



AFRICAN FORUM AND NETWORK
ON DEBT AND DEVELOPMENT

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Legal and Institutional Frameworks on Sovereign Debt Contraction and Management in Ethiopia

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Meaning of Sovereign Debt in Ethiopia



Definition – public debt is a borrowing of the Federal Government of Ethiopia from both internal and external lenders. Includes loan agreements and sale of securities.



Debt can be external or domestic.



Debt of SOEs can be classified into government-guaranteed debt and non-guaranteed debt.

Legal Framework on Sovereign Debt

- FDRE Constitution
- Laws regulating requirements and procedures
 - Financial Administration Proclamation No. 648/2009
 - Financial Administration (Amendment) Proclamation No. 970/2016
 - International Agreements Making and Ratification Procedure Proclamation No. 1024/2017
 - Financial Administration Council of Ministers Regulation No. 190/2010
 - Public Debt Management and Guarantee Issuance Directive No. 46/2017
- Definition of Powers and Duties of the Executive Organs Proclamation No. 1263/2021 – defines the power of MoF regarding sovereign debt

Institutional Framework on Sovereign Debt



Ministry of Finance

Debt Management
Directorate



House of People's Representatives (HoPR)



Council of Ministers



Federal Auditor General

Procedure for Sovereign Debt Contraction

- Regional governments can only borrow domestically
- Domestic sovereign debt
 - MoF ensures that the loan is in compliance with the MEFF and the monetary policy in place at the time of borrowing.
 - Approval of HoPR not required for Treasury Bills through the NBE or direct advances.
 - Approval of HoPR required – government bonds and other special bonds.

Procedure for Sovereign Debt Contraction

External sovereign debt contraction requirements

- Authorisation of HoPR mandatory with two exceptions
 - Borrowing for repayment, conversion, redemption and consolidation of loans.
 - Loan for the management of consolidated funds.
- MoF to prepare annual and medium-term external borrowing requirements and debt repayment plans and incorporate them in the Medium Term Fiscal Framework.

Requirements from public enterprises with external borrowing requests

- Feasibility study and financial statement
- MoF negotiates and Minister signs the contract unless authorised otherwise.



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Procedure for Sovereign Debt Contraction: Upon Execution

MoF submits to the Council of Ministers copy of signed agreement, explanation of the provisions in Amharic, brief explanatory notes, draft ratification proclamation

Council of Ministers approves draft ratification proclamation and forwards to HoPR for ratification

HoPR promulgates ratification proclamation for the loan agreement.

N.B: HoPR does not undertake thorough examination prior to approval.

Debt Limit

- Not provided by legislation.
- Decided by the macroeconomic committee and the decision of the committee is not publicly available.
- MoF must adhere to the aggregate annual borrowing limits set in the DSAs provided by MoF.
- Every loan must adhere to the concessional and non-concessional borrowing composition in the DSA.



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Federal Government Mechanisms for Sovereign Debt Management



Debt Management Directorate



Debt Management Strategy



Debt Sustainability Analysis



PFM Reform Strategy



Liability and Asset Management Corporation – SOE debt



PPPs – SOE debt



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> Transparency in SDM



- MoF maintains a record on domestic and foreign loans – publication of the Public Sector Debt Bulletin which provides information on public debt.
- Federal Auditor General audits the consolidated accounts of MoF.



- Debt Management Strategy
- DSA
- HoPR approval
- Civil society and public participation role limited – not provided for in the debt contraction process.

Accountability in SDM

- No specific penalties
- General penalties in the management of public funds apply.
 - Persons appointed to or employed by a public body engaging in corruption, fraud or permitting contravention of the law – Fine of birr 25000 to birr 35000 and rigorous imprisonment of 10 to 15 years.
 - Persons appointed to or employed by a public body having knowledge of a contravention or fraud committed and not reporting it to a superior – Liable upon conviction to a fine not more than birr 10000 and rigorous imprisonment for a term of not more than 5 years.



Gaps and Challenges in the Legal Landscape

No public participation requirement

No minimum non-negotiable terms and conditions

Mandatory dispute settlement mechanism not provided for

Lack of a budget expenditure system

Safeguards for shocks not provided for

Debt restructuring left to the parties

Principles not well developed



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Recommendations

Separate law on debt management and contraction

Provision for public participation

Minimum terms and conditions determined by law - standalone public debt contract (model/template)

Safeguards against shocks to be regulated in detail

Clarification on dispute settlement provisions

Express provision for debt ceiling

Capacity building to cover negotiation techniques, dispute resolution, contractual provisions

Effective monitoring of the ability of public enterprises to pay



Legal Foundations of Debt

“While public debt in Africa is a product of historical and political circumstances, it is the legal foundations of debt that operationalise its existence and influence its trajectory.” – AFRODAD