A PROCLAMATION TO AMEND THE NATIONAL BANK OF ETHIOPIA ESTABLISHMENT PROCLAMATION

WHEREAS, for the rapid economic development of Ethiopia stable price and foreign exchange rate and healthy financial system are being necessary;

WHEREAS, it is necessary for the National Bank of Ethiopia to undertake such other activities as are conforming to the proportional economic growth of Ethiopia;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE
GENERAL

1. Short Title

This Proclamation may be cited as "the National Bank of Ethiopia Establishment (as Amended) Proclamation No. 591/2008".

2. Definition

In this Proclamation, unless the context requires otherwise:

1/ "authorized dealer" means any person other than a bank, which is authorized by the National Bank to engage in foreign exchange transactions;
2/ "banking business" means including the following:

a) receiving funds from the public as deposit through means that the National Bank has declared to be an authorized manner of receiving funds;

b) under the account and risk of the person undertaking banking business to use the funds referred to under paragraph (a) of this Sub-Article, in whole or in part, for loans, investments and for purposes that the National Bank has declared to be appropriate;

c) the buying and selling of gold and silver bullion and foreign exchange;

d) the transfer of funds to other domestic and foreign persons in the name of the banks themselves or their customers;

e) the discounting and negotiation of promissory notes, drafts, bills of exchange and other evidence of debt;

f) any other activity recognized as customary banking business, which a bank engaging in the activities described from paragraphs (a) to (f) of this sub-article is authorized to undertake by the National Bank;

3/ “banks” mean companies licensed by the National Bank to undertake banking business and banks owned by the Government;

4/ "deposit insurance fund" means a fund to be established in accordance with regulation to be issued by the Council of Ministers;

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 has declared to be acceptable for payment in Ethiopia;

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;
7/ "Government" means the Government of the Federal Democratic Republic of Ethiopia;

8/ "insurers" means insurance companies established in accordance with the appropriate law of Ethiopia;

9/ "liquid assets" mean in relation to financial institutions include:

a) cash;
b) deposits in the National Bank and other domestic and foreign banks acceptable by the National Bank;
c) assets readily convertible into cash expressed and payable in Birr or foreign currency acceptable by the National Bank;
d) such other assets as the National Bank may from time to time declare liquid assets;

10/ "other financial institutions" means micro-finance institutions, postal savings, money transfer institutions and other similar financial institutions established in accordance with the appropriate law of Ethiopia and as determined by the National Bank;

11/ "person" means any natural or juridical person;

12/ "National Bank" means the National Bank of Ethiopia, which is the central bank of the country;

13/ "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;

14/ “valuable good” or “valuable thing” means anything of value; but shall not include foreign exchange which a passenger brings with him into Ethiopia or any baggage of a passenger as provided in the Customs Tariff Regulation.
3. Legal Status

1/ The National Bank of Ethiopia established by Order No. 30/1963 shall continue to exist as an autonomous institution and shall henceforth be governed by this Proclamation.

2/ The National Bank shall have its own juridical personality, and, in particular, the capacity to:
   a) contract;
   b) sue and be sued; and
   c) acquire, own, possess and to dispose its property by sale or in any other manner.

3/ The National Bank shall have its head office in Addis Ababa and may:
   a) establish and close branch offices in Ethiopia; and
   b) designate, and revoke the designation of, agents and correspondents in Ethiopia and abroad.

4/ The National Bank shall be accountable to the Prime Minister of the Federal Democratic Republic of Ethiopia.

5/ The National Bank shall have:
   a) Board of Directors;
   b) Governor and Vice Governor to be appointed by the Government; and
   c) the necessary staff.
4. Purpose of the National Bank

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.

5. Powers and Duties of the National Bank

For the fulfillment of its purposes, the National Bank shall have the powers and duties to:

1/ coin, print or cause to be coined, printed and circulated the legal tender currency;

2/ dispose or cause to be disposed coins and notes issued legally;

3/ issue its own debt and payment instruments;

4/ regulate and determine the supply and availability of money and credit as well as the applicable interest rates and other charges;

5/ formulate and implement exchange rate policy;

6/ manage and administer the international reserves of Ethiopia;

7/ license and supervise banks, insurers and other financial institutions;

8/ create favorable conditions for the expansion of banking, insurance and other financial services;

9/ set limits on gold and silver bullion and foreign exchange assets which banks and authorized dealers can hold;

10/ set limits on the net foreign exchange position and on the terms and the amount of external indebtedness of banks and other financial institutions;

11/ make short term and long term refinancing facilities available to banks and other financial institutions as might be necessary;
12/ accept deposits of any kind from foreign sources;

13/ collect data from any person and prepare periodic economic studies, on the balance of payments, money supply, price forecasts and other relevant statistical indicators for analysis and for the formulation and determination of monetary, saving and exchange policies as are useful to Ethiopian economy;

14/ act as banker, fiscal agent and financial advisor to the Government;

15/ take such steps to establish, modernize, conduct, monitor, regulate and supervise payment, clearing and settlement systems;

16/ act in compliance with international monetary and banking agreements of Ethiopia and represent Ethiopia in the International Monetary Fund and other international financial organizations formed by central banks;

17/ coin special commemorative coins;

18/ establish and manage deposit insurance fund;

19/ exercise such other powers and functions to execute its purposes as central banks customarily perform.

6. Capital and Reserve

1/ The capital of the National Bank shall be totally owned by the Government. The paid up capital of the National Bank is Birr500,000,000 (five hundred million Birr) and may be increased as might be found necessary by regulation to be issued by the Council of Ministers.

2/ 20% (twenty percent) of the net profit shall be paid each financial year into the General Reserve Fund until such fund equals the paid up capital of the National Bank. The remaining 80% (eighty percent) shall be credited to the account of the Ministry of Finance and Economic Development.

3/ Where the General Reserve Fund equals the paid up capital of the Bank, the total amount of the net profit shall be credited each financial year to the account of the Ministry of Finance and Economic Development.

4/ Net losses of the National Bank shall be debited to the General Reserve Fund.
5. If at any time, as a result of net losses sustained by the National Bank, the General Reserve Fund is less than the paid up capital, the provisions of sub-article (2) of this Article shall be applied until the General Reserve Fund is again equal to the paid up capital.

6. The Government shall ensure that the paid up capital of the National Bank remain intact at all times.

7. **Financial Year and Financial Statements**

1/ The financial year of the National Bank shall begin on July 1 and end on June 30 of the next year.

2/ The profit and loss account, balance sheet and notes to the accounts shall be prepared by the National Bank in accordance with international financial reporting standards.

3/ The National Bank shall, within three months from the end of each financial year, prepare and submit to the Government unedited balance sheet as well as profit and loss account.

8. **External Audit**

1/ The Board of Directors of the Bank shall appoint an external auditor annually. The audit report shall be completed and issued to the National Bank’s Board of Directors’ Audit Committee for review and approval, and subsequently submitted to the Government, within six months from the end of each financial year.

2/ A duly audited and signed by Auditor concerning balance sheet and annual profit and loss statement shall be published in the annual report to be issued by the National Bank.

9. **Powers, Duties and Meeting Procedure of the Board of Directors**

1/ The powers, responsibilities and functions of the National Bank provided for in this Proclamation shall be vested in the Board of Directors.
2/ The presence of four members of the Board of Directors shall constitute a quorum; provided, however, that one of them shall be the Governor or Vice Governor.

3/ Meetings of the Board shall be called by the Chairperson or, in his absence, by a member of the Board delegated by him.

4/ Meetings of the Board of Directors shall be held at least once every three months; provided, however, that the Chairperson or, in his absence, the person delegated by him, may call a meeting at any time or when the Governor or three board members so request.

5/ The Board of Directors shall have its own secretariat.

6/ The Government shall fix the amount of allowance payable to the members of the Board of Directors.

7/ All decisions of the Board of Directors shall be made by a simple majority vote of the members present. In case of a tie, the Chairperson shall have a casting vote.

8/ Minutes of meetings of the Board of Directors shall be recorded accurately and in such form as the Board of Directors may determine. Unless the Board of Directors decides otherwise, minutes of the Board of Directors shall be confidential.

9/ The Board of Directors may adopt its own rules of procedure.

10/ The Board of Directors may, where it deems necessary, delegate its powers to the Governor.

11/ The Board of Directors shall have an Audit Committee composed of at least three board members. The Audit Committee shall receive and examine the findings and recommendations of the internal and external auditors and also give the necessary direction for the implementation.

10. Powers and Duties of the Governor of the National Bank

1/ The Governor of the National Bank shall be the chief executive officer of the Bank and, as such, shall direct and supervise the administration and operations of the Bank in accordance with this Proclamation and the decisions of the Board.
2/ The Governor shall prepare the plans and annual budgets of the National Bank and, upon approval by the Board of Directors, implement the same.

3/ The Governor shall be the principal representative of the National Bank, and in this capacity shall:

   a) represent the National Bank in all relations with other persons, the Government, the International Monetary Fund and other relevant financial institutions in which the National Bank is a member;

   b) sign individually or jointly with other authorized officers of the National Bank contracts concluded by the National Bank, currency notes or securities issued by the National Bank, annual reports, balance sheets, profit and loss statements, correspondence and other documents of the National Bank; and

   c) represent the National Bank, either personally or through counsel, in any legal proceeding to which the National Bank is a party.

4/ The Governor may delegate part of his powers and duties to the Vice Governor and other officers of the National Bank, as may be required for the efficiency of the National Bank.

5/ The Governor shall, in all his actions, be guided by the purposes of the National Bank as set out in Article 4 of this Proclamation.

11. Powers and Duties of the Vice Governor of the National Bank

   The Vice Governor of the National Bank shall assist the Governor and in the absence of the Governor shall discharge all the functions conferred on the Governor.

PART THREE

RELATIONS OF THE NATIONAL BANK WITH THE GOVERNMENT

12. Fiscal Agent and Banker for the Government

   The National Bank shall act as a fiscal agent and banker for the Government and, in that capacity, it shall, in the name and for the account of the Government, engage in the following transactions:
1/ accept deposits, collect or take custody of funds deposited by the Government in Ethiopia or abroad, and remit or effect payments and, where necessary, assign banks to carry out these functions in its name and for its account; furnish information regarding such accounts as and when requested by the Ministry of Finance and Economic Development;

2/ purchase, sell, transfer or take custody of cheques, bills of exchange, promissory notes and securities;

3/ purchase, sell, transfer or take custody of precious metals such as gold and silver, and foreign exchange;

4/ administer expressly specified Government accounts in accordance the arrangements to be made with the Ministry of Finance and Economic Development;

5/ upon authorization by the Ministry of Finance and Economic Development, manage public debt transactions; manage and sell treasury bills and bond and other securities of the Government;

6/ make advances to the Government;

7/ buy and sell unconditional negotiable treasury bills and government bonds issued by the Government.

13. Credits and Advances

1/ The amount of advances and credit to be extended by the National Bank to the Government for each fiscal year shall be determined in consultation with the Bank and shall be consistent with the maintenance of price and exchange rate stability.

2/ The National Bank shall not extend direct credit to any person other than the Government, banks and other financial institutions.

PART FOUR
RELATIONS OF THE NATIONAL BANK WITH BANKS, INSURANCE COMPANIES AND OTHER FINANCIAL INSTITUTIONS

14. Licensing and Regulation

The National Bank shall license and regulate banks, insurance companies and other financial institutions in accordance with the relevant laws of Ethiopia.
15. Credit Extension and Management

1/ The National Bank:
   a) for the purpose of maintaining price and exchange rate stability that is conducive to the balanced growth of the economy of Ethiopia, may issue directive governing:
      (1) its own credit transactions with banks and other financial institutions; and
      (2) credit transaction of banks and other financial institutions;
   b) may engage with banks and other financial institutions in transactions involving the discount, rediscount, purchase or sale, as the case may be, of duly signed and endorsed bills of exchange, promissory notes, acceptances and other credit instruments on the basis of directives issued by it for this purpose;
   c) shall determine the rate of interest of legal instruments accepted by it up on discount or rediscount;
   d) may make loans or advances to banks and other financial institutions on the basis of obligations and conditions determined by its directive.

2/ The measures taken by the National Bank pursuant to sub-article (1) of this Article may, where necessary, be published in newspapers of wider circulation.

16. Other Functions and Services

1/ The National Bank may:
   a) timely determine, on the basis of accessing the received deposit or any other scale, the amount of assets to be held by banks, insurance companies and other financial institutions in the form of cash, other liquid assets and government securities; and also timely order the deposit of the same asset with it;
   b) in addition to what is stated under Sub-Article (1) (a) of this Article, accept money on deposit from, and collect money for and on account of, banks and other financial institutions;
c) provide payments and clearing services to banks and other financial institutions;

d) keep balances and act as agent or correspondent of banks and other financial institutions.

2/ The National Bank may charge fees for the services referred to Sub-Article (1) of this Article. Such fees shall be communicated in advance to the banks and other financial institutions.

PART FIVE

THE MONETARY UNIT AND LEGAL TENDER

17. Monetary Unit

1/ The monetary unit of Ethiopia shall be Birr and it shall be the legal tender of the country. The official abbreviation of the Birr shall be “Br”, and “ETB” shall be the international currency code.

2/ The Monetary unit shall be divided into one hundred equal parts, named “cents”, the official abbreviation of which shall be “Ct”.

3/ All monetary transactions taking place in Ethiopia shall be presumed to be expressed in Birr unless validly agreed upon otherwise by the permission of the National Bank.

4/ All monetary transactions shall be recorded and settled in Birr unless otherwise authorized by the National Bank or provided for in any international agreement to which Ethiopia is a party or in any domestic law.

18. Legal Tender

1/ The inscription, dimension, design, denomination and other characteristics of legal tender notes shall be determined by the National Bank.

2/ The weight, fineness, inscription, dimension, design, denomination and other characteristics of coins shall be determined by the National Bank. Similarly, values of commemorative coins at which they shall be accepted as legal tender, their numbers to be minted, weight, fineness, inscription, dimension, design and other characteristics thereof shall be determined by the National Bank.
3/ Birr notes lawfully in circulation within Ethiopia shall be unlimited legal tender in the settlement of all public or private debts.

4/ Coins lawfully in circulation within Ethiopia shall be legal tender in the settlement of all public and private debts. Unless the parties agreed otherwise, the amount of coins used for settlement of such debts shall not exceed ten Birr; provided, however, that the National Bank and other banks shall, at the request of any holder, change into notes the holder’s coins.

5/ Whenever the security and features of a particular issue or denomination of notes or coins are changed or a particular issue or denomination of notes or coins cease to be legal tender as of a certain date, the National Bank shall declare such change or withdrawal by directives. The National Bank shall also announce such declaration through newspapers of wider circulation and other communication media. The National Bank shall give to holders of such notes and coins reasonable time within which to exchange such notes and coins for new ones.

6/ No person entering into, or departing from, Ethiopia shall carry with him an amount of Ethiopian currency in excess of an amount fixed or permitted by the National Bank.

PART SIX
INTERNATIONAL RESERVE FUND AND FOREIGN EXCHANGE ADMINISTRATION

19. Maintaining International Reserve Fund

1/ The National Bank shall maintain among its assets an international reserve fund consisting of foreign currencies, foreign securities, gold or other international reserve assets.

2/ The National Bank shall endeavor to maintain, at all times, sufficient international reserve fund as provided for in sub-article (1) of this Article, to cover:

a) payments for immediate and short term imports of commodities and services into Ethiopia;

b) foreign debt payment commitments; and
3. If the international reserve has declined or, in the opinion of the Governor, appears to be in danger of declining or is at such a level that the Governor considers its adequacy in jeopardy, the Governor shall submit a report to the Board of Directors of the National Bank on the international reserve fund position and the causes that have led to, or may lead to, such a decline, together with recommendations concerning the measures the Governor considers necessary to forestall or otherwise remedy the situation. When the situation persists, the Governor may decline issuance of further foreign exchange permit.

4. The National Bank may enter into bilateral or other international monetary, payment and related agreements which it deems are in the interest of the Bank and the country.

20. Regulation of Foreign Exchange

1. No person shall engage in any transaction of foreign exchange except with banks or authorized dealers or with the special permission of the National Bank.

2. The conditions, limitations and circumstances under which residents of Ethiopia, and non-residents visiting Ethiopia, or any other person may possess and utilize foreign currency or instruments of payments in foreign exchange shall be determined by directive to be issued by the National Bank.

3. The terms and conditions for transfer of foreign exchange to and from Ethiopia, and the export or import of valuable goods or the transfer of other valuable goods across the customs boundaries or frontiers of Ethiopia in any manner, the return of such goods and the settlement of any foreign exchange that results, or that will result, from such export or import or transfer shall be determined by directive to be issued by the National Bank.

4. The Ethiopian Revenues and Customs Authority shall not allow import or export of valuable goods or foreign exchange unless conditions, circumstances and terms determined by the National Bank are fulfilled.

5. The National Bank shall monitor foreign exchange transactions of banks, insurance companies and other financial institutions through on-site inspection and off-site surveillance.
6/ Any bank, insurance company, authorized dealer or any other person shall, when directed by the National Bank, produce to it or its designated representative all information, books, records, accounts and other documents in its possession or control which may be required for the purpose of ascertaining whether or not the provisions of this Proclamation and directives issued by the National Bank are complied with.

21. Transactions in International Reserve Assets

1/ The National Bank may buy, sell and hold foreign currency notes and coins and such other documents and instruments using various media as are customarily employed in international payments or transfers of funds.

2/ The National Bank may keep balances, denominated in foreign currencies, with foreign central banks, its agents or correspondents abroad, and may invest, at its discretion, such balances in time deposits, gold, readily negotiable foreign securities and other investment instruments.

3/ The National Bank may engage in foreign exchange transactions with the following:
   a) banks and other financial institutions in Ethiopia;
   b) the Government, its agencies, and institutions;
   c) foreign central banks, foreign banks and financial institutions;
   d) foreign governments and agencies; and
   e) international financial institutions.

4/ Notwithstanding any other contrary provisions of law, the National Bank may, at its sole discretion, import, export, buy, sell, hold or otherwise deal in precious metals such as gold and silver.

5/ The National Bank may:
   a) appoint insurance companies, other financial institutions and authorized dealers to engage in transactions involving foreign exchange, gold or silver;
PART SEVEN

MISCELLANEOUS PROVISIONS

22. Collecting and Disclosure of Information

1/ The National Bank is empowered to collect any information from banks, insurers, micro-finance institutions and any other persons as it may deem appropriate to carry out its duties and responsibilities.

2/ The National Bank shall not disclose the information it collected using its authority under sub-article (1) of this Article to any person, whether within or outside Ethiopia unless the disclosure is:

a) for the purpose of fulfilling the requirements of this Proclamation;
b) in the interest of ensuring the financial soundness of banks, insurers and other financial institutions;
c) to recipients who are legally authorized to obtain such information;
d) to the body to which the National Bank is accountable; or
e) ordered by a court.

3/ No bank, insurer, other financial institution or any other person exercising any function provided under this Proclamation shall, whether within or outside Ethiopia, disclose any information relating to any person or business which comes into his possession or knowledge except:

a) when requested by the National Bank in accordance with Sub-Article (1) of this Article;
(a) when legally authorized persons request for such information; or
(b) when ordered to do so by a court.

23. Exemption from Taxes

1/ The National Bank shall be exempted from the payment of income tax and from value added tax and customs duties and taxes in respect of local and foreign currency notes and coins it imports and traveler’s checks.

2/ The National Bank shall be exempted from making customs declaration when importing or exporting gold and silver and local and foreign currency notes and coins.

24. Staff Regulations

The employees and management staff of the National Bank shall be administered in accordance with regulation to be issued by the Council of Ministers.

25. Deposit Insurance Fund

The Council of Ministers may issue regulation on the establishment and management of Deposit Insurance Fund.

26. Penalties

1/ Whosoever:

   (a) in violation of the provisions of this Proclamation or regulations or directives issued pursuant to this Proclamation:

   (1) engages in transactions of foreign exchange or fails to declare to a bank or authorized dealer when he acquires foreign exchange or the right to receive foreign exchange;

   (2) receives or effects payments in foreign exchange;

   (3) delays his receipt or extinguishes his right to receive foreign exchange;

   (b) when legally authorized persons request for such information; or

   (c) when ordered to do so by a court.
(4) leaves or attempts to leave or enters or attempts to enter Ethiopian territory carrying Ethiopian currency in excess of the amount fixed or authorized by the National Bank; or

(5) is found carrying foreign exchange in excess of the amount fixed or authorized by the National Bank;

b) with intent to evade the provisions of this Proclamation or regulations or directives issued pursuant to this Proclamation or to distort their application destroy, tears apart, alters, deletes or hides a document or produces false evidence or makes false declaration;

c) discloses information in violation of Article 22 of this Proclamation; or
d) in any other manner violates or obstructs the implementation of this Proclamation or regulations or directives issued pursuant to this Proclamation;

shall, without prejudice to the confiscation of the property with which the offence is committed, be punishable in accordance with the provisions of the Criminal Code.

2/ Unless a higher penalty is applicable under the Criminal Code pursuant to sub-article (1) of this Article:

a) the punishment shall, without prejudice to the confiscation of the property with which the offence is committed, be rigorous imprisonment not exceeding 15 years and fine not less than Birr 50,000 and not exceeding Birr 100,000 where the accused misused the power of his official position or where he committed the offence with intent to improperly amass wealth or where the offence is committed repeatedly;

b) where the offence is connected with currency, gold, security, goods or any other property, the fine shall, without prejudice to the confiscation of the property with which the offence is committed and the punishment of imprisonment, not exceed three times the value of the property unless it is lower than that imposed under paragraph (a) of this sub-article;
c) where the offence is committed by a body corporate, the fine may, without prejudice to the confiscation of the property with which the offence is committed, be raised to six times the value of gold, currency, security, goods or any other property with which the offence is committed unless it is lower than that imposed under paragraph (a) of this sub-article.

3/ Whosoever commits over or under invoicing of imported or exported goods shall, without prejudice to the confiscation of the property with which the offence is committed, be punishable with fine up to three times the value of the property unless it is lower than the fine specified under sub-article (2)(a) of this Article, and with rigorous imprisonment from 15 to 25 years.

4/ Where any offence under this Article is committed by a body corporate, the director or any other official who was, at the time of the commission of the offence, responsible for the management of the body corporate shall be jointly liable and shall be punishable with rigorous imprisonment from seven to ten years and with fine from Birr 50,000 to Birr 100,000, unless he can prove sufficiently to the court that he had no knowledge and could not, by the exercise of reasonable diligence, have had knowledge of the commission of the offence.

5/ Where the offence is committed by an employee or an agent of a body corporate, such employee or agent shall be punishable in accordance with sub-article (4) of this Article, unless he can prove sufficiently to the court that he had no knowledge and could not, by the exercise of reasonable diligence, have had knowledge of the commission of the offence.

27. Power to Issue Regulation and Directive

1/ The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.

2/ The National Bank may issue directives necessary for the implementation of this Proclamation and regulations issued pursuant to Sub-Article (1) of this Article.
28. Repealed and Inapplicable Laws

1/ The Monetary and Banking Proclamation No. 83/1994 is hereby repealed.

2/ No law, regulation or directive, inconsistent with the provisions of this Proclamation, shall have force with respect to matters provided for in this Proclamation.

29. Effective Date

This Proclamation shall enter into force upon the date of publication in the Federal Negarit Gazeta.

Done at Addis Ababa, this 11th day of August, 2008

GIRMA WOLDEGIORGIS

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA