

Operationalization of Movable Collateral Registry (Directive No. 92/2020)



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National Bank of Ethiopia

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**OPERATIONALIZATION OF MOVABLE COLLATERAL REGISTRY
DIRECTIVE NO. 92/2020**

WHEREAS, modern secured transactions system enables individuals and entities to use their movable assets as security for credit generating new productive capital, expands investments, creates more job opportunity, increases production and productivity, creates an opportunity to expand and foster access to and usage of financial products and services;

WHEREAS, establishing single comprehensive electronic registration regime for secured transactions in movable property to determine priority rights among competing claimants is necessary;

WHEREAS, it is necessary to enable the creation of security rights in current and future movable property, ensure their publicity and effectiveness through efficient enforcement mechanisms;

NOW, THEREFORE, in accordance with Article 94(2) and 95 of Movable Property Security Right Proclamation No. 1147/2019, the National Bank of Ethiopia issued this directive.

1. Short Title

This Directive may be cited as “**OPERATIONALIZATION OF MOVABLE COLLATERAL REGISTRY, DIRECTIVE NO. 92/2020**”.

2. Definitions

For the purpose of this Directive, unless otherwise provided,

- 2.1. “amendment notice”** means a change, correction, addition, deletion of information in the registered notice by the secured creditor;
- 2.2. “collateral registry”** means an electronic system for receiving, storing and making accessible to the public information about security rights and non-consensual rights in movable property;
- 2.3. “grantor”** means a person that creates a security right to secure either its own obligation or that of another person; a buyer or other transferee, lessee, or licensee of the collateral that acquires its rights subject to a security right;
- 2.4. “initial notice”** means the first registered notice in the Collateral Registry by the secured creditor or its authorized representative;
- 2.5. “Movable Collateral Registry Office”** means an office established to manage the Collateral Registry;

- 2.6. **“moveable property”** means any incorporeal or corporeal asset as defined in Article 2(27) of the Proclamation irrespective of the manner in which it is used;
- 2.7. **“National Bank”** means the National Bank of Ethiopia;
- 2.8. **“non-consensual creditor”** means a creditor that has obtained a right in the collateral, on the basis of a court order or applicable laws;
- 2.9. **“Proclamation”** means Movable Property Security Right Proclamation No. 1147/2019;
- 2.10. **“prior security right”** means a right covered by a security agreement entered into before the entry into force of Proclamation No. 1147/2019;
- 2.11. **“registrar”** means a person appointed to supervise and administer the operations of the Collateral Registry;
- 2.12. **“search certificate”** means an official document provided by the Collateral Registry to a searcher against a search criterion entered;
- 2.13. **“secured transaction”** means an arrangement between the grantor and the secured creditor which creates a security right in the grantor’s moveable property;
- 2.14. **“secured creditor”** means a person that has a security right or non-consensual creditor;
- 2.15. **“statistical information”** means any information collected by the Collateral Registry for internal purposes;
- 2.16. **“user account”** means a designated person or institution registry account that has met the terms and conditions of use of the Collateral Registry for the purposes of transacting on the Collateral Registry. The user account will store a username, password, and other administrative information;
- 2.17. **“person”** means natural or legal person;
- 2.18. Expressions in the masculine gender includes the feminine;
- 2.19. The definitions assigned to the terms under Article 2 of the Proclamation shall be applicable to this Directive;

3. Scope

This Directive shall apply to rights in movable property created by agreement that secure payment of credit or other performance of an obligation.

4. Establishment of Movable Collateral Registry Office

4.1. To execute the power, duties and responsibilities vested in it as per Article 95 of the Proclamation, Moveable Collateral Registry Office is established and housed in the National Bank.

4.2. A Director who is appointed by the National Bank to supervise and administer the operations of the Collateral Registry shall be the registrar.

5. Access to the Collateral Registry

Any secured creditor or an authorized representative shall have a User Account approved by the Movable Collateral Registry Office to access the Collateral Registry upon fulfilling the requirements stipulated under Articles 7, 8 and 9 of this Directive and other relevant provisions of the Proclamation.

6. Form of Communication

In fulfilling its functions any communication from the Collateral Registry including

6.1. notifications of refusing access under Article 24(4) of the Proclamation;

6.2. notifications of rejecting registration of a notice or a search request under Article 25(3) of the Proclamation;

6.3. providing a copy of the information in a registered notice under Article 33(1); and

6.4. providing search results under Article 38(1) of the Proclamation shall be electronic and automated.

7. Duties and Responsibilities of Banks, Microfinance Institutions and Capital Goods Finance Companies

Banks, Microfinance Institutions and Capital Goods Finance Companies shall

7.1. formulate and put in use clear policies and procedures and other relevant documentations for secured transactions;

7.2. assign an Administrator at a senior managerial level preferably a person heading the Credit Department or Directorate at the head office, who

7.2.1. oversees access to and use of the Collateral Registry with in his own institutions;

7.2.2. acts as link between the Movable Collateral Registry Office and his/her institution, including branches and sub-branches on matters relating to Collateral Registry;

- 7.2.3. manages roles within the institution as per the Collateral Registry system access rights granted to the institution and other requirements of the functionalities of the Collateral Registry; and
 - 7.2.4. ensures proper utilization of the Collateral Registry at its head office, branches and sub-branches in strict compliance with this Directive and the institution's own internal policies and procedures.
- 7.3. communicate in writing to the National Bank the name and designation, contact address, telephone number(s) and e-mail address of the Administrator;
- 7.4. communicate in writing any subsequent change or replacement of the Administrator without delay.
- 7.5. assign a Senior Officer at managerial level preferably a person heading the Information and Communication Technology unit of the institution, as a security administrator, who shall be responsible for:
 - 7.5.1. maintaining the list of users with access to the Collateral Registry within the institution, including updating the list whenever there is a change due to any addition or removal of users; and
 - 7.5.2. assigning the appropriate security access level for the authorized users in the institution when authorized by the Administrator in writing.
- 7.6. ensure the integrity and security of the data and shall make sure that access to and use of the Collateral Registry at the institution is provided and allowed in accordance with strict data access procedures.
- 7.7. be fully responsible for any damages, claims or liabilities that may arise as a result of registering inaccurate, misleading or incomplete information in the Collateral Registry;

8. User Account

To get a user account:

- 8.1. A secured creditor or its authorized representative shall accept the terms and conditions, adopted by the Moveable Collateral Registry Office, specified in the electronic registry system, for the use of the Collateral Registry;
- 8.2. A secured creditor shall apply and fill all the required information in the electronic application form available on the Collateral Registry's website, identifying itself by name, address and any other information that the Collateral Registry may request.

- 8.3.** The Movable Collateral Registry Office shall review the application within two (2) business days and approves a User Account for the applicant if all the requirements are fulfilled.
- 8.4.** The user account holder shall safeguard the password approved by the Movable Collateral Registry Office and used by individual users authorized by the holder.
- 8.5.** The Movable Collateral Registry Office shall allow a holder of the user account to create sub-accounts to authorize multiple individuals to submit notices.
- 8.6.** The holder of the user account shall be responsible for all transactions done through the user account.

9. Fees

The secured creditor or an authorized representative and a searcher shall pay fees pursuant to Article 24(1) of the Proclamation.

9.1. Banks and Capital Goods Finance Companies shall pay:

9.1.1. Birr 100 for registration of an initial notice; and

9.1.2. Birr 50 for extending the period of effectiveness of initial notice.

9.2. Microfinance Institutions shall pay:

9.2.1. Birr 50 for registration of an initial notice;

9.2.2. Birr 30 for extending the period of effectiveness of initial notice.

9.3. All other persons, such as non-consensual creditors and suppliers, shall pay:

9.3.1. Birr 200 for registration of an initial notice;

9.3.2. Birr 100 for extending the period of effectiveness of initial notice.

9.4. Any person who wants to get a signed certificate for a search shall pay Birr 30.

9.5. The following services of the Collateral Registry shall be available free of charge:

9.5.1. Registration of

9.5.1.1. an initial notice relating to a prior security right pursuant to Article 92 of the Proclamation;

9.5.1.2. an amendment notice related to update on registration notice; and

9.5.1.3. a cancellation notice;

9.5.2. Searches without printed certificate.

9.6. Modes of Payment

9.6.1. Postpaid Fees

9.6.1.1. Fees as stipulated in this Article shall be collected directly by the registry system from the user account holder account and a notice of payment shall be automatically sent to the administrator of the user account to notify payment of fees for the services used;

9.6.1.2. Financial Institutions with user account at the registry shall

- a) collect fees, as stipulated in this article, on behalf of the Movable Collateral Registry Office from any person who seek the services of the Collateral Registry;
- b) upon receiving the fees, generate a unique code from the collateral registry and provide it to the user to enable the later to link to the system; and
- c) credit the collected fees to an account of the Movable Collateral Registry Office.

9.6.2. Prepaid Fees

A user account holder may make a prepayment of fee to the Movable Collateral Registry Office's account in advance of using the services of the Collateral Registry. As the service rendered by the Collateral Registry, the prepaid amount shall be reduced automatically by the specified fees and reported in the transaction history of the user's account record.

9.6.3. The Movable Collateral Registry Office may introduce any other payment methods including online or electronic payments and shall inform the same to users.

10. Language of Information in a Notice

Any information in a notice must be expressed in English or Amharic.

11. Grantor Identifier

Pursuant to Article 28 of the Proclamation, the grantor identifier,

11.1. for **natural persons or representatives** who are citizens of Ethiopia, is

11.1.1. the taxpayer identification number issued by relevant authority; and

11.1.2. the name as it appears on the taxpayer identification document issued by relevant authority.

- 11.2. for **natural persons or representatives** who are not citizens of Ethiopia, is
 - 11.2.1. the Passport Number; and
 - 11.2.2. the name as it appears in the valid passport.
- 11.3. for **legal persons or representatives** that are constituted under the relevant Ethiopian laws, is
 - 11.3.1. the taxpayer identification number, issued by relevant authority; and
 - 11.3.2. The name that appears on the ***taxpayer registration document*** issued by relevant authority.
- 12. **Secured Creditor Identifier**

Pursuant to Article 29 of the Proclamation, the secured creditor identifier,

 - 12.1. for **natural persons or representatives** who are citizens of Ethiopia, is
 - 12.1.1. the taxpayer identification number issued by relevant authority; and
 - 12.1.2. the name as it appears on the taxpayer identification document issued by relevant authority.
 - 12.2. for **legal persons or representatives** that are constituted under the relevant Ethiopian laws is:
 - 12.2.1. the taxpayer identification number, issued by relevant authority; and
 - 12.2.2. The name as it appears on the ***taxpayer registration document*** issued by relevant authority.
- 13. **Address of the Grantor and Secured Creditor**

Pursuant to Article 27(1)(c) of the Proclamation,

 - 13.1. the residential address must be provided for a natural person; and
 - 13.2. the address of the principal or registered office must be provided for a legal person.
 - 13.3. An email address may be provided in addition to the address as prescribed in this Article.
- 14. **Description of Collateral**
 - 14.1. A description of collateral shall reasonably identify the collateral, including by a type of collateral, category, quantity or specific listing;
 - 14.2. For the purpose of Article 2(46) of the Proclamation, in addition to motor vehicle, trailer, agricultural machinery, construction machinery, and industrial machinery,

serial-numbered collateral includes equipment and machinery held for business use.

15. Statistical Information

15.1. In accordance with Article 27(1)(f) of the Proclamation, an initial notice and an amendment notice that adds a grantor shall include statistical information for each grantor.

15.2. The secured creditor or an authorized representative shall enter the statistical information on the size/type of the business, whether it is a micro, small or medium enterprise, including women's owned enterprises.

15.3. An initial notice with respect to a prior security right shall be registered whether or not it provides any statistical information.

16. Notice with Respect to a Right of a Non-Consensual Creditor and Other Persons

16.1. A notice with respect to a right of a non-consensual creditor or other persons shall provide the same required information as applicable to an initial notice relating to a security right.

16.2. A notice submitted shall not be rejected if it does not provide statistical information.

17. Transfer of a Security Right

An amendment notice relating to a transfer of a security right pursuant to Article 16 of the Proclamation shall identify the transferee and the collateral that relates to that security right.

18. Services

18.1. Services of the Collateral Registry shall be available twenty-four hours a day, every day of the week.

18.2. The Registrar may suspend access to the Collateral Registry, in whole or in part, for maintenance or when circumstances arise that makes it impossible or impracticable to provide services but with prior notification to users.

19. Requirement for the Provision of Credit Against Movable Collateral

All banks shall provide

19.1. All banks shall allocate at least five per cent (5%) of the credit disbursement plan of the year to individuals, persons in the agricultural sector including cooperatives, unions and others and Micro, Small and Medium Enterprises against Movable Property as collateral, which shall commence on July 1, 2020;

- 19.2.** Notwithstanding sub-article 19.1 of this article, banks may partner with microfinance institutions to allocate the fund on a whole sale basis and in their own terms and conditions to be provided as credit against movable property as collateral by the later;
- 19.3.** Microfinance institutions that generate funds as per the prescription of sub-article 19.2 of this article shall exclusively allocate the fund for the purpose set forth under sub article 19.1 of this Article;
- 19.4.** A bank that failed to achieve the target in the preceding budget year shall double the allocation in the subsequent budget year;
- 19.5.** If a bank still fails to comply with sub-article 19.4 of this article, the National Bank shall take appropriate actions in allocating the fund to the stated purpose; and
- 19.6.** All banks and microfinance institutions shall provide quarterly information about the allocation of the fund as per the format prescribed by the National Bank.
- 20. Penalty**
Financial institutions that fail to comply with any one of the provisions of this Directive shall pay penalty of Birr 10,000 for each violation.
- 21. Exemption from Payment of Fees for Services**
All users of the Collateral Registry are exempted from payment of fees that are stipulated under Article 9 of this Directive for Ninety (90) days from the coming into force of this Directive.
- 22. Entry into Force**
This Directive shall enter into force as of the 26th day of February 2020.