

# The Progress to Allow Fully Fledged Interest Free Banking Business in Ethiopia

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Abstract-Islamic banking refers to banking business in which mobilizing or advancing funds is undertaken in a manner consistent with Islamic Sharia Law. Different literature shows the rapid growth of this Islamic banking as alternative to the conventional banking. Economic globalization, among other things, has led to the flourishing of Islamic banking both in Muslim and non-Muslim countries. There has been increasingly strong public demand for interest free banking products in Ethiopia. As a response to this demand, the Ethiopian government introduced interest free banking business under Banking Business Proclamation No. 592/2008. Following this, the application to establish Fully Fledged Interest Free Banking Business was submitted to National Bank of Ethiopia. However, the prohibition by National Bank of Ethiopia for the same, following the enactment of “Directive to Authorize the Business of Interest Free Banking No.SBB/ 51/2011”, forced the withdrawal of the application. Now Ethiopia is being one of the largest Muslim populations in the Horn of Africa, however, has no Fully Fledged Interest Free Banking Business to provide service to the Muslim community. The enactment of Directive to License and Authorize Interest Free Banking Business No. SBB/72/2019, however, seems changed the situation. This directive allowed the establishment of Fully Fledged Interest Free Banking Business and following this directive, different banks of the same applied for the formation. Hence, the purpose of this Article is to analyze the evolution of Fully Fledged Interest Free Banking Business; to analyze the problem related with allowing Fully Fledged Interest Free Banking Business and to analyze the short coming of legal provision relating to Fully Fledged Interest Free Banking Business in Ethiopia. The outcome of the analysis shows that the legal provision relating to Fully Fledged Interest Free Banking Business is not enough to deal with the same. It calls for the amendment of Banking Business

Proclamation No. 592/2008 and the Directive to License and Authorize Interest Free Banking Business No. SBB/72/2019. The outcome also shows that the Authorization of more than one bank of the same at this early stage may bring failure both on the same and other conventional banks. Hence it calls to limit the number of Authorization for Fully Fledged Interest Free Banking Business at this early stage to not more than one.

*Keyword: Islamic banking, interest free banking, Islamic banking in Ethiopia*

## I. INTRODUCTION

Regarding the percentage of the Muslim population, from the total population of the country, different organizations provide different percentages. Regardless of the difference, the report of 2007 Populations and Housing Census of Ethiopia estimated Ethiopian Muslims at 34% of

the total population<sup>1</sup>. However, until recent time there was no Islamic Banking product to serve the Muslim community. This fact isolated Ethiopian Muslims from financial sectors specially from holding share in the same for participating on interest bearing financial sectors are against Islamic sharia laws. Because of strong public demand for interest free banking products<sup>2</sup>, when “*The Licensing and Supervision of Banking Business Proclamation No. 84/1994*” (here in after called *proclamation No.84/1994*) is repealed by “*Banking*

<sup>1</sup> “.....43.5 percent of the total population was Orthodox Christian and 33.9 percent was Muslim. Protestant and traditional religious group followers accounted for 18.6 percent and 2.6 percent respectively.....” See Summary of and Statistical Report

of the 2007 Population and Housing Census page 19 available at [www.ethiopianreview.com/pdf/001/Cen2007\\_firstdraft\(1\).pdf](http://www.ethiopianreview.com/pdf/001/Cen2007_firstdraft(1).pdf)

<sup>2</sup>This idea is reflected in preamble of Directives to Authorize the Business of Interest Free Banking No. SBB/ 51/2011 which is enacted by national bank of Ethiopia to regulate IFBB.

*Business Proclamation No. 592/2008*<sup>3</sup> (here in after called proclamation No.592/2008) - the Ethiopian government introduced the clause for interest free banking business (here in after called IFBB) in the latter. It is stipulated under Article 22(2) of the proclamation which states:-“*the National Bank may issue directive to regulate banking businesses related to non-interest bearing deposit mobilization and fund utilization*”. Following this stipulation, the application to establish fully fledged interest free banking business (here in after called FFIFBB) by the name of **Zamzam** bank was entered, which was able to collect a huge amount of capital within a short period of time by selling shares<sup>4</sup>. Until the declaration of ‘*Directives to Authorize the Business of Interest Free Banking No. SBB/ 51/2011*’ (here in after called directive No. SBB/ 51/2011), the National Bank of Ethiopia (here in after called NBE) did not respond to the application<sup>5</sup>. Before the declaration of this directive, the NBE released three (3) consecutive draft directives that allowed FFIFBB. Latter, when this final directive is enacted, the NBE withdrawn the clause for FFIFBB from the same, which was under its three preceding consecutive draft directives and based on this directive the NBE dropped the application. The clause for FFIFBB under the preceding consecutive draft directives which was envisioned to make the Muslim population beneficial from the financial sectors equally with the rest of the populations was culminated in this manner. The enactment of Directive to License and Authorize Interest Free Banking Business No.SBB/72/2019 (here in after called directive No. SBB/72/2019), however, seems changed the situation. This directive allowed the establishment of FFIFBB and following this directive different bank of the same applied for the formation. Hence, the purpose of this Article is:- to analyze the evolution of FFIFBB; to analyze the problem related with allowing FFIFBB and to analyze the short coming of legal provision relating to FFIFBB in Ethiopia. To this effect the critical analysis of Proclamation No. 592/2008 and the directive No. SBB/ 51/2011 with its preceding draft directives will be made. Also the critical analysis of directive No. SBB/72/2019 will be made. The legal analysis will be based only on the relevant legal provisions related to the issue at hand, directly or

indirectly. From the analysis the author tries to make his conclusion. This Article is not concerned with actual problem related to FFIFBB on the ground, except the legal analysis made by the author.

## II. PROCLAMATION NO. 592/2008

As it is mentioned above, Ethiopia is a country with an abundant number of Muslim population. However, up to now no FFIFBB products were available to service the Muslim community. When the public demand for IFBB reached its climax, the Ethiopian government repealed the Proclamation No. 84/1994 by Proclamation No. 592/2008 that comes with a clause for IFBB. The immediate cause for such changes was the submission of draft proposal for the **Zamzam** bank to different concerned government officials with all details about the need to have FFIFBB in Ethiopia.<sup>6</sup> The clause for IFBB is mentioned under Article 22(2) of the proclamation that state: ‘*the National Bank may issue directive to regulate banking businesses related to non-interest-bearing deposit mobilization and fund utilization*’. This is the only clause under the proclamation that mention about IFBB and the proclamation port the details to the directive to be issued under NBE. The Ethiopian *vision to build inclusive financial sector under the second Growth and Transformation Plan*, can be taken as a milestone to entertain such demand. As it is understood from this clause it does not allow the establishment of IFBB as of right. It makes the establishment of the same conditional that depend on the enactment of the directive by NBE. This means it can’t claimed as of right except where the NBE enacts the directive for the same. The authorization also did not oblige NBE to enact the directive in the area. The clause gives the NBE extensive right to decide on the matter. The proclamation did not mention as to the type of IFBB that will be allowed. The proclamation also did not mention the purpose/reason to allow and the manner to perform the same. There is also no indication as to whether it is the one that will conduct in line with Islamic laws or otherwise. Here there is a query as to what will happen if the NBE enacted the directive to authorize IFBB and licensed the same but

<sup>3</sup> Banking Business Proclamation No. 592/2008, Federal NegaritGazeta of The Federal Democratic Republic of Ethiopia, 14th year No.57, Addis Ababa,25th August,2008.

<sup>4</sup> Interview with Dr. Abdulnasir Dino, Chair Man of **Zamzam** bank, Addis Ababa, 15 March 2019. He replied that the application was made as per *Proclamation No.592/2008 and minimum capital requirements for banks directive No. SBB/50/2011*.

<sup>5</sup> Ibid.

<sup>6</sup>This fact was expressed in August 9, 2011 letter with reference number ZZBUF/102/2011 that written to NBE by Zamzam bank as: “*we believe NBE witnesses our contribution in the initiatives taken to be instrumental for the Article 22(2) that include for Interest free banking in banking business proclamation number*

*592/2008*”. Chairman of **Zamzam** bank Dr. Abdulnasir Dino said in this regard there is no any preparation to enact law for IFBB from the side of the government. He said we summited the draft proposal of Zamzam bank for FFIFBB with all the details including its importance for Ethiopia. He said we summited this proposal to different top government officials including the then Prime Minister of Ethiopia MelesZenawi. He said the Prime Minister appreciated the proposal and surprised by it. He said the Prime Minister promised us to enact the law for the same. Interview with Dr. Abdulnasir Dino, supra note 5..

arbitrarily repealed the directive and cancelled/withdraw the license.

### III. THE CRITICAL ANALYSIS OF DIRECTIVE NO. SBB/ 51/2011 AND ITS PRECEDES DRAFT DIRECTIVES, AND THE ATTEMPT TO ESTABLISH FFIFBB IN ETHIOPIA

Different elements can lead to introduce IFBB in different countries. The purpose can differ in Muslim and non-Muslim countries. Predominantly the driving force in non-Muslim countries can be: the need to bring diversity to the market; the danger of having informal Islamic institutions, which are feared to finance terrorism; the attraction of countries with oil wealth, many of which are predominantly Islam; investing and saving the growing wealth of the Muslim minorities, many of whom are unbanked due to the lack of banks which adhere to Sharia law<sup>7</sup>. The development of IFBB in Muslim countries mainly emanate from the response to the need of faith-based finance<sup>8</sup>. The factor that contributes for the development of IFBB in Ethiopia is the combination of the above elements as enshrined under the preamble of directive No. SBB/ 51/2011 and its precedes draft directives: to create accessibility to Muslims who are unbanked due to the lack of banks which adhere to Sharia law; to give practical response for globally growing Islamic finance, in order to attract the foreign investors from Muslim rich countries; aimed to respond to Muslims faith based finance which was strongly demanded. As soon as the enactment of proclamation No. 592/2008 that declares the permissibility of IFBB, latter the application to establish FFIFBB by the name of **Zamzam** bank was submitted to the NBE<sup>9</sup>. Since the clause under the proclamation No. 592/2008 is not comprehensive for licensing, it necessitates for the detail under the directive as it is already promised under the same. Prior to the directive No. SBB/ 51/2011, the NBE released three different consecutive drafts of the same. In order to enrich the directives and to make the process participatory, the NBE had been deliberating on the drafts with the existing banks and banks under formation including **Zamzam** bank<sup>10</sup>. Each of these consecutive draft directives will be summarized here in under as follow:

The 1<sup>st</sup> draft was released on *June 11, 2010* and it is named as “*directives for conducting interest free banking*”. It defines “*interest free banking*” under Article 2(1) as – *banking activity in which the acceptance of funds and financing is undertaken in*

*a manner that is consistent with Sharia principles*. It also define “*interest free banking window*” under Article 2(2) as a *unit within a bank exclusively offering and dealing with activities permissible under sharia principles*. Following under Article 3(1) it states: interest free banking may be conducted in either of the following modes by fulfilling all the requirements stipulated in relevant NBE directives:

*a. Existing banks may create interest free banking window; and*

*b. Ethiopian nationals may establish a bank exclusively engaged in interest free banking.*

When we see Article 3(1) (a), the term “*existing banks*” refers to existing conventional banks which are already licensed by NBE. Hence, when it is read in conjunction with Article 2(2), it gives the meaning that- *the existing conventional banks which are licensed by NBE can be authorized to provide IFBB through exclusive window reserved for the same*.

Under Article 3(1)(b), the term “*bank exclusively engaged in interest free banking*” refers to the permissibility of establishing FFIFBB. When we see Article 2(1) and 3(1) conjointly it gives the meaning that: *both conventional banks which provides the service through exclusive windows and the exclusive banks which will be formed for the same, shall give the service as per the Sharia law*. From what is mentioned under this directive, it is clear that the 1<sup>st</sup> draft directive, allowed the formation of FFIFBB in unequivocal language.

The 2<sup>nd</sup> draft was released on *October 8, 2010* and it was named as “*directive for Authorization of interest free banking*”. It defines “*interest free banking*” under Article 2(2) as – *banking activity in which the acceptance of funds and financing is undertaken in a manner that does not involve pre-determined interest rate*. It also define “*interest free banking window*” under Article 2(3) as a *unit within a bank exclusively offering interest free banking services*. Following, the directive provides under Article 4 the requirements for the authorization to engage on IFBB. Article 4(2) promised to authorize a person who fulfills the requirements under the *provision to establish a new FFIFBB; or convert the existing conventional banks to FFIFBB; or open a window which shall provide exclusively IFBB along with conventional banking service*. This provision is unequivocal and self-explanatory. It provides *three* possible option of IFBB formation. The 1<sup>st</sup> way is *establishing new FFIFBB*; the 2<sup>nd</sup> way is *converting existing*

<sup>7</sup>Mohamed Hassan Abdullahi(2012), the legal and regulatory framework of Islamic banking in Kenya: theory and practice, University of Nairobi,p.18&19.

<sup>8</sup> Ibid

<sup>9</sup>Interview with Dr. Abdulnasir Dino, supra note 5

<sup>10</sup> Ibid.

conventional banks to FFIFBB; and the 3<sup>rd</sup> way is for conventional banks to participate on IFBB through opening windows exclusively reserved for the same. Furthermore, under Article 5 it comes with 4<sup>th</sup> liberal idea of IFBB formation. Under this Article it gives permission for FFIFBB that is formed as per this directive, to give conventional banking service through exclusive window reserved for the same. This draft directive declared permission for IFBB with all its exhaustive possible options for its formation.

The 3<sup>rd</sup> draft is released in July, 2011 and it was named as “*directives for Authorization of interest free banking*”. Its exact specific date for release was not mentioned on the draft. It defines “*interest free banking business*” under Article 2(2) as – *banking business in which mobilizing or advancing funds is undertaken in a manner consistent with Islamic finance principles and mode of operation that avoids receiving or paying interest*. It also defines “*interest free banking window*” under Article 2(3) as a *unit within a conventional bank exclusively offering interest free banking services*. Article 4 provides requirements for authorization to engage on IFBB. Under Article 4(2) (A-D), it provides a pre-requisite for those banks which want to form FFIFBB. Under sub 4(2)(e) of the same Article, it provides pre-condition for those conventional banks which wishes to engage on IFBB through window exclusively reserved to the same. This idea becomes more clearer from the following sub 4(3) of the same Article which states –*the National Bank evaluate the application submitted by a bank in view of Banking business proclamation, applicable directives issued by it as well as other rules and regulations; and up on its satisfaction may Authorize the applicant to:*

- a. *Engage in exclusively interest free banking business, or*
- b. *Open an interest free banking window.*

In short the idea under the 3<sup>rd</sup> draft is to mean: up on receipt of the application, the NBE evaluate the application in line with Banking business proclamation, the pre-requisite set under Article 4 of the same directive and other relevant laws of the country, and up on its satisfaction the NBE will issue a license for both ways of IFBB service delivery (i.e. for FFIFBB and a unit of window within conventional banks) based on the request. Until the end of the 3<sup>rd</sup> draft release, the Ethiopian Muslims in general and the stakeholders of **Zamzam** bank (organizers and shareholders) in particular, were fully confident about permission of engaging in FFIFBB and approval of **Zamzam** bank.

However, this confidence started to erode when the NBE wrote a letter on July 18, 2011 by

letter No. **FIS/BS/252/11 to Zamzam** bank that was under formation. The letter states: “*as you well know, the directive for IFBB’s is in progress to be issued in the near future. This is, therefore, to inform you to keep your licensing documents with you until the directives under caption are issued*”. This letter is requesting **Zamzam** bank to take back licensing application that was launched following the declaration of Proclamation No.592/2008 for IFBB. The letter is promising the coming of finally authenticated/ratified directive for IFBB in the near future. There is a query as to why NBE wrote this letter which request taking back the application document. There is also a query as to why NBE request taking back the application document at this juncture while it is telling the forthwith coming of the final directive under caption.

Another event that exacerbate the suspicion on the NBE and the final directive under caption was, the enactment of “*directive No. SBB/50/2011*” in September 19, 2011. It is enacted to set a minimum capital requirement for the banks. The provisions for consumption under this directive are illustrated as follow: under Article 2(1) of definitional part, it defines “*existing banks*” as *banks licensed by National Bank of Ethiopia before the effective date of this directive*. Under sub 2(2) of the same Article, it defines “*bank under formation*” as *banking share company under formation which fulfills all of the following as of effective date of this directives:*

- a. *Its capital has been fully subscribed,*
- b. *Collected in cash from its founding shareholders a minimum capital of Birr 75 million (Birr seventy-five million) and deposited in an existing bank in the name and to the account of the bank under formation,*
- c. *Held its founding general shareholder meeting which elected board of directors and approved articles and memorandum of associations, and*
- d. *Submitted final application for banking business to the National Bank of Ethiopia*

The definition that is given to the “*bank under formation*” that obliges the fulfillments of all requirements enumerated above excluded **Zamzam** bank from the list of “*bank under formation*”. Because, this directive was issued, while there was **Zamzam** bank’s application pursuant to directive No. SBB/24/99 which was waiting for approvals but not yet approved. The application fulfills the requirements under A & B but not under C & D. This directive was also issued while there was another letter from **Zamzam** bank that was written on August 9, 2011 with reference number ZZBUF/102/2011 (following the July 18, 2011 NBE letter that request

to take back the application documents) which was demanding for the speedy approvals.<sup>11</sup>

While there were application and the letter demanding the approval of the same, instead of approving the application which was there, coming with the declaration which did not take in to consideration the application there (i.e. coming with definition which excludes **Zamzam** bank from the bank under formation) showed that something unpleasant was going on<sup>12</sup>.

The **last event** that wears away the hope of many for the establishment of FFIFBB was the enactment of the final directive under caption that is directive No. SBB/ 51/2011. This directive drops the clause for FFIFBB that was under its preceding draft directives. The provisions under the directive that is relevant for the issue at hand is, analyzed as follow: the directive defines “bank” as “a company licensed by the National Bank to undertake banking business or a bank owned by the Government”. According to this definition the bank is licensed to undertake banking business. The term banking business is already defined under the banking business proclamation No.592/2008. Here it is referring to those conventional banks that are already licensed to undertake banking business as per the definition of Proclamation No.592/2008. Under Article 4(1) it states that: *“a bank shall obtain a written authorization from the National Bank to carry on interest free banking business. When we combine these two Articles it gives the meaning: conventional banks interested to carry on IFBB shall obtain a written authorization from the NBE.*

Article 4(2) of the directive provides a list of requirements for those conventional banks that wish to obtain an authorization to carry on IFBB. The wording of the enumeration under the provision is indicative of the same. It became clearer when it is seen in combination with sub 4(3). This Article says after evaluating application submitted as per sub 4(2), the NBE, if satisfied, authorize the applicant to open an interest free banking window. *‘Interest free banking window’ is defined under 2(3) as “a unit within a conventional bank exclusively offering interest free banking services”.* Looking sub 4(2), 4(3) and 2(3) in combination gives the meaning: *if the NBE is satisfied by application submitted as per 4(2), it will give authorization to conventional banks*

*to carry on IFBB as per sub 2(3).* This directive obliges to carrying on IFBB as per Sharia law under sub 2(2). However, in no place the directive expressly mentioned about the permissibility/non-permissibility of FFIFBB. Nevertheless, it is based on this directive that NBE withdraws the application for **Zamzam** bank which is intended for FFIFBB. The reason to prohibit FFIFBB is expressed by NBE Bank Supervision Directorate Ato Solomon Desta as follow: *“we did not have experienced personnel in Ethiopia on Sharia-based banking services and product in Ethiopia previously that is why we initially opted to start with interest-free window banking services”.*<sup>13</sup>

#### IV. THE OTHERWISE INTERPRETATION OF DIRECTIVE NO. SBB/ 51/2011

We have seen in the above the analysis for this directive. In conjunction to this analysis we have also seen how the application for FFIFBB is finally withdrawn. Now here we will see the otherwise interpretation of this analysis. This is to mean: the previous analysis is made in pro- banning for FFIFBB. However, here the analysis will be made in pro-permission for FFIFBB. To start, the directive defines the term ‘bank’ as company licensed by the National Bank to undertake banking business or a bank owned by the Government. It is referring to the licensed conventional banks to undertake banking business as per the definition of proclamation 592/2008. The indication to this become more clearer when it is seen in line with Art.4(1) which says: A bank shall obtain a written authorization from the National Bank to carry on interest free banking business. Since they are licensed to undertake banking business as per the definition, the second authorization from the NBE becomes to engage on IFBB. Had not been for IFBB, they are not required another authorization since they are already authorized/licensed by the NBE as per the definition. IFBB is defined Art.2(2) as a banking business which works in compliance with Sharia laws. The directive provide a preconditions /requirements for application under Art.4(2) to those conventional banks who wishes to engage on IFBB. The directive promises to authorize for interest free banking window under Art.4 (3) to those conventional banks, if it is satisfied with the requirement under the application. Interest free

<sup>11</sup>The letter says: “.....we apply, in fact, for the approval of the selected board members and the beginning of registration and signing of the subscribers that will facilitate the many indoor activities of the bank that needs, .....we are again requesting your esteemed office to reconsider our application and we were expecting to see something encouraging out this since we were order to take back all the document submitted.....”This letter was written prior to one month before the effective date of this directive, following the July 18, 2011 NBE letter, by concerned

stakeholders of Zamzam bank those who are not happy by message under the letter.

<sup>12</sup>Besides Zamzam bank’s application, there are so many conventional banks applications which were approved and started the work while the application for Zamzam bank is kept aside. This fact is mentioned in the same letter as: “since the inception of Zamzam bank significant number of banks has started their way from non-existence to operation.....”

<sup>13</sup> See <https://www.aljazeera.com/.../islami-banking-ethiopia-offers-muslims-...>

banking window is defined under Art.2 (3) as: a unit within a conventional bank exclusively offering interest free banking services. When we see Article 4(2&3) and 2(2&3) in conjunction, it gives the meaning that: conventional banks those which are authorized to involve on IFBB through exclusive window reserved to the same, shall work as per the sharia laws.

From the analysis it become clear that the directive is narrating one side of the story and concerned with conventional banks:- it is providing for the ability of conventional banks to carry on IFBB through a unit of window within the same; it is telling the obligation of conventional banks to have prior authorization to engage on IFBB; it is telling the requirement of application for conventional banks to engage on IFBB; it is telling ways of conducting IFBB in conventional banks etc... The directive does not indicate as to the permissibility or the otherwise of FFIFBB. Here query rises as to those who wish to establish FFIFBB: Are they allowed to establish FFIFBB under this directive as it is silent on this regard? Is there any prohibition for FFIFBB under this directive that suit for the same? Is the silence of directive in this regard can be taken as prohibition? Does it necessitate to search the intention of NBE for withdrawal of the clause for FFIFBB to determine the issue? As to the author the terminology which is used under this directive does not suffice to prohibit licensing for FFFIFBB since there no direct/indirect prohibition to the same. In commonly known legal principles anything which is not prohibited expressly or through interpretation is, permissible.<sup>14</sup> Regarding to the definition given to 'bank', since they are not a licensed conventional banks to engage on business activities, they are not required for the second authorization as per Art.4 (1). They appear only as new applicants for FFIFBB only as per the proclamation number 592/2008 and directive number SBB/50/2011. If their application is approved accordingly, they carry the business as per the Sharia laws. In such circumstances, the remaining skipped provisions of the directive can be applied equally to them. Therefore, according to the Author there is query as to whether the directive No. SBB/51/2011 really trustworthy to prohibit FFIFBB in Ethiopia as per the NBE assertion. From this it can be concluded that the inaction of NBE to approve the application for FFIFBB based on the assertion that the directive No. SBB/ 51/2011 prohibit the same is not proper.

## V. DIRECTIVE TO LICENSE AND AUTHORIZE INTEREST FREE BANKING BUSINESS NO. SBB/72/2019

This directive is enacted as a replacement to directive No. SBB/ 51/2011. The directive is a 3-page document and includes the following points: both FFIFBB and IFBB through windows are permitted; both entities need to follow Sharia law; both entities need to follow the same regulations and supervision as the other banks except on the interest rate, which does not apply. As far as both entities are concerned these are the only matter mentioned under the directive. There is no clarity as to whether the existing conventional banks can be changed to FFIFBB and vice versa; there is no clarity as to whether conventional banks can deserve exclusively one /some of its branch's for FFIFBB; there is no clarity as to whether FFIFBB can give conventional banks services through exclusive windows reserved for the same. Both entities are obliged to undertake the business in a manner consistent to Sharia/Islamic law. At the same time they are obliged to comply with regulatory and supervisory requirement that apply to conventional banks. This regulatory and supervisory exercise can be characterized, on the one hand, by the recognition given to Sharia law (Islamic finance) and standard modes of operations as a legal and regulatory framework of the industry respectively, and on the other, the application of the default conventional banking regulations and supervisory frameworks on the sector. Even if the normative status of Islamic finance and the operational guidance of standard practices to the entities has not been denied by the directive, the summary application of the conventional banking regulatory and supervisory framework of the country on these sector, will may pose a risk of Sharia incompatibility. In general the directive is very broad and does not provide any specificity in terms of rules and regulations to ensure the proper function of FFIFBB. Following the enactment of this directive the three FFIFBB namely *Zamzam*, *Hijra* and *Nejashi* Applied to NBE and their application is pending.<sup>15</sup> IFBB is unlike conventional banks it requires sophisticated management<sup>16</sup>. It needs strong careful, professional intelligent, strategic thinking and strong leadership

<sup>14</sup>A Guide to Reading, Interpreting and Applying Statutes, page 4 available at [https://www.academia.edu/.../A\\_GUIDE\\_TO\\_READING\\_INTEPRET...](https://www.academia.edu/.../A_GUIDE_TO_READING_INTEPRET...)

<sup>15</sup>Interview with Ato Sintayew Desalegn, Chief Policy and Financial Analysis Officer of NBE, Addis Ababa, 5 June 2019.

<sup>16</sup> Interview with Ato Mohammed Abdo, Human Resource Director of NBE, Addis Ababa, 5 June 2019. He replied that it is better to start with one strong Islamic bank and latter expand it based on the experience and expertise acquired. He replied further it requires developing Islamic banking and finance professionals this is what I have realized in Islamic banking training I have attended in foreign country.

quality<sup>17</sup>. It need deep-rooted assessment of other countries experience in terms of legal, economic, financial, management, information technology etc<sup>18</sup>. In Ethiopia we did not have enough experience previously as far as IFBB is concerned. As to the Author initially starting with interest-free window banking services rather than FFIFBB is goodness. Still we did not have enough experienced personnel in Ethiopia on IFBB. This being the case Authorizing/Licensing more than one FFIFBB at this early stage may ensue failure.

## VI. CONCLUSION AND RECOMMENDATIONS

According to 2007 Central Statistical Authority of Ethiopia, the Ethiopian Muslims are 34% of the total population. However, until now, no FFIFBB products were available to service the Muslim community. This fact may affect Ethiopian Muslims from owning financial sectors since holding a share from interest bearing financial sectors are against Islamic sharia laws. This is mainly due to weak government policy to build inclusive economic stakeholder that provide equal opportunity to all. The country vision to become a lower middle-income country by 2025 through realization of inclusive economy in all its aspects under GTP II can't resolve economic exclusion that happens in this regard. Following, when the public demand for IFBB increased, in respond to the same, the government comes with the permission for IFBB under the proclamation No.592/2008. Forthwith the enactment of this proclamation the application for FFIFBB is entered to NBE by name of *Zamzam* bank. However, by enacting the directive No. SBB/51/2011 the NBE reduced the application of IFBB to a unit of window within conventional banks and ban the application for FFIFBB. The enactment of directive No. SBB/72/2019, however, seems changed the situation. This directive allowed the establishment of FFIFBB and following this directive different bank of the same applied for the formation. The proclamation No. 592/2008 only contains a single clause as to IFBB; it does not allow the establishment of IFBB as of right; it makes the establishment of the same conditional that depend on the enactment of the directive by NBE; the proclamation also did not oblige NBE to enact the directive in the area; the proclamation did not mention as to the type of IFBB that will be allowed; the proclamation also did not mention the purpose/reason to allow and the manner to perform the same; there is also no indication as to whether it is the one that will conduct in line with Islamic laws or otherwise. Regarding to directive No. SBB/72/2019: there is no clarity as to whether the

existing conventional banks can be changed to FFIFBB and vice versa; there is no clarity as to whether conventional banks can deserve exclusively one /some of its branch's for FFIFBB; there is no clarity as to whether FFIFBB can give conventional banks services through exclusive windows reserved for the same; the directive oblige to undertake the business as per the sharia laws. Simultaneously it obliges to comply with the regulatory and supervisory rule of conventional banks. Here, there is a query as to what will happen if the sharia laws in one way and regulatory and supervisory rules on the other way contradict to each other. In general the directive is very broad and does not provide any specificity in terms of rules and regulations to ensure the proper function of FFIFBB. As to the author there is no difference between directive No. SBB/51/2011 and directive No. SBB/72/2019 as both is permissive without specificity, not prohibitive to FFIFBB. The only difference between the two is that the latter came with unequivocal language as to the permissibility of the same without specificity. Hence, it can be concluded that the legal provision relating to FFIFBB under proclamation No. 592/2008 and directive No. SBB/72/2019 is not enough to deal with the same. Therefore, it calls for the amendment of both proclamation No. 592/2008 and directive No. SBB/72/2019. In this regard the author prefers to follow the approach under the 2<sup>nd</sup> draft release on October 8, 2010. It provides four possible option of IFBB formation. The 1<sup>st</sup> way is, it allowed establishing new FFIFBB; the 2<sup>nd</sup> way is, it allowed converting existing conventional banks to FFIFBB; the 3<sup>rd</sup> way is, it gives permission for conventional banks to participate on IFBB through opening windows exclusively reserved for the same. Furthermore, it comes with 4<sup>th</sup> liberal idea of IFBB formation. It gives permission for FFIFBB that is formed as per this directive, to give conventional bank service through exclusive window reserved for the same. This draft directive declared permission for IFBB with all its exhaustive possible options for its formation. Also the necessary regulatory and supervisory redresses has to be made so that a suitable legal atmosphere would be created for the development of FFIFBB.

Furthermore, since we have no enough experienced personnel in the area of IFBB the authorization of more than one FFIFBB at this early stage may causes the flow of personnel from conventional banks that had been serving in exclusive windows to those FFIFBB that may ensue the deterioration of the expertise in the conventional bank. Even this flow may not satisfy the demand for the expertise in those FFIFBB as the demand to the

<sup>17</sup> Ibid

<sup>18</sup> Ibid

same become huge due to many branches that will be opened in different parts of the country. This fact

may causes to send a number of personnel abroad for training and experience sharing from other countries in order to satisfy the short term demand that may ensues the outflow of foreign currency. This factor may seriously affect the country economy especially at this moment where there is high shortage of foreign currency. Also it is better for the organizer to come together and organize all the available resource to establish one strong FFIFBB throughout the country for the moment. This may help them to learn from its progress and failure to expand another bank of the same in the future. As to the author since the entity is a new for the country in its nature this is the best mechanism to minimize the risk of failure if any. As to the author it is also better to opt at this moment to one FFIFBB and focus in the awareness creation as the business is open to Muslims and non-Muslims equally even if the manner of undertaking the business is in according to Islamic laws. This may help to avoid the confusion about the rumour that the establishment of FFIFBB divides the society and banks in to Muslims and non-Muslims. Finally, as to the author these and other similar factors may call to limit the number of authorization for FFIFBB at this early stage to not more than one.

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