

Transparency in Foreign Currency Allocation and Foreign Exchange Management (Directive No. 53/2020 as Amended) (Directive No. 776/2021)



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National Bank of Ethiopia

September 12, 2020

**Transparency in Foreign Currency Allocation
and Foreign Exchange Management
(Directives No. 53/2020 as Amended)
Directives No. 776/2021”.**

Whereas, foreign exchange is a scarce resource that should be managed carefully to ensure its efficient and proper allocation;

Whereas, there is a need to ensure that foreign exchange is allocated in a transparent and sound manner to priority and other economic sectors without opening a room for rent seeking behavior and malpractice;

Whereas, it is necessary to require each bank to have transparent and sound foreign currency allocation and foreign exchange management guideline or procedure manual which shows the accountability of each employee of a bank involved in the foreign exchange transaction;

Now, therefore, pursuant to the authority vested in it by Article 20(3) and Article 27(2) of the National Bank of Ethiopia Establishment Proclamation No. 591/2008, the National Bank of Ethiopia has issued these Directives.

1. Short Title

These directives may be cited as “***Transparency in Foreign Currency Allocation and Foreign Exchange Management***(Directives No. 53/2020 as Amended) **Directives No. 776/2021”.**

2. **Definitions**

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

- 2.1 “bank” means a company licensed by the National Bank to undertake banking business or a bank owned by the Government;
- 2.2 “board” means board of directors of a bank;
- 2.3 “Cash Against Document” or “CAD” means mode of payment for goods in which an authorized bank transfer title document to the buyer upon payment in cash;
- 2.4 “employee” means any person who is appointed or hired by a bank to carry out foreign exchange transaction;
- 2.5 "foreign currency" means any currency other than Ethiopian legal tender which is legal tender in any country outside Ethiopia as to which the National Bank Ethiopia has declared to be acceptable for payment in Ethiopia;
- 2.6 "foreign exchange" means any foreign currency, cheques, bills of exchange, promissory notes, drafts, securities, and other negotiable instruments, expressed in foreign currency as well as bank balances in account held in foreign currency or assets in the form of foreign account crediting or set-off arrangements, expressed or payable in foreign currencies provided they are acceptable by the National Bank;
- 2.7 “Foreign Exchange Return” means a transaction ticket produced by a bank;
- 2.8 “forex bureau” means a window of authorized bank wherein buying and selling of convertible currency from and to the public is conducted;
- 2.9 “IBD” means International Banking Department of a bank;
- 2.10 “IBD manager” means a responsible person by whatever name he/she may be called, assigned to manage foreign exchange transaction;
- 2.11 “National Bank” means The National Bank of Ethiopia
- 2.12 “person” means any natural or juridical person.
- 2.13 “Purchase Order” means a document that a company issues to a vendor to place an order for products. It outlines all of the details of the sale, including quantity of

product, sales price, delivery date, terms, and requirements for the order to be fulfilled;

2.14 "transaction in foreign exchange" means:

- a) the transfer, borrowing, lending, assignment, exchange, purchase, sale, receipt, payment or crediting of foreign exchange; and
- b) the conclusion of any contract, agreement, arrangement or understanding, as a result of which any foreign exchange is transferred, borrowed, lent, assigned, exchanged, purchased, sold, received, paid or credited within or outside Ethiopia;

3. **Responsibility of the Board**

Without prejudice to the responsibilities set forth under other applicable laws governing foreign exchange transactions, a board of directors of a bank shall be responsible for;

- 3.1 developing and putting in place the overall foreign exchange operations management guidelines in line with the NBE's directives pertaining to foreign exchange transaction;
- 3.2 reviewing at least monthly a bank's overall foreign exchange exposure to ensure that it is maintained at prudent levels and is consistent with available resources;
- 3.3 ensuring that adequate resources, both technical and human, are available for evaluating and controlling these operations; and
- 3.4 ensuring adherence to the lines of authority, responsibility and limits that the Board established for measuring, managing and reporting compliance to established rules.

4. **Responsibility of the Executive Management**

The Executive Management of a bank, without prejudice to the responsibilities set forth under other applicable laws governing foreign exchange transactions shall be responsible for:

- 4.1 maintaining records which are sufficient to determine at all times the bank's compliance with its own internal foreign exchange transaction policies and procedures and avail any information and documentation when requested by the National Bank of Ethiopia at any time;
- 4.2 maintaining a daily record showing close-of-business foreign exchange;

- 4.3 ensuring that proper reporting procedure is put in place between the head office and its branches on daily foreign exchange operations;
- 4.4 reconciling foreign exchange transaction accounts at least every month diligently, and with due consideration to the need to provide timely information to the National Bank of Ethiopia concerning the bank's foreign currency open position and outstanding balances;
- 4.5 developing and putting in place adequate information systems for measuring, monitoring, controlling and reporting the bank's foreign exchange daily exposure; reports must be provided on a timely basis to the bank's board, senior management and the appropriate business line managers and there should be a system to effectively address observed deviations; and
- 4.6 establishing effective internal controls to monitor and control overall foreign exchange operations;
- 4.7 ensuring that foreign exchange accounting procedures meet the necessary standards of accuracy, promptness and completeness; and
- 4.8 maintaining a database containing up-to-date information on foreign exchange rates, list of foreign exchange purchase requests and allocations made and where applicable minutes of the allocation committee.

5. **Internal Audit**

- 5.1 The internal audit in each bank shall conduct at least one audit semi-annually and make surprise checks when necessary to test compliance with the foreign exchange operations guidelines.
- 5.2 The findings of the audit result shall be reported to the respective bank's board as well as Senior Management of the bank, and a copy of the internal audit report must be submitted to the Foreign Exchange Monitoring and Reserve Management Directorate of the National Bank of Ethiopia at the same time of the submission of the report to the Board of Management.

6. **Foreign Exchange Allocation and priorities**

6.1 Imports of essential goods:

In the allocation of foreign currency a bank shall give priority for the categories as listed in First priority, Second priority and Third priority to the following import items and payments, among them, on first come first served basis.

a) First priority:

- i) Pharmaceuticals :- Medicine and laboratory reagents

b) Second Priority:

- i) Input for Agriculture:- Fertilizer, Seed, Pesticide and Chemical
- ii) Input for Manufacturing:- Raw material and Chemical

c) Third Priority:

- i) motor oil, lubricants and LPG gas;
- ii) agricultural inputs and machineries:
 - a. irrigation pumps,
 - b. animal feeds,
 - c. machineries and equipment,
 - d. tractors , harvesting machineries and their spare parts,
 - e. animal hybrids;
- iii) pharmaceutical product:
 - a. laboratory equipment
 - b. medical equipment and appliances;
- iv) Manufacturing industries requests for procurement of machineries,equipment, spare parts, and accessories;
- v) import of nutritious food for babies;
- vi) Spare part for construction machineries for own use construction companies whose total values not exceeding USD 50,000;
- vii) educational materials :
 - a. exercise book, ball pen, pencil and
 - b. printing papers,
- viii) profit and dividend transfer
- ix) transfer of excess sales of foreign airlines;
- x) Sales from share and liquidation of companies by FDI

6.1.1 The total foreign currency allocated for imports listed under article 6.1 above by a bank shall not be less than 50% of the total foreign currency allocated for all import of goods and services at any time. The 50% allocated under 6.1 above shall be distributed 10% for first priority, 45% each for items under 2nd and 3rd priority.

6.1.2 In case the **allocation** to the imports listed under article 6.1 above is less than 50% of the total foreign currency allocated for all import of goods and services at any time, the bank is obliged to surrender the difference to the National Bank of Ethiopia every month within the first five working days of the next month.

6.1.3 In case the **utilization** of allocated foreign currency under 6.1.2 above is less than 50% of the total foreign currency allocated for all import of goods and services at any time, the bank is obliged to surrender the difference to the National Bank of Ethiopia every Six monthie. on June 30 and December 31 within the first five working days of the next month.

6.1.4 The National Bank of Ethiopia shall credit the payment and settlement account of the bank with equivalent amount in birr at the prevailing mid exchange rate.

6.2 In the case of interruption of production due to damage parts of machinery or equipment and small value critical inputs, the Bank President is authorized to give special approval for import of spare parts requested by Manufacturing or Agricultural sector.

6.3 The Governor or Vice Governor of the Monetary Cluster of the National Bank of Ethiopia may give special priority approval for Banks own use import, Federal Government, Regional Government and City administrations requests in a case by case basis.

6.4 Foreign Exchange sales on demand

Items listed under this article are exempted from registration procedure required under Sub-article 6.1 and shall be served on demand.

- i) foreign currency requests from:
 - a. Non Resident Foreign currency and Nonresident Transferable birr account,
 - b. Foreign Currency accounts of Nonresident Ethiopian and Non Resident Ethiopian Origin,
 - c. Retention accounts,

- ii) forex request for all transaction set under the operation of forex Bureau Directives No. FXD/17/2001.
- iii) invisible payments ie,
 - a. consultancy , commissioning, installation, erecting and royalty fees;
 - b. payment of services and travel payment and other invisible transaction drawn from Non Resident Non-transferable accounts;
 - c. Area Commissions for refueling jet oil by oil companies;
 - d. Communications and other service payments ie. Telecom service charge satellite service payment postal service charges;
 - e. Aviation service payments and associated costs;
 - f. Salary, allowances and administrative expenses of Ethiopian Diplomatic missions abroad and representatives of Ethiopian companies in Djibouti and other countries;
 - g. Naval personal, Djibouti Ethiopian customs authority, licensed transit and forwarding companies and other oil companies, Ethiopian Orthodox church transfer abroad;
 - h. Travel allowances for religious institutions;
 - i. Cargo handling, freight and other associated costs like container service, storage, port dues incurred on goods handled in transit by shipping and forwarding firms licensed to handle such services;
 - j. payments on imports and export freight and transit services;
 - k. payment for quality claim, loss in weight, commission, super intendance or survey fee , demurrage request by exporters;
- iv) payments authorized by the National Bank of Ethiopia :
 - a. external debt payment obligation ie principal interest and fees
 - b. suppliers credits,
- v) Salary transfer of foreign employees.

6.5 NBE may amend the above lists under sub- articles 6.1 and 6.4 as required.

6.6 Notwithstanding sub-article 6.1 of this Article, a bank shall sale foreign currency to its all other customers on the basis of first come first served basis.

6.7 A bank shall allocate foreign exchange receipt of an exporter in line with the “Retention and Utilization of Export Earnings and Inward Remittance” Directive.

7 Prohibition

- 7.1 A bank by no means shall allocate foreign exchange collected from an exporter to import business of the same outside the proper procedure stipulated under article 6 above;
- 7.2 A bank is prohibited from approving a purchase order under CAD without collecting full amount in Birr of the purchase order value except for import application made by the manufacturing sector;
- 7.3 A bank is prohibited from approving L/C application without collecting minimum of 30% of the L/C value in cash up front. However, banks may exempt for import by the manufacturing sector from this restriction.
- 7.4 A bank is prohibited from releasing the CAD documents to their customers without effecting payments to suppliers based on the modality of payments as per the international practices under such circumstance the bank shall issue utilization ticket within three days to confirm the transfer of foreign currency.
- 7.5 A bank is prohibited to issue permit for goods shipped before approval, after expiry of L/C and purchase order. However, extension of validity of L/C or Purchase Order is allowed before shipment of goods for good cause. Apart from this the Bank President may give approval to issue import permit for goods shipped before approval of after expiry of L/C or purchase order by giving warning letter to the importer if the case is found acceptable
- 7.6 A bank is prohibited to decline registration request by importer except as stated under sub article 7.8.
- 7.7 A bank is prohibited to process import application for approved foreign currency exceeding the period of 15 consecutive days from the date of approval.
- 7.8 A bank is prohibited to register more than two proforma invoices including the previously registered under the waiting list.

7.9 A bank is prohibited to attach foreign exchange allocation with any other services in the bank as long as the customer fulfills required documents for import.

7.10 A bank is prohibited to accept request on change of items after registration of proforma invoice.

7.11 Unit Price increase up to 5% of the registered value for good cause may be entertained by the bank however there is no limit for price decrease unless it is restricted by the Directive “Setting of Indicative Minimum Price for Selected Import Item”.

7.12 The Governor or Vice Governor of the Monetary Cluster of the National Bank of Ethiopia may give waiver for prohibitions stated above in a case by case basis.

8 Reporting Requirements

8.1 Each bank shall submit to the National Bank of Ethiopia a weekly return of its Foreign Exchange Exposure. The return shall be duly signed by the reporting bank’s Senior Officer in charge or IBD and cover six business days of the week that is Monday to Saturday and submitted to the Foreign Exchange Monitoring and Reserve Management Directorate not later than Tuesday of the following week.

8.2 Each bank shall use the central web- based registration IT system developed by the National Bank of Ethiopia for registration and approval of foreign currency requests by applicants.

9 Applicability of Other Laws

9.1 Nothing in these directives shall be construed to relieve a bank or any person from complying with the provisions of other foreign exchange directives issued by the National Bank of Ethiopia.

9.2 No directive or established practice may, in so far as it is inconsistent with the provisions of these directives, have effect with respect to matters specifically provided for in these directives.

10 Guideline and Procedures

The bank shall strictly use the foreign exchange operations management guidelines or procedure endorsed by NBE.

11 Obligation of Importers

11.1 Importers are strictly prohibited from lodging foreign currency request application in one import application on more than one bank.

11.2 Any importer who fails to comply with these directives will be black listed from six month up to two years.

12 Penalty

12.1 Any bank that fails to comply with the requirements of any provisions of these directives by any means shall be subject to a fine USD 5,000(USD Five Thousand) for each violation.

12.2 Notwithstanding the provisions of sub-article 12.1 of these directives, whomever fails to comply with the provision of these directives or in any other manner violate or obstructs the implementation of these directives shall be liable under Article 26 sub-article 2 of the National Bank of Ethiopia Establishment (as amended) Proclamation No.591/2008.

13 Repealed Directive

Directives No. FXD/62/2019 and other circulars and letters are hereby repealed and replaced by Directives No. FXD/67/2020

14 Effective Date

These directives shall enter into force as of September____,2020.

