA  
 ኢትዮጵያ - ETHIOPIA

ፋክስ  
 Fax +251-11-553 42 40 Website: www.combanketh.

ቦጽ/ተአ/009/2021


ህዳር 21 ቀን 2014 ዓ.ም.

**ለመንግሥት የልማት ድርጅቶች ይዞታና አስተዳደር ኮጅንቴ**  
**አዲስ አበባ**

ጉዳዩ፡- የዳይሬክተሮች ቦርድ አባላት ወርሃዊ እና ዓመታዊ ማበረታቻ አከፋፈልን ይመለከታል

የኢትዮጵያ የፋይናንስ ተቋማት ተቆጣጣሪ የሆነው የኢትዮጵያ ብሔራዊ ባንክ፣ ለመንግሥትም ሆነ ለግል ባንኮች የዳይሬክተሮች ቦርድ አባላት ወርሃዊ አበልና ዓመታዊ ማበረታቻ የሚከፈልበትን አገገብ በተመለከተ በቁጥር SBB/67/2018 ደንብ አውጥቶ እየተሠራበት ይገኛል።

የኢትዮጵያ ንግድ ባንክ ይህንኑ መመሪያ ተፈጻሚ እያደረገ ያለው የመ/ቤታችሁን ይሁንታ በመጠየቅ ነበር። ከአሁን በኋላ ግን፣ ጥያቄው ወደ መ/ቤታችሁ ሳይቀርብ በብሔራዊ ባንክ መመሪያ መሠረት የሚፈጸም መሆኑን እንገልጻለን።

  
 ገብረመስቀል አጥናፋ  
 የዳይሬክተሮች ቦርድ ሰብላቢ

ግልባጭ  
 ለኢትዮጵያ ንግድ ባንክ ፕሬዚደንት

30/7/2014/21/8  
 25/84  
 45/2

06 ጥቅም 2013  
ትኩረት/ጥቅም/01

**ለኢትዮጵያ ብሔራዊ ባንክ  
አዲስ አበባ!**

**ጉዳዩ:- ማብራሪያ ስለመስጠት!**

ኢትዮጵያ ንግድ ባንክ ሚኒስቴር 01 ቀን 2013 ዓ.ም በቁጥር ፐ/ሰ/057/2021 በተጻፈ ደብዳቤ ለባንኩ በቅርቡ የተመዘኑት አራት የቦርድ አባላት ለብሔራዊ ባንክ ቀርቦ ይሁንታ ያልተጠየቁትን ምክንያት እንዲያስረዱ በማለት ከብሔራዊ ባንክ እ.አ.አ February 22, 2021 በቁጥር FIS/BSD/140/2021 በተጻፈ ደብዳቤ መጠየቃቸውን በመገልጽ፣ የኢትዮጵያ ንግድ ባንክ ቦርድ መመደብ የሆነ ጋራነት እንደሆነ ተገልጾ ለብሔራዊ ባንክ ምላሽ እንድንሰጥ ጠይቋል።

በዚህም መሠረት ለደንበው በልማት ድርጅቶች አዋጅ ቁጥር 25/1984 አንቀጽ 11 (1) እና (2) መሰረት የቦርድ አባላትን የመመደብ፣ የማገልገል እና ከሚመድባቸው አባላት መካከል ሊቀመንበርን የመሾም ስልጣን ለተቆጣጣሪው ባለስልጣን የተሰጠ በመሆኑ፣ እንዲሁም ብሔራዊ ባንክ ባወጣው የባንክ ኮርፖሬት ሽርጌ ዘንድ ዳይሬክቲቭ ቁጥር SBB/70/2019 አንቀጽ 3 ንዑስ 3.2 በመገንባት ባለስልጣን የተሾሙ ባንኮችን በሚመለከት ሌሎች ህጎችም በማገናኘብ እንደሚፈለግ መደንገጉን ተመልክቷል።

የመንግስት የልማት ድርጅቶች ይዞታና አስተዳደር ለደንበው በረደራ-ል መንግስት አስረዳሚ አባላት ስልጣንና ተግባር ለመወሰን በውጣው አዋጅ ቁጥር 1097/2011 አንቀጽ 32(15) መሠረት እንዲሁም በደንብ ቁጥር 445/2011 የተቋቋመ ተቋም ነው። ለደንበው በደንብ ቁጥር 445/2011 ከተሰጠው ስልጣንና ተግባራት መካከል አንዱ በአንቀጽ ቁጥር 16 የተመለከተው ለደንበው ተጠሪ የሆኑትን የልማት ድርጅቶች በሚመለከት በአዋጅ 25/1984 ለመንግስት የልማት ድርጅቶች ተቆጣጣሪ ባለስልጣን ተሰጥተው የነበሩትን ስልጣንና ተግባራት በሥራ ላይ ያውላል የሚል ነው። በመሆኑም እነዚህን ክልይ የተገለጹትን ህጎች መሠረት በማድረግ ተጠሪ ለሆኑ የልማት ድርጅቶች የሥራ አመራር ቦርድ አባላት ምደባ እያደረገ ያለ ሲሆን ለኢትዮጵያ ንግድ ባንክም አራት የቦርድ አባላትን ምደባ ማድረጋችንን እንገልጻለን።

ከሰጣችሁ ጽ  
/s/

- ገልጻችኩ:-**
- > ለኢትዮጵያ ንግድ ባንክ የሥራ አመራር ቦርድ  
አዲስ አበባ
  - > ለስርአት ገንባታ ዘርፍ ም/ሞኝ ዳይሬክተር
  - > ለኮፐራሽን ዘርፍ ም/ሞኝ ዳይሬክተር  
የሙሉ ደ.ይ.ሐ.ሐ



ገጽ ፩

# የኢትዮጵያ ንግድ ባንክ COMMERCIAL BANK OF ETHIOPIA

Tel: 011-551 50 04, 011 551 50 00      SWIFT: CBETETAA      E-mail: cbe\_cc@combanketh.com  
 Addis Ababa      4-tel: 251-11-551 45 22      cbe\_operation@combanketh.com  
 ADDIS ABABA      Fax      Website: www.combanketh.com  
 ETHIOPIA

T/አ/057/2021

ግብርና ግንባታ ተግባር  
 ለገንዘብ ልማት ለግብርና ግንባታ ተግባር  
 የግብርና ግንባታ ተግባር  
 051106113

ሚያዝያ 1 ቀን 2013 ዓ.ም.  
 ዋና ዳይሬክተር  
 የመንግስት የልማት ድርጅቶች ይዘታና አስተዳደር ኤጀንሲ  
 አዲስ አበባ

**ጉዳይ፡ የቦርድ አባላትን ሹመት ይመለከታል**

የኢትዮጵያ ብሔራዊ ባንክ የባንኮች ተጠቃሚ ዳይሬክቶሬት በቅርቡ 'የኢትዮጵያ ንግድ ባንክ ቦርድ የተሾሙትን የዳይሬክተሮች ቦርድ አባላት ሹመትን ለማስፈጸም ከብሔራዊ ባንክ ይሁንታ ያልጠየቃችሁበትን ምክንያት አስረዱ። በሚል ደብዳቤ ጽፎልኛል። የደብዳቤውን ቅጂ ከዚህ ጋር አባሪ ተደርጓል።

የሙሉ ድ.ይ.አ.ኤ የተቋቋመበትን አዋጅ ተጠቃሚ 25/1984፣ የመንግሥት የልማት ድርጅቶች ቦርድ መሰየም የኤጀንሲው ሥልጣን መሆኑን ይደነግጋል። በሌላ በኩል የባንክ አዋጅ እና የብሔራዊ ባንክ ኮርፖሬት ሽርናን ዳይሬክቲቭ የቦርድ አባላት በባለስልጠናዎች ከተመረጡ በኋላ ብሔራዊ ባንክ ሹመቱን (ምርጫውን) እንደሚያጸድቅ ያሳያል። በእርግጥ ይኸ የበለጠ በግልጽ የተገለጸው የግል ባንኮችን አሠራር መሠረት ያደረገ በመሆኑ ትንሽ ብቻ ይታያል።

በመሆኑም፣ የባንኩን የቦርድ አባላት መሾም የማን ጓጎልነት መሆኑን በተመለከተ ከብሔራዊ ባንክ ጋር በመነጋገር ለጉዳዩ አልባት እንዲበጅ እንድታደርጉልን በማክበር እንጠይቃለን። አዲስ የቦርድ አባላትን ሹመት በተመለከተ ለብሔራዊ ባንክ መላክ ያለበት ስለመሆኑ ከተማመናችሁ፣ የሚላኩ ማናቸውም ነገሮች በአዋጁ መሠረት በኤጀንሲው በኩል ቢሆን እንደሚሻል ለማሳሰብ እንጠይቃለን።

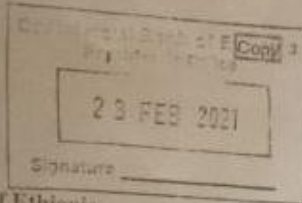
ከሙሉ ጋር  
  
 አቤ  
 ፕሬዥዳንት

ለግብርና ግንባታ ተግባር  
 ለገንዘብ ልማት ለግብርና ግንባታ ተግባር  
 051106113

ገልጻል፡-

FIS/BSO/140/2021  
February 22, 2021

Board Chairman  
Commercial Bank of Ethiopia  
Addis Ababa



Dear Sir;

**Subject: Request for Explanation**

As per article 4.2 of NBE Directive No. SBB/70/2019, a bank is required to request and get approval of NBE for newly appointed board of directors. However, we have learned that the bank did not request and get NBE approval for the appointment of W/ro Yasmin Wohahebbi, Ato Getachew Negera, Ato Addisu Habba and Ato Ahmed Tusa.

This is, therefore, to request you to give us written explanation for the aforementioned violations, and provide us necessary documents as per article 8.1 of the aforementioned directives, in order to conduct fitness and propriety test, latest by February 26, 2021.

Sincerely yours,

**Frezer Ayalew**  
Director, Banking Supervision Directorate



cc:

- V/Governor, Financial Institutions Supervision  
National Bank of Ethiopia
- President, Commercial Bank of Ethiopia  
Addis Ababa

---

አድራሻ: ሱዳን ስትሪት ፮፻፵፬/፲፬፻፳፭ ፋክስ ቁጥር ፬፻፲፮ ፻፲፮ ፻፲፮ ፻፲፮ ፻፲፮ ስልክ ቁጥር ፬፻፲፮ ፻፲፮ ፻፲፮ ፻፲፮ ፻፲፮ አ.አ  
ADDRESS: SUDAN STREET P.O. BOX 5550/2048 FAX No. 0115 51 45 88 TEL. No. 0115 51 74 30 ADDIS ABABA  
TELEGRAPHIC ADDRESS: NATIONAL BANK