

EARLY SETTLEMENT DIRECTIVE

**LENDING ACTIVITIES DIRECTIVE OF NBFIRA
FOR PAWNSHOPS, FINANCE AND LEASING
COMPANIES**

NBFIRA/RS/LAD/DIR01

Effective: July 1, 2024

NBFIRA

Non-Bank Financial
Institutions Regulatory
Authority



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1. Introduction

1.1 The Non-Bank Financial Institution Regulatory Authority (“NBFIRA”) is empowered by Section 56(1)(f) of the NBFIRA Act, 2023, to give a non-bank financial institution a written direction on the manner in which the affairs of the non-bank financial institution may be conducted if it appears to the *Regulatory Authority* that the direction is necessary to protect the interests of clients of such non-bank financial institution and the public.

1.2 In this regard, Pawnshops, Finance Companies and Leasing Companies are directed not to charge a fee for early settlement of loans, provided the customer notifies the entity of the intention to settle their loan in 30 calendar days from the date of the notice or shorter period as may be prescribed by the non-bank lender.

2. The Current Practice

2.1 There is no stipulated general procedure for charging early settlement fees in terms of loan agreements for loans issued by non-bank lenders. Some non-bank lenders grant borrowers the option to give a notice period, whereas some do not accord borrowers that option. Generally, non-bank lenders apply different methods when charging fees for early settlement. Some non-bank lenders charge a prescribed standard fee, whereas others charge a fee equivalent to a pro-rated interest for the respective month, depending on the settlement date. Therefore, the methods applied by micro lenders when charging fees for early settlement are not standardized.

3. The Law

3.1 Part I of the NBFIRA Act, 2023, stipulates that “*pawnshop*” means a person licensed to operate a business that –

(a) advances money on personal property that is physically delivered to him or her as security for the money advanced or advances money upon goods, wares or merchandise pledged, stored or deposited as a security; or

(b) purchases tangible personal property to be left in pawn on the condition that it may be redeemed by the seller for a fixed price within a fixed period of time.

3.2 In terms of Part I of the NBFIRA Act, 2023, “*finance company*” means a body corporate that advances loans, invoice discounting, purchase order financing, factoring, debt financing, debt administration, project finance,

loan syndication or such other facility identified as a credit facility, availed by the finance company to any client, but does not include a bank or deposit taking institution.

3.3 "*leasing company*"; means a body corporate which engages in a contract with a person using the equipment or machinery of the leasing company, and paying an agreed fee for such use, but does not include a bank or deposit taking institution as stated in Part I of the NBFIRA Act, 2023.

3.4 Section 56(5) of the NBFIRA Act, 2023 stipulates that the direction referred to under subsection (1) may specify the period by which, or the period during which, such direction is to be complied with.

3.5 In terms of Section 56(7) of the NBFIRA Act, 2023, "A person who, without reasonable cause, fails to comply with a direction given in terms of this section commits an offence and is liable to a civil penalty not exceeding P250 000 to be imposed by the *Regulatory Authority*".

4. Conclusion

4.1 It is apparent that there is no standardization with regards to early settlement fees across the industry, thus the need for the Regulatory Authority to provide direction on the matter. In addition, this Directive serves as an intervention to mitigate the expected interest rate risk and loss in expected interest income that pawnshops, finance and leasing companies incur when borrowers make early settlements, particularly for larger credit agreements with loan tenor of more than one year.

5. The Directive

5.1 Therefore, pursuant to Section 56(1)(f) of the NBFIRA Act, 2023, the Regulatory Authority hereby directs pawnshops, finance and leasing companies, through this directive, not to charge a fee for early settlement of loans provided the customer notifies the entity of the intention to settle their loan in 30 calendar days from the date of the notice. The fee stipulated in the loan agreement must only be charged where the customer has elected not to give notice in writing, of 30 calendar days or shorter period as may be prescribed by the pawnshop, finance or leasing company. In addition, the fee should not be more than 30 days interest on the outstanding principal.

5.2 Pawnshops, finance and leasing companies that choose to stipulate early settlement amounts in their loan agreements are directed to amend their loan application forms to indicate that such a fee is applicable only where customers elect not to give 30 days' notice or give a shorter notification period, and the maximum fee shall not exceed 30 days interest on the outstanding principal, as directed above.

5.3 This Directive shall come into effect on July 1, 2024 and shall not be applicable to loans obtained before the aforementioned date. NBFIRA remains committed and available to assist pawnshops, finance and leasing companies to comply with the NBFIRA Regulatory Framework.

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