Changes to BAFI Bill provisions draw flak

Finance Committee Chairperson Prakash Jwala says alterations can still be made

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The amendments made to the draft of the Banks and Financial Institutions (BAFI) Bill by the Parliamentary Committee on Finance can be rolled back if the House sends the legal framework back to the committee, Chairman of Finance Committee, Prakash Jwala, said today.

His remark comes at a time when the Finance Committee has been facing criticisms for altering some of the provisions of the draft BAFI Bill, which, many experts say, could heighten conflicts of interest and weaken governance at banks and financial institutions (BFIs).

The draft BAFI Bill initially contained a provision that barred BFI chairpersons from serving on boards of companies for more than two terms of four years each. The bill also proposed a lock-in period of 10 years to convert all promoter shares into ordinary shares.

These provisions were later revised by a sub-committee formed under the Finance Committee. This sub-committee comprised a lawmaker, who also wears the hat of a bank chairman.

Presenting its report, the sub-committee recommended that the provision on lock-in period of BFI chairpersons be scrapped. The suggestion was laid to pave the way for BFI chairpersons to remain in that post throughout their life. Also, each term of chairpersons of BFIs was prolonged to five years from four years. The sub-committee also recommended that the lock-in period for conversion of promoter shares to ordinary shares be reduced to seven years.

Employees of financial institutions have said that the Banks and Financial Institutions (BAFI) Bill endorsed by the Finance Committee of the Legislature-Parliament has overlooked the governance issues, which will hurt the decent working environment in BFIs.

The bill, which was recently approved by the parliamentary panel, has removed a provision of the draft bill that barred a person from holding the post of a chairperson of a BFI for more than two terms.

The bill, which was drafted by the Ministry of Finance and Nepa Rastra Bank, had allowed a person to hold the position of a chairperson of a BFI for only two terms. However, the parliamentary panel made some amendments to the bill — including the tenure of chairpersons — before giving its stamp of approval.

According to the employees, longer tenure of the same person in the topmost post may result in an autocratic system or deviation in governance of the institution, which could deteriorate the working environment.

Employees of BFIs associated under Financial Institution Employee Union of Nepal (FIEUN) today organised an interaction programme on the BAFI Bill that was forwarded to the full house for final approval.

During the interaction, experts and bankers and former governor of Nepal Rastra Bank, had expressed their concerns about the bill. Nepal Rastra Bank, had allowed a person to hold the position of a chairperson of a BFI for only two terms. However, the parliamentary panel made some amendments to the bill — including the tenure of chairpersons — before giving its stamp of approval.

Former NRB governor Tilak Rawal spoke about widely shared view of conflict of interest in the law-making process because some of the lawmakers, who are holding the position of chairmen of some BFIs, were involved in amending the draft bill.

Similarly, NRB’s former deputy governor Maha Prasad Adhikari said that the bill has not set precautionary measures while transferring promoter shares to the public. The bill has amended the lock-in period of promoter shares to convert as ordinary shares from 10 years to seven years. “Thus, without moving ahead without any precautionary measures like pre-approval from NRB or advance notification to the central bank could result in issues of capital gain tax embezzlement during transfer of promoter shares — in the case of Reynolds Holdings Ltd, former promoter of Ncell,” he said.

Nepal Bankers’ Association President Upendra Paudel said that the new act should give supremacy to the NRB for the larger benefit of the financial sector, rather than curbing its authority.

“Your people will get hit if conflicts of interest or weak governance deteriorate performance of BFIs,” SAMTEE Executive Chairman Posh Raj Pandey said, adding, “Removal of provision on term of BFI chairpersons will hit governance of BFIs.”

Nabil Bank CEO Sashik Joshi said two-term tenures of five years each was adequate for bank chairpersons because ‘change is necessary to promote innovation’.

Bhattarai said investors’ demand for removal of cap on chairpersons’ term and reduction in lock-in period from 10 years to seven years was contradictory.

“If promoters wish to get out of banking business within seven years, why do they want chairpersons to remain in office forever?” Bhattarai questioned.

He, however, added, proposal made by NRB to limit lock-in period at 10 years was reasonable, ‘otherwise people will just start opening BFIs to make quick profits.’