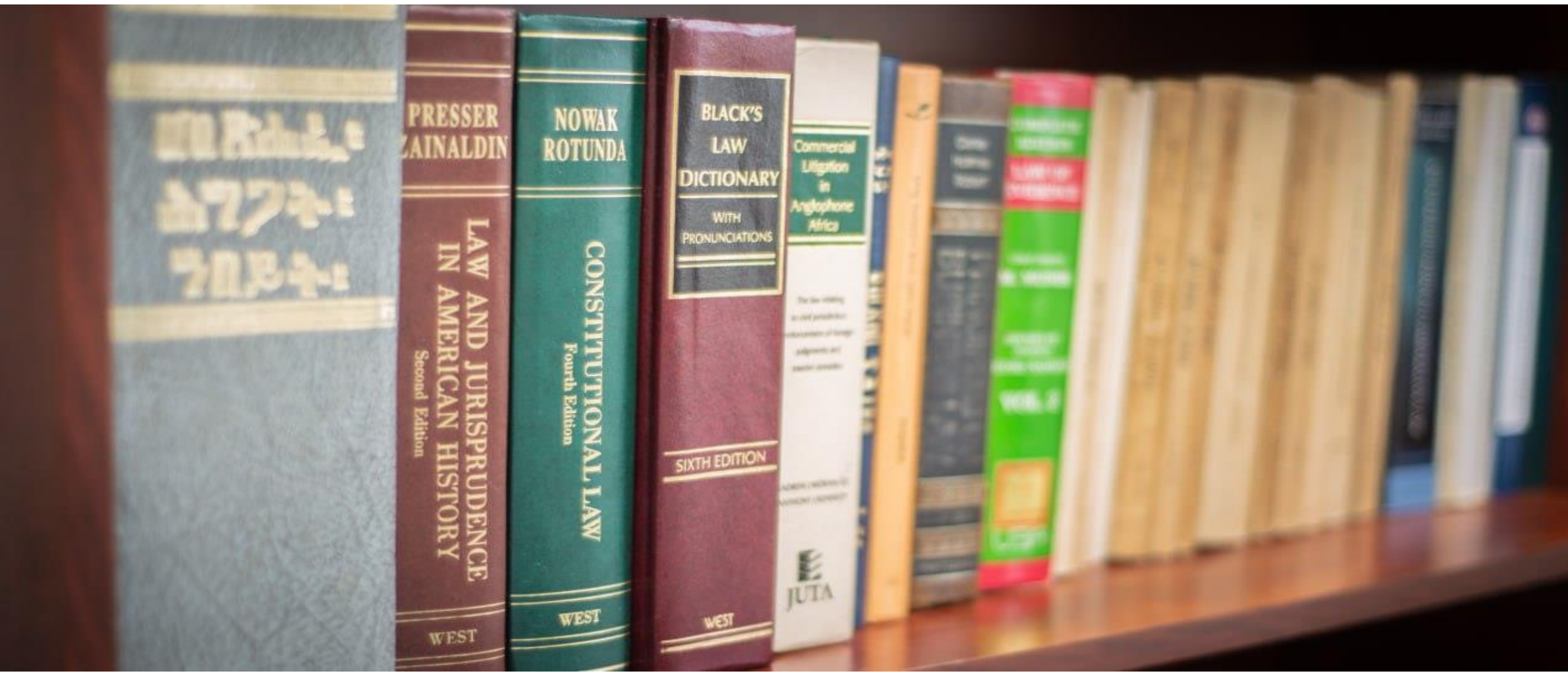
LEGAL NEWSLETTER

MARCH-APRIL 2025, VOL.7



WE'RE ONE!!

Welcome to this special edition of our legal newsletter, marking our first anniversary! It's with utmost pleasure that we reflect on a year of sharing critical updates and insightful analysis on the evolving Ethiopian legal landscape with you, our valued clients and colleagues.

From the beginning, we've aimed to share useful updates to help you stay informed about Ethiopian law. Your interest and feedback over the past year have been genuinely appreciated.

As we embark on our second year, your input remains invaluable. We encourage you to share any specific legal topics or areas of interest you would like us to explore in future issues. Your suggestions will help us ensure this newsletter continues to be a relevant and indispensable tool for you.

Thank you for being an integral part of our newsletter community. We look forward to another year of providing you with timely and insightful legal updates.

In this edition, we present a concise overview of key legislative developments from March and April 2025 that may impact your business.

Accordingly, the key legislation covered in this issue are:

A. Dematerialization of Publicly Offered Securities Directive
B. VAT Regulation
C. Federal Courts Cost and Damages Determination Directive
D. Waiving of Tax Administrative Penalty Directive
E. Requirements for Licensing and Renewal of Banking Business and Representative Office Draft Directive

We value your feedback, so please don't hesitate to reach out to us with any suggestions or topics you would like us to cover in future editions.

Contact Us

RIZQ HOUSE, 6th floor, 444 Gabon St
P.O. Box 120448
Kirkos, Addis Ababa, Ethiopia
info@dadimoshaile.com

Follow Us:

A. Dematerialization of Publicly Offered Securities Directive No.1047/2025

Background

The Ethiopian Capital Market Authority (ECMA) has introduced the Dematerialization of Publicly Offered Securities Directive (the directive) effective from March 5, 2025. Rooted in the Capital Market Proclamation, the directive mandates the transition from paper-based securities ownership to fully an electronic book-entry system maintained by the Central Securities Depository (CSD). By eliminating physical certificates, this reform addresses inefficiencies and risks such as loss, theft, and forgery, marking a significant step toward modernizing Ethiopia's financial sector and aligning it with global best practices.

Key Features of the Directive

- **Legal Nature of Dematerialized Securities**

  After the dematerialization date set by the ECMA, paper securities become invalid and unenforceable, with transactions recorded electronically, providing prima facie evidence of ownership. The CSD register serves as the authoritative record of shareholder details and securities information. Dematerialized securities of the same class and rights are fully fungible and interchangeable.

  The directive does not specify an exact timeframe for the full legal implementation of dematerialization. Instead, it stipulates that the ECMA will announce the official dematerialization date. For issuers who have finalized the dematerialization process ahead of time, ECMA may declare their securities dematerialized without waiting for the official declaration date. Additionally, while dematerialization primarily applies to publicly offered securities, ECMA may also declare non-publicly offered securities dematerialized in consultation with their respective issuers.

- **Dematerialization Process**

  The dematerialization process begins with notification, where issuers inform security holders. Notifications must be published in widely circulated Ethiopian newspapers (Amharic and English) and additionally may be sent via SMS, email, issuer websites, or other communication channels. The next step is migration of securities holders' data and reconciliation, where shareholders' data is transferred to the issuer's CSD account. Before submitting the securities register to the CSD, issuers must reconcile ownership details, ensuring accuracy in issued securities and securities holders' information. Migration must follow the CSD's prescribed format. Once verified, the CSD credits securities to the appropriate accounts at CSD held in the name of securities holders managed by the issuer. The issuer's paper-based records are then replaced with electronic book-entry records.

  To dematerialize physical certificates, a securities depository member[1] must open a CSD account for itself and on behalf of account holders (beneficial owners or nominees) submitting an account opening form, identification, and KYC[2] details. They must then present their physical certificates or ownership evidence, along with a deposit form. Depository members forward these to issuers for verification. Upon approval, securities are credited to the holder's CSD account, and physical certificates are marked as dematerialized and stored for at least 10 years. Pledged securities can be dematerialized if pledged details are included in the registration request. Unpaid or partially paid securities must be fully settled before dematerialization.

- **Security holders account (Securities account)**

  A securities account is an account opened with a central depository where securities are credited and debited. Anyone wishing to buy, sell, or dematerialize securities must have a securities account. A securities depository member must also maintain a securities account and segregate its assets from client assets. Different types of securities accounts may be established, including:

---

[1] "Securities Depository and Clearing Company Member" means a capital market participant, a Bank, a Nominee, or any other Financial Institution that has one or more accounts with the securities depository and clearing company for receiving, holding or delivering securities to facilitate the clearance and settlement of securities transactions.

[2] Know your client (KYC) is a mandatory and recurring process of identifying and verifying a client's identity.

- Segregated client accounts[3]- an account where securities are held separately by the central security depository (CSD) for each client, providing the client's direct ownership and control over their securities;
- Nominee accounts,[4]-- an account where securities are held in the name of third-party nominee and;
- Omnibus accounts[5]- Omnibus Account means an account where the securities of several beneficial owners are consolidated in one account opened in the name of a security depository member or a nominee.

- **Security records, shadow registers and reporting**

The securities depository must maintain the official ownership record for all dematerialized securities. An issuer may keep a shadow register of issued securities but must ensure continuous reconciliation and updates with the central securities depository's records or have access to view and print shareholder records from the depository. Additionally, the securities depository must submit monthly reports to the ECMA on the status of dematerialization and periodically issue account statements to all account holders.

- **Inspection, prohibited activities and Penalties**

- **Inspection**

ECMA has the authority to conduct onsite and offsite inspections, with or without prior notice, on issuers, securities depositories, and depository members. It may order the cessation of activities that pose risks to the securities market or investors.

- **Prohibited Activities**

Prohibited activities under the directive include refusing to submit securities for dematerialization; providing false or misleading information and/or documents; and /or issuing physical certificates for securities issuance or offerings.

- **Penalties**

Violations are subject to fines ranging from 50,000 to 1 million birr, depending on the severity of the offense, with additional daily fines of 2,000 to 50,000 birr until compliance is achieved. The ECMA may also impose administrative measures, including warnings, suspensions, trading prohibitions, stop orders, or blacklisting.

[3] Dematerialization of Publicly Offered Securities Directive No.1047/2025(hereinafter "Directive"), Art 8(4)(a)&Art.2(3).
[4] Directive, Art 8(4)(b)&Art.2(9).
[5] Directive, Art 8(4)(c)&Art.2(10).

B. The New VAT Regulation No.570/2025

Background

The Council of Ministers introduced VAT Regulation No. 570/2025 (the Regulation), which repeals the previous VAT Regulation No. 79/1995 and takes effect on March 17, 2025. This reform is part of the broader tax reform under the Homegrown Economic Reform Agenda following the enactment of the new VAT Proclamation No 1341/2024(the proclamation), which became effective on August 21, 2024. The Regulation modernizes the VAT system by incorporating recent economic developments particularly in digital transactions enhancing efficiency, and better targeting tax exemptions. It aims to improve revenue collection, promote savings and investment, and foster a fair and transparent tax environment.

Key Changes Introduced

- **Delegation of Power**

  The Regulation provides details on the delegated power of the Regional or City Administration Revenue Bureaus to collect VAT under article 4 of the proclamation. VAT can be collected through delegation under the condition that the Ministry lacks an office in the area or if VAT-registered taxpayers in that region face limitations in filing and paying taxes electronically due to inadequate internet access. Such delegation is strictly limited to VAT collection, while all other aspects of VAT administration such as assessment, input tax crediting, refunds, and classification of supplies remain under the exclusive authority of the Ministry of Revenue. Regional or City Revenue Bureaus must transfer all VAT collected to the Ministry within five days after the end of each month. In turn, the Ministry is required to remit the regional share of the collected revenue back to the respective regional administration within five days of receiving the funds.

- **Imposition of Duties on Second-hand Goods Suppliers and Buyers**

  According to Article 33(4) of the Proclamation, second-hand goods suppliers are required to maintain specific records related to their transactions. The regulation specifies records that must be kept including the name and address of the person supplying the goods, the date of the supply, a description of the goods, the quantity or volume supplied, and the consideration paid for the goods. Additionally, any buyer of second-hand goods must obtain the supplier's signature on the payment receipt.

- **Inclusion of New VAT Taxable Supplies**

  - **Gambling Supplies**

  The regulation introduced calculation formula for VAT payable on gambling supplies [6]mandated as per article 34 of the Proclamation. Based on the Regulation the amount of output tax of gambling supplies for an accounting period can be calculated using the formula (A-B) x C, where "A" is the total amounts wagered in the period, "B" is the total monetary prizes paid out in the period; and "C" is the tax fraction. Where the amount calculated based on the given formula for an accounting period is negative there will be no amount payable as output tax by a registered person.

  - **General Insurance**

  The Regulation sets out rules for VAT payments on general insurance payments, as per article 40 of the Proclamation, which were exempt under the repealed regulation. Under the new Regulation premiums paid for general insurance are taxable, regardless of whether the insured is tax registered. However, tax-registered person using the insurance for taxable activities can claim input tax credits. Compensation paid to the registered person is treated as payment for taxable services, requiring them to report and remit VAT. This compensation is considered VAT-inclusive. VAT also applies to domestic reinsurance premiums and compensation, while foreign reinsurance follows reverse charge supply as per Article 6 of the Proclamation. Recoveries by insurers through subrogation are also taxable. Commissions to insurance

[6] Gambling supply means: (i) the supply of a ticket, however described, in a lottery, raffle, or similar undertaking; or (ii) the acceptance of a bet or wager, however described, relating to the outcome of a gambling event. *See* Article 12(3)(b) of the Regulation.

assistants (agents, brokers, etc.) are also subject to VAT. Islamic insurance is exempt if classified as long-term insurance.

- **Platform providers**

The Regulation introduces rules for the payment of VAT by persons that facilitate passenger transport services by connecting passengers with transport providers through electronic platforms, referred to as platform providers. These providers are deemed to make taxable supplies and are required to collect VAT on the total passenger fees. In addition, platform providers must issue daily VAT invoices to service providers, maintain detailed records, submit VAT returns, and remit the collected tax. Platform providers must register for VAT if they meet the financial threshold. Transport service providers are permitted input tax deductions for expenses directly related to the provision of these services. Additionally, transport service providers, independent of the platform, are responsible for invoicing and collecting VAT.

- **Digital Products**

The Regulation set rules governing non-resident individuals and unregistered person who provide telecommunications services or goods and services electronically to consumers in Ethiopia to register for VAT, unless they do so through a VAT-registered agent. This applies to various electronic services, including but not limited to electronic games, internet-based bidding, digital content (e-books, applications, movies), subscription media services (news, magazines, podcasts), software (programs, drivers, websites), cloud storage, music services, search engines and help desk services, and the sale of tickets for live events. If the supply is made as a merchant-to-merchant transaction, it must comply with specific provisions outlined in Article 6 of the Proclamation.

- **Duty to Use Electronic Fiscal Devices**

The Regulation sets rules for the use of electronic fiscal devices, which record and transmit sales and related data. It outlines specifications for the devices, user obligations, measures to ensure continuous operation, procedures for discontinuing use, requirements for VAT documents generated by the device, and provisions for data security and transmission. A registered person must notify the tax authority at least seven days before using such a device and obtain a compliance certificate to become a registered user. Additionally, the regulation sets penalties for violations of the rules governing the use of such devices.

- **Tax assessment of Unregistered Persons, Foreign Suppliers, and Islamic Finance**

The Regulation introduces rules regarding the tax assessment of unregistered persons, and the application of changes in VAT treatment of supplies in cases of variation in consideration, periodic supply and other specific scenarios. It also introduces requirements for the registration of foreign suppliers, including documentation, payment of VAT, and VAT return obligations. Additionally, the Regulation expanded the VAT exemption section to include Islamic financial services. Overall, the new Regulation is more detailed, structured and technology oriented in its content, providing greater specificity regarding exemptions and introducing new areas eligible for VAT.

C. Federal Courts' Cost and Damages Determination Directive No. 2/2017"

Background

The Federal Supreme Court introduced a new Directive titled "Federal Courts' Cost and Damages Determination Directive No. 2/2017" ("the Directive") on March 17, 2025. The Directive aims to eliminate inconsistencies and unpredictability in the determination of cost and damages awarded to parties to civil litigation at federal courts. In doing so, it seeks to ensure fairness, reduce unnecessary expenses, limit discretion of judges and promote transparency in the assessment of costs and damages.

Key Changes Introduced

- **Scope of Application**

  The Directive applies to civil litigation at all Federal Courts, as well as State Courts when adjudicating federal matters through delegated powers. For the purpose of this Directive, the conjoint terms 'Cost and damages' are broadly defined as direct expenditures or payments made by a party seeking judicial service or direct expenditures in connection with the litigation and include, court fee, stamp duty, lawyers' fees and costs of witnesses..

- **Principles and Considerations**

  In the process of determining costs and damages, the Directive underlines the principles of fairness and due regard to prevailing economic conditions. It emphasises the importance of minimising both time and resource expenditure, while ensuring that any amount awarded for costs and damages accurately reflects the actual loss sustained. The assessment is required to consider the nature and complexity of the case, as well as the duration necessary to reach a decision. Furthermore, such determination must be supported by tangible and credible evidence.

  In addition, courts are authorised to consider the conduct of the parties throughout the proceedings when calculating the amount. This includes their level of discipline, respect for judicial time, willingness to resolve the dispute through amicable settlement, and adherence to court orders.

- **Cost and Damages to be included in the award**

  In determining costs, the court will take into account various expenses incurred by the parties in the course of the proceedings. These include, but are not limited to, expenses for drafting charges, statements of defence, appeals, lawyering and other costs necessary to pursue the case. Additionally, costs related to transportation by air or rail, food and accommodation, witnesses, payments made to professionals for the execution of court orders, and Court fee may also be considered. The court may request the winning party to submit a list of costs, or it may determine the costs independently, considering the complexity of the case, provided it clearly states the reasons for its decision. If a party fails to request damages, the court must record this. However, if circumstances arise that prevent the determination of costs and damages in accordance with this Directive, the court shall provide a clear explanation for the reason. Not all costs of the winning party may necessarily be eligible for refund. If a party, lacking good faith, opts to pay an unreasonably high price or chooses excessively costly services, despite being aware that a lower cost is available, such expenses will neither be taken into account nor be reimbursed.

- **Consequences of Non-Payment of Costs**

  If the parties liable for the costs fail to make payment, legal interest will be applied, starting from the date the decision was made.

D. Tax Administrative Penalty Waiving Directive No. 189/2025

Background

The Ministry of Revenues has issued, in February 2025, a directive titled "Directive on Waiving of Tax Administrative Penalty, Directive No. 189/2025" ("the Directive") replacing Directive No. 137/2018 ("the Previous Directive"). This Directive aims to expand the scope of administrative penalty waivers- to cover previously unaddressed areas promote fairness in the application of waivers and clarify the roles and responsibilities of the departments involved in the waiver process.

Key Changes Introduced

- **Waivable and Non-Waivable Administrative Penalties**

  The Directive, reaffirming the provisions of the Tax Administration Proclamation No .983/2016, states that most administrative penalties may be waived in whole or in part under certain specific conditions. The Directive specifies administrative penalties that cannot be waived, which These include:

  - Penalties for failure to issue a tax invoice, and failure to use a tax registration machine (Articles 108 and 113 of the Tax Administration Proclamation No. 983/2016);
  - Penalties for failure to prepare a recipient-created value added tax invoice in in respect of a reverse charged supply (Value Added Tax Proclamation No. 1341/2024, Art.66(1)(g); and
  - Penalties for delayed payment of stamp duty on instruments to be submitted as evidence (Stamp Duty Proclamation No.110/1990).

- **Levels of Administrative Penalties**

  The Directive also grouped administrative penalties into three categories but revised the classification of specific penalties within these levels.

  - Lower-Level Penalties: these consist of offences related to failure to apply for tax registration or cancellation, omitting a TIN on tax invoices, under-declaring tax liabilities, and failure to provide required certificates to clients.
  - Medium-Level Penalties: the offence of conducting activities involving excisable goods without the required license has been newly classified under this category level. Additionally, failing to pay tax by the due date, an offence previously classified as lower-level, has now been elevated to this category.
  - High-Level Penalties: offences involving the failure to declare tax and pay tax electronically, which were grouped as lower-level violations in the previous Directive, are now subject to high level penalties. Additionally, offences including failure to display the original VAT registration certificate at the primary business premises, failure to specify VAT registration details on any website, social media account, or other electronic platforms used for taxable activities, failure to immediately cease activity or return the VAT registration certificate, failure to prepare recipient-created tax invoices, and failure to issue credit or debit notes have now been introduced to this level.

The Directive further states that any infractions not explicitly categorised within these three levels shall be considered medium-level penalties.

- **Full Waiver of Penalty**

  The Directive introduces a new sub-provision allowing for the full waiver of penalty for failure to submit a receipt on time, despite making a tax payment to the bank within the designated payment period for a monthly declaration.

- **Procedure for Penalty Waiver**

  Taxpayers seeking a penalty waiver must submit a written application. However, the Directive provides that, if a taxpayer has already entered into an agreement to extend the payment period and has settled the tax, interest, and any non-waivable penalties, the waiver will be granted automatically without requiring an application to the tax authority.

- **Transitional Provision**

  If a taxpayer's application for waiver has been accepted under the previous Directive and an agreement has been made to extend the tax payment period pending the payment of the tax liability, the waiver of the administrative penalty shall be governed by the Previous Directive.

E. Requirements for Licensing and Renewal of Banking Business and Representative Office Draft Directive

Background

The National Bank has introduced a draft directive titled "Requirements for Licensing and Renewal of Banking Business and Representative Office Draft Directive No. SBB/Xx/2025 ("The Draft Directive") in April 2025. The Draft Directive is set to repeal and replace the previous "Requirements for Licensing and Renewal of Banking Business Directive No. SBB/56/2013" ("The Previous Directive") upon its effective date. This reform aligns with Ethiopia's broader economic initiatives, specifically addressing the significant policy shift towards allowing foreign nationals to participate in the banking business, including the establishment of foreign bank subsidiaries and branches. The revision of licensing and renewal framework is required to accommodate this fundamental change and introduce specific requirements for various types of banking entities.

Key Provision Changes

- **Scope of Application**

  The Previous Directive limited its scope to the licensing of domestic banks seeking to obtain or renew their banking business licenses. The Draft Directive introduces a key expansion by explicitly including those who wish to obtain or renew a license for a representative office of a foreign bank. This broadened scope ensures the directive will cover both the licensing of domestic banks, foreign bank subsidiaries, foreign bank branches, and representative offices.

- **Minimum Capital Requirements**

  The Previous Directive required evidence of paid-up capital, with the minimum for domestic banks set at Birr 5 billion according to Directive SBB/78/2021. The Draft Directive builds upon this by introducing explicit minimum capital thresholds for representative offices of foreign banks. The Draft Directive mandates a minimum paid-up capital of Birr 5 billion for both Domestic Banks and Foreign Bank Subsidiaries. A key provision for Foreign Bank Subsidiaries requires this subscribed capital to be fully paid in cash, in an acceptable foreign currency, and held in a blocked account in Ethiopia. In the case of Foreign Bank Branches, a minimum "branch capital" of Birr 5 billion is stipulated, requiring its permanent assignment and inward remittance in an acceptable foreign currency to a blocked account in Ethiopia.

  For foreign investors seeking to acquire shares in domestic banks, the Draft Directive applies the domestic bank's overall capital adequacy threshold of Birr 5 billion as the basis and does not impose of a separate minimum capital requirement on the investors themselves. Their eligibility is tied to the bank meeting this threshold and adhering to the outlined foreign ownership limitations.

- **Shareholding Limits**

  The Previous Directive defined an "influential shareholder" as a person holding directly or indirectly two percent or more of the total subscribed capital of a bank. The Draft Directive introduces detailed and comprehensive shareholding limits, particularly addressing foreign participation. Aggregate shareholding by foreign nationals and foreign-owned Ethiopian organizations is capped at forty-nine percent (49%). Strategic investors (including foreign banks, bank groups, and international development finance institutions) face a maximum direct holding of forty percent (40%) in any domestic bank. Individual shareholders are limited to a seven percent (7%) direct stake, while juridical persons are capped at ten percent (10%) direct holding. Excluding strategic investors, aggregate direct and indirect shareholding is limited to fifteen percent (15%) for natural persons and twenty percent (20%) for juridical persons.

- **Licensing Procedure**

  The licensing procedure in the Previous Directive generally outlined a "Pre-application phase" and an "Application phase," listing required documents such as minutes of organizers, prospectus submission, application forms, evidence of paid-up capital, articles of association, ownership/lease agreements, and business plan. The Draft Directive refines the structure into a three-tiered structure: pre-application phase, application phase, and commencement of operation phase. The commencement of operations phase details minimum requirements related to governance structure, policies and procedures (including cyber resilience and climate-related financial risks, which were not explicitly mentioned in the previous excerpt), staff, security arrangements, vault capacity, insurance, and disaster recovery. For foreign bank branches, local policies supplementing the foreign bank's policies, aligned with NBE directives, are also required before commencing operations.

- **License Renewal**

  Both directives require the annual renewal of a banking business license. The Previous Directive stated that a bank shall renew its license every year between July 1 and September 30, by presenting an application, provisional/unaudited financial statement, original license, and evidence of fee payment. The Draft Directive maintains the annual renewal period between July 1 and September 30. It clarifies that the *license itself is for an indefinite period* but must be renewed annually. The requirements for renewal for Domestic Banks, Foreign Bank Subsidiaries, and Foreign Bank Branches include an application, provisional/unaudited financial statement confirming capital and reserves, original license, and evidence of payment. For Representative Offices, the renewal requires an application, evidence of the USD 100,000 cash deposit covering annual expenditure, tax clearance, original license, and evidence of payment. The Draft Directive explicitly states that the annual renewal does not require going through the entire initial application process again.

- **Foreign Bank Representative Offices**

  The Draft Directive establishes a specific licensing section for Foreign Bank Representative Offices. A representative office is defined as engaging in liaison, marketing, and research activities. A key prohibition is that representative offices *shall not engage in any banking business* and must clearly state they are a "representative office of" if using the foreign bank's name. There is also a transition provision requiring representative offices previously licensed by the Ministry of Trade and Regional Integration to meet the new requirements and get re-licensed by the National Bank within six months of the Directive's effective date.

- **Fees (Investigation and Licensing)**

  The fees for obtaining a banking business license were considerably lower in the Previous Directive. The investigation fee was Birr 3,000, while the licensing and renewal fees were Birr 6,000. The Draft Directive introduces higher fees and differentiates them by entity type. For a **Domestic Bank**, the investigation fee is Birr 100,000, the licensing fee Birr 300,000, and the renewal fee Birr 200,000. For a **Foreign Bank Subsidiary or Foreign Bank Branch**, the fees are payable in acceptable foreign currency. The investigation fee is Birr 200,000, the licensing Birr 600,000, and the renewal fee Birr 400,000. For a **Representative Office of a Foreign Bank**, the fees are also payable in acceptable foreign currency. The investigation fee is Birr 50,000, the licensing fee Birr 150,000, and the renewal fee Birr 100,000.

ABOUT US

Dadimos & Partners LLP is a premier, full-service law firm in Ethiopia. From commercial and corporate law, including cross-border M&A, to banking and finance, international arbitration, tax, competition, intellectual property, employment, and non-profit law, we deliver legal solutions tailored to meet our clients' diverse needs. Our team is composed of lawyers with wide-ranging expertise, rich local and international experience, and in-depth knowledge of the law. We blend Ethiopian legal expertise with global perspectives.

Our vision of modern legal practice forms the foundation of our innovative, reliable, and results-oriented legal advice and support.