PROCLAMATION No. 807/2013

A PROCLAMATION TO AMEND THE CAPITAL GOODS LEASING BUSINESS PROCLAMATION

WHEREAS, it has become necessary to amend the Capital Goods Leasing Business Proclamation No. 103/1998;

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

1. Short Title
   
   This Proclamation may be cited as the "Capital Goods Leasing Business (Amendment) Proclamation No. 807/2013".

2. Amendment
   
   The Capital Goods Leasing Business Proclamation No. 103/1998 is hereby amended as follows:

   1/ sub-article (8), (10) and (13) of Article 2 of the Proclamation are deleted and replaced by the following new sub-article (8), (10) and (13):

   "8/ 'capital goods' means any equipment or machine that may be used to produce products or to provide services and includes accessories;

   10/ 'investment law' means the Investment Proclamation No. 769/2012 or the Investment—Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers Regulation No. 270/2012 or both;"
13/ ‘Ministry’ means the Ministry of Trade;’

2/ The following new sub-article (14), (15) and (16) are added under Article 2 of the Proclamation:

“14/ ‘capital goods finance’ includes financial lease and hire-purchase;

15/ ‘chief executive officer’ means any person, by whatever title that person may be referred to, who is primarily responsible for the day-to-day management of the affairs of a lessor;

16/ ‘director’ means any member of the board of directors of a lessor by whatever title he may be referred to.”

3/ Article 3 of the Proclamation is deleted and replaced by the following new Article 3 and 4:

“3. Operating Lease Business License

1/ Operating lease business shall be conducted by a lessor licensed by the Ministry.

2/ Any person licensed to engage in operating lease business may not undertake capital goods finance business.

3/ The Ministry may issue directive on the requirements to be fulfilled to obtain operating lease business license.

4. Capital Goods Finance Business License

1/ Capital goods finance business shall be undertaken by a lessor licensed by the National Bank of Ethiopia.

2/ Notwithstanding sub-article (1) of this Article a micro-financing institution licensed by the National Bank of Ethiopia may engage in capital goods finance business without the need to obtain any additional license.
3/ Any person licensed to engage in capital goods finance business may not undertake operating lease business.

4/ The National Bank of Ethiopia may issue directive on:
   a) criteria to be fulfilled to obtain capital goods finance business license;
   b) fitness and qualification criteria to be fulfilled by directors and a chief executive officer of a company engaged in capital goods finance business;
   c) the amount of capital and reserves to be maintained by a company engaged in capital goods finance business; and
   d) provisioning for doubtful accounts and depreciation of fixed assets.

5/ To ensure adequacy of risk management, safety and soundness of capital goods finance business company licensed in accordance with sub-article (1) of this Article, the National Bank of Ethiopia may:
   a) instruct the company to submit periodic reports;
   b) examine or cause the examination of the company on-site with or without prior notice;
   c) suspend or dismiss one or more directors or the chief executive officer of the company; and
   d) take any other appropriate corrective measure.
6/ Any person engaged in capital goods finance business with a license issued by a competent government body before the effective date of this Proclamation shall obtain capital goods finance business license from the National Bank of Ethiopia pursuant to this Proclamation within 12 months from the effective date of this Proclamation.”

4/ Articles 4 to 19 of the Proclamation are renumbered as Articles 5 to 20, respectively.

5/ The existing provision of Article 16 (as renumbered pursuant to sub-article (4) of this Article) is numbered as sub-article (1) and the following new sub-article (2) and (3) are added:

“2/ Without prejudice to the provision of sub-article (1) of this Article, a supplier shall be exempted from customs duties and taxes on capital goods imported in accordance with the relevant laws.

3/ Payments made to a lessor under capital goods finance shall be exempted from Value Added Tax.”

6/ Article 18 of the Proclamation (as renumbered pursuant to sub-article (4) of this Article) is deleted and replaced by the following new Article 18:

“18. Duties and Responsibilities of the Council of Ministers, the Ministry and the National Bank of Ethiopia

1/ The Council of Ministers may issue:
   a) regulation on registration and supervision of capital goods; and
   b) other regulations necessary for the implementation of this Proclamation.

2/ The Ministry shall register capital goods agreements, and amendments, modifications and terminations of the agreements.
3/ The Ministry shall take appropriate measures in order to ensure the return of the leased capital goods to the lessor, where the lessee has the obligation to return the leased capital goods to the lessor but fails to return it, and may order the police to facilitate the execution.

4/ The National Bank of Ethiopia may issue directives that enables it to regulate and supervise the business of capital goods finance in accordance with this Proclamation.

5/ Without prejudice to the provision of sub article (4) of this Article, the Ministry may issue other directives necessary for the implementation of this Proclamation."

4. Effective Date

This Proclamation shall enter into force on the date of publication in the Federal Negarit Gazette.

Done at Addis Ababa, this 26th day of July, 2013.

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA