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Bafia bill draws severe flak

Stakeholders question propriety of some lawmakers involved in the amendment process

POST REPORT

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The move to remove key provisions designed to ensure good corporate governance from the bill for amending Banks and Financial Institutions Act (Bafia), currently in Parliament for final endorsement, has drawn flak from bankers and economists.

"If the bill is endorsed in the current form, it will seriously undermine the regulatory authority of the central bank, pushing the banking sector on the verge of disaster," they said during an interaction organised by South Asia Watch on Trade, Economics and Environment (Satwee) on Wednesday. "This would also mean promoters will not be accountable to the regulator," they added.

In the revised bill, provisions that limit terms of bank chairmen and directors, decrease time to convert promoter share into public share, restrict individuals holding constitutional posts from becoming bank directors and distinguish between bankers and businessmen have been removed.

The new revised bill is also flexible on qualification of directors, provisions regarding suspicious transactions

and punishment and penalties.

In addition, involvement of lawmaker Ichchha Raj Tamang, who is also the chairman of Civil Bank, in the process to amend Bafia bill has also been opposed by the stakeholders, who said there certainly was "conflict of interest".

The bill ran into controversy after the parliamentary sub-committee, in which Tamang is a member, made changes in the bill "to suit bank promoters at the cost of depositors' interest".

Former Nepal Rastra Bank (NRB) governor Bijaya Nath Bhattarai said Nepali bank promoters are often inclined to become the proprietors and try to influence decisions regarding credit extension and staff appointments despite the fact that they do not enjoy executive power.

"What the bankers and parliamentarians should understand that the public deposit is several times more than the amount they invest, and they are just the custodians of public money, not the owners," he said, adding that the tendency among bank promoters to misuse public money earlier has led to crisis in many banks and financial institu-



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tions. On the revised provisions seeking to remove term limit for board directors and chairmen and decreasing time for offloading promoter shares to public to seven years from 10 years, Bhattarai said, "It is contradictory in itself."

"On the one hand, promoters are aiming to offload their shares at the earliest, and on

the other, they are seeking to prolong their stay in the board," he argued.

The original Bafia bill had proposed term limit for directors and chairmen after most of the financial institutions that faced crisis in the past had a history of having same directors, chairmen and chief executive officers (CEOs) for a long period of time.

Stakeholders also called for a provision where the central bank enjoys the authority to decide whether to allow promoters to offload their shares, as significant number of shares entering the secondary market could crash the stock market. "The provision of requiring central bank's approval for offloading more than certain percentage of promoter shares would be a good idea," said Sashin Joshi, chief executive officer of Nabil Bank.

Calling for term limit for board directors and chairmen, Madan Dahal, former chairperson of Mega Bank, said, "The board can, however, extend the CEO's term if his/her performance is good."

The lawmakers have also tinkered with the provision banning persons holding constitutional posts from becoming bank chairman and director. The revised provision

bans only those from becoming bank director or chairman who hold constitutional positions in Public Service Commission and Office of Auditor General.

Interestingly, the revised provision does not bar lawmakers from becoming bank chairman and director. "How the NRB as a regulator could take action against more powerful players such as lawmakers?" wondered Sovan Dev Pant, CEO of Lumbini Bank.

Stating that the revised provisions were made under the influence of lawmakers having conflict of interest, participants wondered whether there was any possibility of introducing a separate law on conflict of interest.

Former finance minister Ram Sharan Mahat said the issue of conflict of interest should be taken seriously and that those having such interests should not be allowed to become part of the decision-making process. Prakash Jwala, chairperson of the parliamentary finance committee, admitted that involving Tamang in the process to amend Bafia bill was a mistake. "Since the bill is yet to be endorsed by Parliament, there is a possibility of full House returning the bill for reconsideration," he said.