

LICENSING AND SUPERVISION OF
THE BUSINESS OF CAPITAL GOODS FINANCE COMPANIES
Requirements for Licensing of Capital Goods Finance Business
Directives No. CGFB /02/ 2013

Whereas, there is a need to set up, promote and develop strong and viable capital goods finance business in Ethiopia so as to contribute for economic growth;

Whereas, proper licensing and supervision of capital goods finance companies and capital goods finance sector is important to ensure the safety and soundness of capital goods finance business;

Whereas, establishing clear, objective and transparent requirements for licensing and renewal is essential to promote the sector;

Now, therefore, in accordance with powers vested in it under Articles 4 (4) and 18 (4) of Capital Goods Leasing Business (Amendment) Proclamation No 807/2013, the National Bank of Ethiopia has issued these directives.

1. Short Title

These directives may be cited as “Requirements for Licensing of Capital Goods Finance Business Directives No. CGFB/02/2013”.

2. Definitions

For the purpose of these directives, unless the context requires otherwise:

- 2.1** “**bankrupt**” is a person who has been declared bankrupt by the court of law;
- 2.2** “**capital goods finance**” includes financial lease and hire-purchase;
- 2.3** “**chief executive officer**” means a person, by whatever title that person may be referred to, who is primarily responsible for the day-to-day management of a capital goods finance company;
- 2.4** “**director**” refers to any member of the board of directors of a capital goods finance company by whatever title he may be referred to;
- 2.5** “**fit and proper criteria**” are criteria used to assess and determine whether project manager, organizers and persons with significant influence possess the integrity, financial soundness and competence and capacity to fulfill the responsibilities of their positions;
- 2.6** “**managerial position**” means a position in a minimum of division head capacity in operation, finance or internal control areas in banking, micro financing institution, capital goods finance company or any other financial

institution engaged in financial leasing, deposit taking, lending and money transfer activities;

- 2.7 “**National Bank**” refers to the National Bank of Ethiopia;
- 2.8 “**organizers**” means persons who have initiated plans or facilitated the formation of a capital goods finance company and who shall jointly and severally be liable to third parties in respect of commitments entered into during capital goods finance company formation process;
- 2.9 “**person**” means any natural or legal person;
- 2.10 “**persons with significant influence**” are directors and chief executive officer of a capital goods finance company;
- 2.11 “**project manager**” means a person who shall be in charge of the whole process of obtaining business license of a capital goods finance company;
- 2.12 “**related party of a capital goods finance company or a capital goods finance company under formation**” means

On the one hand,

an organizer, a project manager, a shareholder, a director or a chief executive officer of that capital goods finance company and/or the spouse or relation in the first degree of consanguinity or affinity of such organizer, project manager, shareholder, director or a chief executive officer, and

On the other,

a partnership, a common enterprise, a private limited company, a share company, a joint venture, or any other business in which the organizer, project manager, shareholder, director or chief executive officer of the capital goods finance company and/or the spouse or relation in the first degree of consanguinity or affinity of such organizer, project manager, shareholder, director or chief executive officer has a business interest as owner, partner, shareholder, director chief executive officer, or in any other way or form;

- 2.13 “**Technically insolvent person**” is a person whose liabilities are greater than assets or whose significant part of assets have been foreclosed by a bank or sequestrated by a court order.

3. Scope of Application

The provisions of these directives shall be applicable to those who desire to obtain or renew capital goods finance business license.

4. Fit and Proper Criteria

4.1 Organizers and Project Manager

4.1.1 Organizers shall appoint a project manager.

4.1.2 The project manager shall have at a minimum:

- i) first degree from recognized higher learning institution, and
- ii) business experience preferably in capital goods finance related project.

- 4.1.3 Organizers and project manager shall submit completed and signed fitness and propriety test questionnaire, which is part hereof.
- 4.1.4 The project manager and organizers shall be honest, reputable and diligent. In determining the integrity of organizers and project manager, all relevant factors shall be considered, including but not limited to:
- i) whether the person has a record or evidence of previous conduct and activities where he/she/it has been convicted for a criminal offence under any law designed to protect members of the public from dishonesty or fraud whether in Ethiopia or elsewhere;
 - ii) whether the person has a record of withholding information from public authorities, submission of incorrect financial or other statements, prior refusal of regulatory/supervisory approval and failure to comply with requirements of regulatory/supervisory body, other corrective actions or interventions by public authorities; and
 - iii) whether the person has a record of disciplinary measures or any dispute with previous employers, or compliance with a code of conduct which has led to the imposition of a penalty under employment law or any other disciplinary measures imposed by trade or professional associations.

4.2 Persons with Significant Influence

4.2.1 General

- i. Persons with significant influence shall meet all respective requirements and considerations set in these directives.
- ii. Appointment of directors and chief executive officer shall be subject to approval by the National Bank.
- iii. In appointing chief executive officer, board of directors shall ensure that such person fulfills requirements set in these directives.
- iv. Persons with significant influence shall submit an updated and signed curriculum vitae and completed and signed fitness and propriety test questionnaire, which is part hereof.

4.2.2 Knowledge and Experience

With respect to knowledge, experience and age, directors and a chief executive officer, shall at a minimum fulfill the following:

i. Board of Directors

- a) All board members of a capital goods finance company shall hold a minimum of diploma from recognized higher institution of learning.
- b) A director shall have a minimum of 3 years of work experience; and
- c) A director shall be at least 25 years old.

ii. Chief Executive Officer

A chief executive officer shall:

- a) hold a minimum of first degree from recognized higher learning institution; and

- b) have a minimum of 5 years of work experience of which, at a minimum, 3 years shall be in a managerial position.

4.2.3 Integrity

Persons with significant influence shall be honest, reputable and diligent. In determining integrity of persons with significant influence, all relevant factors shall be considered, including but not limited to:

- i) whether the person has a record or evidence of previous conduct and activities where he/she/it has been convicted for a criminal offense under any law designed to protect members of the public from dishonesty or fraud whether in Ethiopia or elsewhere;
- ii) whether the person has a record of withholding information from public authorities, submission of incorrect financial or other statements, prior refusal of regulatory/supervisory approval and failure to comply with requirements of regulatory/supervisory body, other corrective actions or interventions by public authority; and
- iii) in case of chief executive officer, whether the person has a record of disciplinary measures or any dispute with previous employers or compliance with a code of conduct which has led to the imposition of a penalty under employment law or any other disciplinary measures imposed by trade or professional associations.

4.2.4 Financial Soundness

Persons with significant influence shall be financially sound. In determining financial soundness of persons with significant influence, all relevant factors shall be considered, including but not limited to:

- i) whether he/she or the legal person in which he/she is a director or chief executive officer or senior executive officer or owner has instituted bankruptcy proceedings or declared bankrupt, whether in Ethiopia or elsewhere, or his/her or the company's assets have been sequestered because of bankruptcy or been foreclosed by a bank/ microfinance institution because of failure to repay a loan;
- ii) whether he/she or the legal person in which he/she is a director or chief executive officer or senior executive officer or owner has been convicted of default on repayments of bank/ microfinance institution or other credits or tax payment;
- iii) whether he/she or the legal person in which he/she is a director or chief executive officer or senior executive officer or owner carries non-performing loans, as defined by directives of the National Bank, from any financial institution;

- iv) whether the person's purchase of shares in a financial institution has been funded or to be funded by another person who is actually bankrupted or technically insolvent because of irresponsible or reckless management, fraud or illegal business practice;
- v) whether the person's minimum net worth at the time of acquisition of shares is at least greater than shares acquired or to be acquired from a financial institution; and
- vi) whether a person's account has been closed and not reinstated by any bank, in line with relevant directives of the National Bank, because of drawing checks without sufficient funds.

4.2.5 Period of Limitation for Acting on Chief Executive Officer Position

The chief executive officer position of a Capital Goods Finance Company shall not be held on acting basis for more than 6 months.

4.2.6 Prohibition

An employee of a Capital Goods Finance Company may not be Chairperson of the board of directors of that Capital Goods Finance Company.

5. Licensing Requirements

5.1 Form of Organization

A Capital Goods Finance Company shall be established as share company as defined under the commercial code of Ethiopia.

5.2 Pre-application phase

- 5.2.1 Evidence of registration of trade name from Ministry of Trade and/or Regional Trade Bureau.
- 5.2.2 Signed minutes of first meeting of organizers along with attendance sheet.
- 5.2.3 Submission of prospectus, which is a printed statement that describes and forecasts the course or nature of the company along with expected risks, to be distributed to prospective investors.
- 5.2.4 Written application requesting to open blocked subscription account indicating the name of the bank(s)/branch (es) or microfinance institution.
- 5.2.5 Duly completed application form, as specified under **Attachments I** and **II** of these Directives, for organizers and project manager.
- 5.2.6 Properly completed propriety test questionnaire, as specified under **Attachment III** of these Directives, for organizers and project manager.
- 5.2.7 Evidences of payment of investigation fee.

5.3 Application phase

- 5.3.1 Duly completed application form, as specified under **Attachment IV** of these Directives, shall be submitted, together with all enclosures as stated herein, to Microfinance Institutions Supervision Directorate.
- 5.3.2 Evidence of paid-up capital which includes certificate of deposits in a blocked account and evidence for valuation of contribution in kind (if any).
- 5.3.3 Signed minutes of subscribers meeting with attendance sheet.
- 5.3.4 List of names, nationality, address, number and value of subscribed shares of founders to be published in newspaper.
- 5.3.5 Articles and memorandum of associations written in Amharic and preferably in English.
- 5.3.6 Authenticated ownership certificate and/or lease agreement for building, land, vault, equipment, fixtures and professional services.
- 5.3.7 Evidence for insurance coverage for premises acquired or leased.
- 5.3.8 Description of actual purchases made or proposed purchase of goods and services or lease of real estate by the capital goods finance company (under formation) from related parties and organizers.
- 5.3.9 Duly completed general information and propriety test questionnaires for directors, and chief executive officer as per **ANNEXES I and II** of these Directives.
- 5.3.10 Business plan stating at least the following:**
 - i) executive summary,
 - ii) introduction,
 - iii) macroeconomic analysis,
 - iv) financial sector analysis,
 - v) capital goods finance sector analysis,
 - vi) business environments,
 - vii) products and services,
 - viii) target sector and customer focus,
 - ix) type/category of equipments and machineries to be leased,
 - x) organizational chart of the company with brief description of the functions of the main organizational units,
 - xi) strategic and operational plans,
 - xii) source of capital and finances,
 - xiii) accounting policies,
 - xiv) assumptions for financial projections,
 - xv) financial projections for the first three years including balance sheet, income statement, cash flow projections, and
 - xvi) conclusion /recommendation.
- 5.3.11 Evidence of payment of licensing fee.

6. Conditions for Commencement of Operation

To commence operation, a licensed capital goods finance company shall:

- 6.1 put in place at a minimum comprehensive policies, procedure manuals, programs and guidelines for:
 - 6.1.1 capital goods financed operation,
 - 6.1.2 human resource management,
 - 6.1.3 procurement,
 - 6.1.4 internal audit/control,
 - 6.1.5 risk management process (for risks such as credit, operational, market, liquidity, asset, documentation and concentration),
 - 6.1.6 management information system/MIS,
 - 6.1.7 finance and budgeting,
 - 6.1.8 fixed assets, and
 - 6.1.9 corporate governance.
- 6.2 hire, train and place adequate and appropriate staff;
- 6.3 ensure that the capital goods finance company meets the following requirements:
 - 6.3.1 business operating area include:
 - i) proper ventilation and circulation of fresh air,
 - ii) suitable and clean sanitary service,
 - iii) sufficient and suitable lighting,
 - iv) displays of working hours, and
 - v) adequate warehouse/storage space for equipments and machineries.
 - 6.3.2 hold insurance policy for burglary and theft.

7. Display of License

A licensed capital goods finance company shall at all time display in a conspicuous place its valid original business license in its head office and copy of the business license in its branches.

8. Renewal of License

- 8.1 A capital goods finance company shall renew its business license every year.
- 8.2 A capital goods finance company applying for renewal of business license shall present the following:
 - 8.2.1 application requesting renewal of business license and any changes in the particulars of the existing license;
 - 8.2.2 original business license of the capital goods finance company; and
 - 8.2.3 evidence of payment of renewal fee and/or penalty.

9. Fees

- 9.1 A company applying to obtain new capital goods finance business license shall pay:
 - 9.1.1 investigation fee of Birr 5,000; and

- 9.1.2 licensing fee of Birr 5,000.
- 9.2 A capital goods finance company applying for renewal of its business license shall pay renewal fee of Birr 5,000.

10. Enforcement Actions and Penalties

The National Bank may revoke or suspend the license of a capital goods finance company where:

- 10.1 it is confirmed that the license was issued on the basis of false information;
- 10.2 the company has failed to commence operation within 12 months following the grant of the license;
- 10.3 the company has violated any law or regulation governing the operation of the company;
- 10.4 the company is unable to effectively carry on capital goods finance business activities; or
- 10.5 the company is insolvent or is subject to bankruptcy or liquidation proceedings or a receiver of its assets has been appointed.

11. Effective Date

These Directives shall enter into force as of the 1st day of October 2013.