The Principle of Depositors' Protection in the Ethiopian Banking Sector

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1. Overview

All modern economies benefit from efficient, stable and fair financial markets. In Ethiopia, although it is still emerging, the banking sector makes a vital contribution to the rest of businesses and households to finance investment and savers to manage their finances over their lifetime. In times of unstable markets, on the other hand, one of the biggest concerns for depositors is the safety of bank deposits should there bank fail. In times of rainy days almost all states devised rules which provide a safety net for depositors if banks fail. In this regard, the primary purpose of states is to give priority to maintain and restore confidence and proper functioning of the financial sector. States should commit to take all the necessary measures to protect the deposits of individual savers. States should advocate the intention of the interested parties to bring forward urgently an appropriate proposal to promote convergence of deposit guarantee schemes. Therefore states should try to devise a proper mechanism to address the issues of depositors' protection. Financial instability, to the extent that it disrupts these functions, has a demanding effect on the wider economy. In particular, the failure of a bank would leave customers, individuals or businesses, unable to access savings, to raise finance or to meet obligations. A single bank failure, though rare and often isolated, has the potential to spread to other parts of the financial system through the effect on consumer confidence, through the inter-bank lending market, or other channels. This in turn, can have knock on effects for the wider economy. In short, the failure of a bank can involve greater and more widespread costs to the economy than that of a non-financial firm of similar size. So, the ascertainment of depositors' protection is an integral part of the measures that must be taken to ensure the stability of banks and then in turn protecting depositors.

Key Words: Depositors' Protection; Financial Stability; Receivership; Too Big to Fail

2. Meaning of Depositors' Protection

The concept of depositors' protection is not directly defined under Ethiopian laws. However, the definition part of proclamation number 592/2008 reveals the fact that the very essence and existence of banks always presupposes the existence of deposits to be collected from depositors. That is why the proclamation defined banking business as 'a business which *inter alia*, includes activities of receiving funds from the public.'[1] Unlike the banking business proclamation however, the commercial code of Ethiopia tries to define 'bank deposits' or the 'deposit of fund contract'. Accordingly, it states that, the contract of deposit of fund renders the bank the owner of the funds deposited, irrespective of the mode of deposit (this in a way acknowledges the types of deposits too).[2] The cumulative reading of the above laws indirectly conveys the meaning that depositors' protection refers to the various measures (policies, procedures and standards) of protection which is extended to bank deposits or the interest of depositors of funds in banks.

[1] Article 2 (a and b) of the the Banking Business Proclamation No. 592/2008.
[2] Article 896 of the Commercial Code of Ethiopia 1960.

It would not be wrong, however, if one concludes that every attribute of a banking business has a direct or an indirect implication on the interest of its depositors. The relationship between a bank and its customer begins when the customer deposits money in the safety of the hands of the bank. This action automatically creates a debtor and creditor relationship as between the bank and its customer in which the bank becomes the debtor and the customer becomes the creditor.

Thus, as a debtor it is the immediate obligation of the bank to take care of the deposit put at its custody (or disposal so long as the money stays in the bank) in particular and the various interests of the depositing customer in relation to the deposit in general. Banks are expected to follow policies, procedures and standards that are destined to preserve their deposits intact to sustainably pursue their day to day banking business or be able to duly honor the right of customers to withdraw their money up on demand.

The coloration is that if a bank cannot adopt policies and procedures to preserve it cash or liquidity intact, it will not be able to honor its duty of paying to its depositors up on demand and if it repeatedly fails to do so the fiduciary relationship and popular confidence owed from the depositing public towards this bank will be eroded, which is a notorious push factor to the bank out of the market and an immediate ground for ignition of receivership. Therefore, the ascertainment of various schemes that guarantee depositor protection should be seen as a question of survival for the viable existence of the banks themselves.

3. The Principle of Depositors' Protection in the Ethiopian Banking Sector

The following are the major available principles of depositors protection envisaged under Ethiopian law:

3.1 Deposit Insurance Fund

Being pursuant to proclamation No. 591/2008 (the National Bank Establishment Proclamation), if the need arise, the 'deposit insurance fund' is to be established in accordance with the regulation to be issued by the Council of Ministers.[3] Moreover, to make sure the better implementation of the deposit insurance fund the national bank is vested with the power to establish and manage the deposit insurance fund.[4] The proper implementation and establishment of an explicit scheme of deposit insurance has a direct implication on depositors' protection in that it provides a means of payment to customers of a bank during a bank failure. As its name implies it is one form of insurance where by each bank subscribes an insurance policy on behalf of each deposit it accepts from the public.

Then, whenever a bank loses its ability to duly repay what has been deposited by a customer up on the demand of a customer, it will be the duty of the deposit insurer to cause payment of the required amount to the depositor that has opened an account and deposited the money in the bank that has failed to cause payment in the first place. Thus, deposit insurance fund is a curative (not preventive) measure taken by a prudent banker to safeguard the safety of the interests of its depositors in case the bank is unable to honor its promises for what so ever reason. Taking this opportunity, the writer wants to mention that, though deposit insurance fund is recognized by law, it is yet to be established in the Ethiopian banking sector. I believe with the possible influx of foreign banks in to the banking business arena (currently banking is not allowed to foreigners in Ethiopia) which is expected to exacerbate competition with domestic banks and create a push factor for bank failure, I hope the council of ministers will cause use of its delegated legislative power to issue a directive which establishes the deposit insurance fund in Ethiopia.

In addition to this, the proclamation also deal with another dimension of regular insurance in that it orders a bank, before it commences its operation, to have an insurance policy for possible fire and other perils, burglary and theft, fidelity and so on in relation to cash and other valuables in its premises and transit.[5] The above provision expressly reveals that the laws extend protection to the depositors by forcing the banks to insure the funds they have collected from the public.

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[3] Article 2(4) of the National Bank of Ethiopia Establishment Amendment Proclamation No. 591/2008.
[4] Article 5 (18) of Proclamation No. 591/2008.
[5] Article 9 (7) of the NBE Directive No. SBB/39/2009.

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3.2 Liquidity Requirement

The existence of the liquidity requirement in the Ethiopian banking sector is the main expression of depositors' protection under Ethiopian laws. As it can be inferred from the naming itself every bank is at duty to maintain certain amount of cash as a reserve. Accordingly, directive Number SBB/15/96 state that the term 'liquid assets' includes deposits held in OECD currencies and payable by banks of OECD countries and in such other currencies as may be approved by the National Bank as well as securities issued by OECD countries denominated in currencies of such countries with tenures as indicated under article 16 (2 (b), 3-5) of proclamation number 84/94.[6]

In order not to infringe depositors non-negotiable interest to demand withdrawal at any time and to avoid pay out delays for the sum of demand (current) deposits, saving deposits and time deposits and similar liabilities with less than one month maturity period are defined to be 'current liability' of a bank or to protect depositors during a bank's failure.[7]

In relation to the liquidity principle two sets of requirement of liquidity are imposed on banks. The first is the general liquidity requirement that any licensed bank shall maintain liquid assets of not less than 25 percent of its total current liabilities. The second requirements of liquidity are the specific requirements. Accordingly, for the purpose of meeting the specific liquidity requirements each bank shall maintain, at least 20 percent of the current liabilities in the form of primary reserve assets; and 5 percent of the current liabilities in the form of secondary reserve assets. In addition to these, banks shall submit to the banking supervision department of the NBE a properly certified weekly liquidity positions showing end-of-week balances.[8]

3.3 Capital Requirement

The very purpose of this requirement is to empower newly established banks so that they can compete successfully with existing banks in providing prudent banking services to the consumer at large. This in turn is manifested via the banks potential to maintain a level of capital that commensurate with the volume of their business to withstand adverse operational results like discharging its duty towards the public (the depositors at large) as they expand.[9] Accordingly, banks are required to maintain minimum paid up capital of ETB 75 million in order to secure a banking business license from the national bank of Ethiopia. Besides, the paid up capital shall be fully paid in cash and deposited in a bank in the name and to the account of the bank under formation.[10] The requirement also refers to existing banks whose paid up capital is below ETB 75 million. They are expected to raise their paid up capital to the said amount by the end of 2002. In the meantime, however, they will continue to maintain minimum total capital levels not less than 8 percent of risk weighed assets. Under the same article it is mentioned that non-compliance with the rule entails a consequence up to the closing of such a bank.[11]

On the other hand, as a total requirement, any licensed bank shall maintain assets of not less than 15 percent of its total current liabilities.[12] Meanwhile, any licensed bank would not be deemed to meet the specific requirements, if it does not maintain at least 5 percent of the current liabilities in the form of primary reserve assets and 10 percent of the current liabilities in the form of secondary reserve assets.[13] To guarantee that the requirement is met the national bank is vested with the power to require weekly liquidity positions showing certificate.[14] The justification behind the prohibition is the fact that 'in kind' contributions are deemed to be procedurally illiquid or vulnerable to miss evaluation. Thus, it should not be an acceptable form of subscription with respect

[6] Article 2 (1) of the NBE Directive No. SBB 15/96.
[7] Article 898 (1, 2) of the Commercial Code of Ethiopia and article 2.2 of the NBE Directive No. SBB/15/96.
[8] Articles 2-5 of the NBE Directive No. SBB/44/2008.
[9] Article 1 of the National Bank of Ethiopia Directive No. SBB/24/99.
[10] Ibid
[11] Ibid
[12] Article 3 of the NBE Directive No. SBB/15/96.
[13] Ibid
[14] Article 4 of the NBE Directive No. SBB/15/96.

to the minimum paid up capital unless duly evaluated by recognized experts, i.e., the more they are in kind the more depositors interest becomes at stake. As a result, in kind contribution shall not be greater than 25 percent of the total capital at any cost.[15]
Moreover, under the capital requirement thrives another golden principle of depositors' protection which is the Lender of the Last Resort. The principle refers to the national bank of Ethiopia in that the bank is required to serve as the lender of the last resort in case other banks fail to entertain the claims of depositors or they went bankrupt as an ultimate assuror of depositors claim. To that effect, the NBE should possess minimum paid up capital of at least 500,000,000 ETB. The reserve fund of the NBE should be enriched by 20 percent of the net profit on each financial year. The same also should continue until the reserve fund equals to the paid up capital of the National Bank. These requirements indirectly protect depositors in other banks by assuring liquidity or pay back power of such banks during bad times.[16]

3.4 Reserve Requirement

The other requirement which empower banks to preserve the interest of their depositors is the duty to maintain adequate cash reserve in the national bank of Ethiopia. According to this principle, every bank shall transfer annually 5 percent of its demand deposits, saving deposits and time deposits to its 'deposit reserve account' in the national bank for such reserves mostly are liabilities to the depositing bank.[17] Recently however, due to the need to deposit more money by the NBE due to the prevailing financial crisis, the percentage of such reserve due on banks has been elevated to 10 percent. It should be noted here that such reserve only refers to an already collected cash reserve. Otherwise stated, cashes which are yet to be collected shall not be deposited until collected.[18]
The reserve requirement also refers to the holding of legal reserve. The requirement states that every bank shall transfer annually 25 percent of its annual net profit to its legal reserve account until such account equals its capital. However, when the legal reserve equals the capital of the bank, the amount to be transferred shall be only 10 percent of the annual net profit.[19] Here it should be noted that the capital and reserve requirements to be imposed on each bank may also vary depending on the risk profile or liquidity rate of each bank.[20]
Depositor protection also has a lot to do with the maintenance of adequate liquidity and reserve balance which includes adequate liquid assets which can further include cash deposits, readily convertible in to cash and so on. The same article also prescribes failure to comply with the requirement is subjected to penalty.[21] In a similar fashion, the commercial code also envisages principles about the holding of various types of reserves like, 'legal reserve funds', 'supplementary reserves', 'optional reserves' and so on.[22]The commercial code also directly rules on depositors' protection by prohibiting division of profits among the shareholders before the due transferring of the necessary cash to the legal reserve fund of the share company.[23]
Moreover, article 3 of the banking business proclamation which stipulates the requirements of obtaining license attached stringent requirements of capital on those organs who are motivated to take part in banking business. It is a horizontally known fact that not every share company is randomly entitled to do banking without prior securing of a banking license (which also requires liquidity and capital). Defiance of this rule results (unlawful soliciting for deposits from the public) in the inspection of the working of

[15] Article 2 of the National Bank of Ethiopia Directive No. SBB/3/95.
[16] Article 6 (1-4) of Proclamation Number 591/2008.
[17] Article 2 of the NBE Directive Number SBB/4/96.
[18] Article 3 of the NBE Directive No. SBB/4/96.
[19] Article 2 (1) of the NBE Directive No. SBB/4/95.
[20] Article 3 Proclamation No. 592/2008
[21] Article 20 of Proclamation No. 592/2008.
[22] Article 453 (1-3) of the Commercial Code of Ethiopia
[23] Article 456 of the Commercial Code of Ethiopia.

such bank which results in court order for immediate and efficient return of such moneys or property to the depositors or owners thereof.[24]

3.5 Reporting and Disclosure Requirements

Part Six of the Banking Business Proclamation declares on financial records. Pursuant to this, the NBE may request banks to prepare financial statements. Especially the statements should be capable of explaining its transactions and financial position (soundness).[25]

The same also holds true to the disclosure of information by other banks to the NBE. It is also one of the main concerns of the NBE (which in a way protects the interest of depositors) to collect information and to order other banks to disclose, among other things, information on the financial soundness. Moreover, depositors are also entitled to request such information from a bank.[26]In addition the NBE also determines the manner of reporting financial information. Accordingly, reports shall be submitted to the supervision department of the national bank of Ethiopia within 20 days after the end of the period for which the data are reported in a specified manner mentioned on the financial reporting directive of the NBE number SBB/21/96.

3.6 The Requirement of 'Loan Quality' and 'Loan Concentration' or 'Single Borrower Limit'

The very rational behind this requirement is protection of the interest of depositors. According to the requirement, every bank is expected to design a sophisticated loan provisioning policy which *inter alia*, includes being aware of the detail history of the borrower, his or her credit worthiness, the quality of the collaterals surrendered and especially the amount of loan to be extended to an individual or a group.[27]

All of these are mechanisms of assuring the re-collection of these loans up on maturity. Otherwise absent such policies, the tendency of the loans to become None Performing Loans or bad-debts is higher. This in turn results in various problems such as unnecessary loan concentration, which is absolutely against the interest of depositors (who are the major contributors to the collected deposit out of which the loan is to be extended) for it will drastically decrease their immediate right to withdraw their deposit as the bank may become illiquid. Hence, the banks are always required to establish quality loan provisioning policies by for instance lending horizontally to numerous borrowers than to provide large amount of loan to a single borrower. This would help the banks to distribute the risk of none payment of the loan among the many borrowers. Besides, the duty is also extended to the maintenance of a normal 'Loan to Deposit' and 'Loan to Collateral' Ratios.[28]

According to the provisions of the 'Single Borrower Amendment Directive' of the NBE the aggregate loan or extension of credit made by a bank to any one borrower, whether a natural person or business organization shall at no time exceed 25 percent of the total capital of the bank.[29] The duty also imposes additional reporting requirement on banks to prepare reports showing month-end exposures to every single borrower that exceed 10 percent of the total capital of a bank and the same shall be submitted to the supervision department of the NBE with in 2o days after the end of the period for which the data are reported.[30]

[24] Aricles 3 (4-5) of Proclamation No. 592/2008.
[25] Article 23 of Proclamation No. 592/2008.
[26] Article 23-28 of Procn. No. 592/2008; Article 22 (c) of Procn. No. 84/96.
[27] Article 3 of the NBE Directive No. SBB/29/2002.
[28] Ibid.
[29] Article 4 of the NBE Directive No. SBB/29/2002.
[30] Article 6 of the NBE Directive No. SBB/29/2002; read also all the provisions of the NBE Directive Number SBB/30/2002 on Amendment of Limitation on Loans to related Parties.

3.7 Limitations on loans to related parties

According to the governing directive that imposes limitation on loans to be provided to related parties, banks shall not extend loans to related parties on preferential terms with respect to conditions, interest rate and repayment periods other than the terms and conditions normally applied to other borrowers.[31]

This prohibition also have multitude of implication on the interest of depositors in that if care is not in place regarding to the provision of loan to related (insider) parties it can be used as a means to deplete the cash (capital or reserve) available in the bank via various ways of favoritism as between the related parties. The thing is, if less rate of interest is imposed and more grace period is given to borrowers to repay the loan due to the presence of the relationship, the interest of the depositors is presumed to be at stake for the ultimate externality on payment ability of the bank would be devastating. Hence, every bank is advised to adhere to an objective yet flexible loan provisioning policy of its own in line with the orders of the NBE.

3.8 Appointment of the 'Receiver'

The other important indicator of depositor protection in the Ethiopian Banking Sector is the appointment of the office of the receiver in case a bank is about to fail. As per the law, the NBE appoints a receiver, *inter alia*, if a bank has a chance of insolvency, unsound practices or the bank is engaged in a pattern of unsafe and unsound practices which may likely constitute a significant damage to the interest of its depositor.[32]

Moreover, if a bank is proved to be unviable, the law guarantees the right of the depositors to participate in the liquidation of the bank and further in the distribution of its assets. Besides, depositors are also privileged to oppose the 'schedule of allowance claims' prepared by the office the receiver and they are given the 4th priority to be paid or satisfy their respective claims.[33]

In addition to this, the law strictly prohibits an insolvent bank to accept deposits. However, if a bank went insolvent and become incapable to pay claims of depositors against it, the depositors are entitled to collect their previous unclaimed liabilities from the NBE or the later plays the role of the lender of the last resort.[34]

3.9 Business Continuity Plan

This principle is not as simple as it looks when evaluated in line with its role on assuring depositors protection. As per article 2 of Directive Number SBB 39/2006, every bank shall have a 'Business Continuity Plan' via which such bank can ensure resumption of its operations in order not to interrupt services to their customers. It is also explicit from article 3 of the same directive that, a bank shall deliver information on its plans of deposit mobilization, liquidity management, and capital structure and so on.[35]

3.10 Contributions in Kind

This is the other indicator of depositors protection in the banking business in that items like built in vault, buildings, essential vehicles and others that are acceptable to the bank may be considered as capital contribution based on the need of the situation. Before these are accepted as contributions in kind they should be valued by professional evaluators acceptable to the national bank of Ethiopia. Moreover, capital contributions in kind shall not be considered for the purpose of fulfilling minimum required capital and shall not exceed 25 percent of the paid up capital of the bank in excess of the minimum required capital.[36]

The imposition of these restriction on the contribution of property in due course of constituting a bank guarantees the interest of depositors in that it is only a property which is properly valuated that will be considered as a contribution or otherwise it will not

[31] Refer to Articles 1-7 of NBE Directive No. SBB/30/2002.
[32] Article 34 of Proclamation No. 592/2008.
[33] Articles 41- 45 of Proclamation No. 592/2008.
[34] Ibid.
[35] Article 3 of the NBE Directive Number SBB/39/2006.
[36] Artcle 2 (1-3) of the NBE Directive No. SBB/3/95.

be accepted as a contribution. This will protect the capital of the bank intact by shielding it from under or over valuation of contribution.

Moreover, the fact that it is prohibited to establish a bank entirely using contribution in kind also preserves the interest of depositors in that it assures that the bank will always have cash on its hand to effectively honor the demand of depositors to receive payment whenever they need to do so. If all the contribution of a bank is made in kind then all money of the bank is caught in fixed assets which will make it illiquid to properly undertake its daily banking businesses.

3.11 Computations of Risk Weighed Assets

According to this principle the capital of a bank consists of issued and fully paid in shares, legal reserves and other reserves to be approved by the national bank of Ethiopia. Moreover, the minimum capital requirement shall be applied to a bank on a consolidated basis, including subsidiaries and affiliates engaged in banking and financial activities.[37] This means, any contribution made to constitute a bank shall be in priority approved by the NBE. The rule also applies to legal and other forms of reserves in a bank. This is in order to preserve the capital of the bank intact and sustainable to properly meet its financial duties in due course of undertaking its day to day banking business.

In addition, it is evident from the reading of the article that risk weighted assets and percentage weight attached to each asset shall be calculated only in manners of calculation required by the NBE and its Directives.[38] This also preserves the interest of depositors by making sure that the procedure and manner of computation is not arbitrary and not subjected to humanely misappropriation.

3.12 Limitation on Accommodations

This principle states that no bank shall, directly or indirectly, except with the prior written approval of the bank, grant or permit to be outstanding unsecured loans, advances or credit facilities of an aggregated amount in excess of birr 30,000 to: a. its directors, or any of them, whether severally or jointly with any other person; b. any person of whom or of which it or anyone or more of its directors is a guarantor.[39]

This prohibition also seriously eradicates the exacerbation of insider dealing and conflict of interest as between the bank and its various employees. Or it will allow the bank to concentrate on providing banking business to its usual customers, mostly depositors. Here, the presumption is if bank personnel are allowed to extract more than the stated amount of money from the bank they are leading it will ultimately erode the bank’s ability to duly honor depositors’ demand of withdrawal from the bank.

3.13 Limitation on Investment of Banks

The other principle enshrined in the Ethiopian banking laws that has direct implication on the interest of depositors is the limitation imposed on the investment of banks. According to the NBE Directive on the issue, no bank shall engage in an insurance business but may hold up to 20 percent in an insurance company and up to a total of ten percent of the banks equity capital in such business.[40]

Moreover the prohibition also refers to areas of investment in that banks are prohibited from engaging directly in non-banking businesses such as agriculture, industry and commerce.[41] Furthermore, if a bank wants to hold shares in a non-bank business it may do so but only to the extent of up to the company’s share capital and without the total holdings of the bank in such business exceeding 10 percent of the banks net worth. The participation of a bank in a non-bank business also faces another restriction in

[37] Article 2 (1, 2) of the NBE Directive No. SBB/9/95.
[38] Article 3 of the NBE Directive No. SBB/9/95.
[39] Article 3 of the NBE Directive No. SBB/10/95.
[40] Article 1 of the NBE Directive No. SBB/12/1996.
[41] Article 2 of the NBE Directive No. SBB/12/96.

that it is only up on the due authorization of the NBE that a bank can invest its resources (equity) on a particular non-bank business.[42]

The other dimension of the restriction imposed on banks investment also refers to the area of real estate acquisition and development by banks in that no bank shall commit more than 20 percent of its net worth in real estate acquisition and development other than for own business premises without prior approval of the NBE. The other form of prohibited investment is the investment in other forms of securities. Accordingly, a bank may not invest more than 10 percent of its net worth in other securities. Dealing in securities shall be done by banks only through a limited liability subsidiary company where in the holding of the bank shall not exceed 10 percent of its equity capital.[43]

In addition to the particular prohibitions imposed on investment of banks the law also imposes general prohibition on investment of banks that the aggregate sum of all investment, by a bank, at any one time (excluding investment in government securities) may not exceed 50 percent of the bank's net worth without prior approval by the NBE.[44]

It is obvious that banking business depends on the collection of deposit from the public. This creates a debtor and creditor relationship as between a bank and its depositors in which the bank is the debtor and the depositors are the creditors. Accordingly, it is the duty of the bank to duly honor (maintain the ability to pay) a customers demand to withdraw its money from the bank. On the rest of the occasions however, the bank is presumed to be the owner of the money and can use the money to further provide loan (or invest) to other parties interested to currently use such money.

The point here is, the survival of banks depend on the wise use of the money that they collected from the public and simultaneously without eroding the trust of the public that considered the bank as a safe place to deposit their money. In line with this principle banks should be cautious in choosing their areas of investment in order not to drain their cash at disposal and even the capital of the bank. Hence, the law limits the investment limit of banks both in terms of variety of investment (some areas of investment are by nature prone to crisis and contagious to the bank holding large amount of share in them) and threshold.

3.14 Customer due Diligence of Banks

The requirement of customer due diligence of banks is the other principle that has direct implication on depositors' protection. This principle is directly known by another name as 'know your customer rules' or KYC. According to this principle every bank is expected to examine and know all the relevant information on its customers and their respective engagements with the bank to avoid criminal elements in its transactions. By its very nature banking business is prone to culpability both domestically and internationally and currently the problem is exacerbated due to the extensive use of negotiable instruments and numerous forms of e-commerce or e-payment systems which made it difficult for banks to undergo legit transactions all the time.

The thing is, banks knowingly or unknowingly, might be used by criminal elements to undergo illicit transactions. Thus, sound know-your-customer policies and procedures constitute an essential part of internal control and risk management aspects of banks. There is always a need to strengthen internal control and risk management system of banks to prevent them from exposure to undue reputational, occupational, legal and concentration risks that may result from abuse of money launderers or terrorist financiers. In this regard, conducting customer due diligence should be key part of customer identification, internal control and risk management of banks. Banks should assure that they have put in place sound policies, procedures and controls in place that enable them to identify their new and existing customers.[45]

According to the KYC directive of the NBE, banks shall establish and maintain internal procedures, policies and controls to prevent money laundering and terrorist financing, and communicate these to their employees and the NBE. Moreover, at the minimum these procedures, policies, and controls shall cover issues related to: explicit criteria for identification and acceptance of

[42] Articles 3 and 4 of the NBE Directive No. SBB/12/96.
[43] Articles 5, 6, 8 of the NBE Directive No. SBB/12/96.
[44] Article 7 of the NBE Directive No. SBB/12/96.
[45] Read the Preamble of the NBE Directive No. SBB/46/2010.

customers; appropriate risk management systems to determine whether a potential customer, an existing customer, or beneficial owner is a politically exposed person or high risk categories of customers; record retention techniques, methods and period; unusual and suspicious transactions, techniques, methods and the reporting obligation.[46]

On the other hand, banks are not allowed to keep anonymous accounts or accounts in fictitious names. Banks shall not enter in to, or continue correspondent banking relationships with such banks. Most importantly, however, banks shall undertake customer due diligence measures: when establishing business relationships with customers; when carrying out occasional cash transactions with a customer which at a minimum exceeds birr 200000, USD 10,000 or equivalent in other foreign currencies and this shall include situations where the transaction is carried out in a single operation or in several operations that appear to be linked or structured.[47]

Finally, the KYC duties of banks include account monitoring, taking care in cross border correspondent banking, and care in case of wire transfer, maintain record keeping and reporting suspicious transactions to the financial intelligence center of the Federal Democratic Republic of Ethiopia.[48]

3.15 Fiduciary Function

Furthermore, the services provided by banks to the public at large (depositors) or the relationship in between are fiduciary in nature. Consequently, the banks are expected to deliver prudent services (having assumed special confidence and commanding loyalty) towards the interest of the depositors.[49]

Conclusion

In this article i have enumerated the various requirements put in place by the NBE to be followed by other commercial banks in Ethiopia and their relationship with the principle of depositors' protection. Banks draw surplus money from part of the population, who are not using it at a time and lend it to those who are in a position to use it for productive purposes. Among the main function of banks, receiving deposits has a lot to do with the principle of depositors' protection. Depositor protection should be seen in line with the available special confidence as between the population and the government in general and with the banks in particular. It is a known fact that the main rational behind depositing ones cash in a bank is not mainly due to the trust owed by the former to the later but it rather is the confidence of the population on government in general.

For this reason, it is the duty of the Ethiopian government to guarantee the non-infringement of the rights of depositors by its rules and regulations. Banks are expected to maintain liquidity. If used effectively, there still are numerous mechanisms to guarantee sound banking operations that protect the interest of the depositors at large. Among them the requirements of capital, reserve, liquidity, and disclosure are typical. Plus, monetary and loan policy to assure prudent activities of the bank are also indispensable. In this regard, the Council of Ministers may also issue a directive that constitutes an Explicit Deposit Insurance Fund to further guarantee protection of the interest of depositors during a bank failure.

All of the above mechanisms are put in place to protect the insuperable interest of the depositors or serve as a mechanism of monetary risk management. It should also be noted that the placement of such precautionary measures does not by itself eradicate the risk in the Ethiopian banking sector unless depositors' protection is considered as a primary regulatory concern of the NBE. To this end, much attention should be given to preserve the best interest of the depositors who are normally not in a position to inquire the insider workings of a bank.

To conclude, banking industry is a risky business whose failure has a far reaching effect on the economy of a country. In order to enable the banks to properly operate and play their part in the Ethiopian economy, the regulator should take every step necessary to preserve the interest of the depositors at large.

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[46] Articles 3 and 4 of the NBE Directive No. SBB/46/2010.
[47] Ibid.
[48] Ibid, articles 5 and 6.
[49] Article 2 (8) of Proclamation Number 592/2008.