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NATIONAL BANK OF CAMBODIA

NO. THOR. 796-153 BIS PRA.KAR

**PRAKAS (DECLARATION)
ON BANKING LICENSE
INCORPORATED UNDER DOMESTIC LAW**

THE GOVERNOR OF THE NATIONAL BANK OF CAMBODIA

- Having seen the Organization and Functioning of the National Bank of Cambodia dated January 26, 1996, particularly on the articles 4-7-33-38 and 61;
- Having seen the Sub-Decree No 29 Or. No. Kra. dated November 16, 1992, on the Management of the Commercial Bank, particularly Articles 3-14-16.4-18-22-25 and 27;
- Having seen the Regulation No Thor. 795-03 on the risk prevention ratio dated May 22, 1995;
- Having seen the Circular No Thor. 795-03 on the risk prevention ratio dated May 27, 1995; and
- Pursuant to the request of the Supervision Department and the Cabinet of the National Bank.

HEREBY DECIDED

As the regulatory authority of the banking system and pursuant to their own mandate to regulate, the National Bank of Cambodia hereby sets the following conditions for compliance by any commercial companies incorporated under domestic law. Compliance of these conditions shall be submitted to the National Bank whether for new banking license or request to renew the banking license if said license was issued for a limited duration.

Regardless of the duration of this license, the said license may be considered as null.

The conditions for issuance of new license or renewal of any license of foreign bank branches shall be set in separate further notice.

ARTICLES 1:

Any newly formed banks shall be informed that no license shall be issued if the below mentioned conditions are not fully complied with.

ARTICLES 2:

In their license renewal application, the newly formed banks whose initial license is of limited duration, shall comply with all conditions of the licensing requirements particularly with regards to shareholders' composition and responsibilities from this date on or at the latest from the date of the submission of the license renewal.

BANKING ACTIVITIES

ARTICLES 3:

The following activities are considered as banking activities:

1. to provide all sort of credit to the public for a fee.
2. to receive money for deposit from the public without clear indications of future use.
3. to provide to customers facilities for use and exchange of national currencies or foreign exchanges.

ARTICLES 4:

Any entity which on a regular basis undertakes any of the above 3 activities shall be adequately deemed to be conducting banking activities, thus subjecting itself to full compliance of this banking license requirements.

ARTICLES 5:

Any banks could undertake directly or indirectly for their own account or on behalf of their customers some financial activities such as dealing with bank notes or precious metals except insurance.

PROCEDURES FOR THE ISSUANCE OF LICENSE

ARTICLES 6:

Due to the impact on the monetary creation and the risk imposed on depositors or debtors, banking activities can be undertaken only by entities that are specially authorized by the National Bank which is the regulatory authority of the banking system and which are established as financial company incorporated under domestic laws or as branches of foreign banks.

ARTICLES 7:

The temporary conditional approval shall be issued in writing to the banking license applicant by the National Bank of Cambodia after review of the main objectives of the proposal and the funding capital.

ARTICLES 8:

The final license shall be issued only after proper compliance of all conditions and formalities including the payments of document and license fees.

ARTICLES 9:

The license shall be issued either for an indefinite duration or for a limited duration. If the license was issued for a limited duration, then the request for renewal shall be submitted to the National Bank no later than 6 months prior to the expiration date of the said license.

CONDITIONS AND FORMALITIES WITH REGARDS TO SHAREHOLDINGS FOR COMPANIES INCORPORATED UNDER DOMESTIC LAWS AND SOUNDNESS OF THE APPLICATION FOR LICENSE ISSUANCE

SHAREHOLDING FACTORS (Identity and financial situation)

ARTICLES 10:

The list of shareholders whose shareholdings are not less than 5% shall be submitted to the National Bank of Cambodia.

ARTICLES 11:

From that limit up, the National Bank of Cambodia has from the outset considered that these shareholders only seek out to invest and not to be involved in the management of the bank. From that limit up, the regulatory authority shall collect all information pertaining to the financial situation of those shareholders.

ARTICLES 12:

Each shareholder of that name list shall declare in writing that the capital contribution is only for their own account.

ARTICLES 13:

In the event that shareholders of the newly formed banks or existing banks is a company, the following conditions shall be complied with:

1. shall be attached with the license application the name list of the major shareholders of that company if the capital contribution is equal or exceed 5% of the total capital of newly formed banks or existing banks.
2. the central office of the company which is the shareholder shall be in a financial location regulated and recognized by the National Treasury of Cambodia.
3. shareholding made “en cascade” shall not be permitted unless specifically authorized by the Central Bank.

ARTICLES 14:

For newly formed banks or existing banks, the following composition of shareholders is compulsory:

- either one shareholder who has a majority shareholding, or a majority casting vote; or
- more shareholders each of whom controls a certain number of shares who can effectively influence the management of the bank.

ARTICLES 15:

The National Bank of Cambodia shall consider any shareholder to have automatic effective control if he has directly or indirectly at least 20% shares of the total capital or casting vote.

ARTICLES 16:

Any shareholder who has majority or effective shareholding shall unconditionally submit his financial situation report.

In the event the bank faces solvency problem and in order to protect the customers’ deposit, the regulatory authority shall request to the majority or effective shareholding who are directly or indirectly responsible for managing the bank to take remedial measures to comply with all the regulations and the solvency requirements:

1. the minimum capital level and the permanent posting of this capital on the asset side shall be after deduction of bad debts higher than the liabilities to the depositors.
2. maintain the risk protection ratio as mentioned in the regulation No. 7.95-03, dated May 22, 1995 and Sarachor (Circular) No. 7.95-03, dated May 22, 1995.

ARTICLES 17:

During its operation provided the risk can not be reduced, any shareholder with majority or effective shareholding shall be under the obligation to inject additional funds or other permanent capital such as loans in order to avoid the threat of bankruptcy in the event of which the National Bank of Cambodia shall act as the bank temporary receivership according to Article 22 of the above referred Sub-Decree.

ARTICLES 18:

A shareholder with majority or effective shareholding shall acknowledge in writing that he has understood completely all their obligations as shareholder with majority or effective shareholding including local banks which are subsidiaries of banks with overseas head office.

ARTICLES 19:

The financial standing of every shareholder with majority or effective shareholding shall be evaluated by the National Bank in accordance with the following factors.

1. the above referred shareholder shall show evidence of all the stability of his income, his physical assets such as real properties, business standing as particularly evidenced by bank and tax records.
2. the company shall show the evidence of its financial standing through its balance sheet and audited accounting records for the last 3 financial years as particularly evidenced by bank and tax records.
3. the shareholder with majority or effective shareholding of the company who is the shareholder shall also show evidence about its own financial standing in the same way.

ARTICLES 20:

The prudence of the shareholder with majority or effective shareholding is directed to the obligation made with respect to the compliance of all the regulations pertaining the solvency, namely:

1. the risk allocation according to Article 14 and 18 of Sub-Decree 29 Ar.No.Kra. dated November 16, 1992,
2. the limit of share contribution under the spirit of Article 16 of the Sub-Decree No 29 Ar. No. Krar. dated November 16, 1992, and
3. the reduction in the calculation of net capital to provide financial credit in any way to "Related Parties" according to the Regulations No Thor. 795-03 dated May 22, 1995 and Circular (Sarachor) No Thor. 795-03 dated May 27, 1995.

In the computation of the ratio stated in points 1 and 2 of the above article, the Central Bank can also consider the net capital of the head office if the local bank is a subsidiary of another the bank with head office in Cambodia or outside Cambodia. Other conditions that the National Bank of Cambodia use to basis its decision shall be stated in its response to any application which is submitted.

MAXIMUM CAPITAL

ARTICLES 21:

The maximum capital could be amended to the limit of 10,000 million riels according to Article 3 of the Sub-Decree No. 29 Or. Nor. Kra. dated November 16, 1992 on the Management of Commercial Bank.

ARTICLES 22:

The maximum capital shall be declared as national currency and shall fully paid up (100%) into the special account for opening new bank at the National Bank of Cambodia prior to the issuance of the license.

ARTICLES 23:

If the shareholder subscription is made in foreign exchange, then the National Bank of Cambodia could require them to sell in advance this subscription against the riel currency.

ARTICLES 24:

The paid capital based on actual justification shall be used for new starting bank to cover for starting expenses or equipment, to provide credit subject to conditions set for local enterprises or for banking related activities. Only a deposit equaling to 5% of that capital shall be kept at the National Bank of Cambodia.

THE APPLICATION DOCUMENT

ARTICLES 25:

Aside from the main elements of the application as mentioned in the above Articles 10, 12, 13, 18, and 19 and provided that the information or other justification documents as below mentioned are not yet provided, the following documents shall be submitted along with the new license and renewal application:

1. documents evidencing the creation of the company applying to become a bank or the existence of the previous company.
2. The accounting records as evidence of the financial activities and standing of the company which existed before prior to becoming a bank.
3. Bylaws or amendments of the bylaws proving i.e. the juridical entity selected, the capital allocation and voting rights.
4. The name list of directors and their members with voting rights along with their curriculum vitae and character reference documents. Both character and capacity shall be real.
5. evidence justifying the readiness of the group to manage the banking operations such as the staff employment contract.

6. programme description of the main activities and the economic justification for Cambodia.
7. pro forma financial standing for the next 3 financial years to include:
 - tables showing main figures such as source of funds besides the bank capital (deposit-interbank-discount) and the source of expenditures allocated by line, by chapter, by period, and by types of customers.
 - tables showing accounting operation profile for the same period.
8. description of the network of “Correspondent Banks” abroad with copies of their correspondence approval.
9. estimated increase of the number of employee hiring (manager, officials, staff) and estimated annual expenses (according to the accounting operation profile).
10. description on planned equipment purchases.
 - Address and description of main office location and the number and location of other branches.
 - input of accounting data into the computer.
11. The description of the structure and the banking supervision procedures: internal supervision and outside supervision (accounting and general supervision of the bank if necessary).
12. planned official opening date for the bank.

ARTICLES 26 :

All the requirements as stated in the above article shall be in writing providing all figures and signed.

ARTICLES 27:

For companies incorporated under domestic law, the newly formed bank and the existing bank shall from time to time contact with the Supervision Department of the Central Bank in order to prepare the proper documents to obtain the new license or the renewal license.

ARTICLES 28:

All licensed banks shall inform in advance to the regulatory authority about any changes which may affect the shareholding composition or the management of the bank and which have adverse influences on the conditions by the National Bank of Cambodia for the license issuance.

ARTICLES 29:

The Cabinet, the Supervision Department, all concerned departments, and all commercial banks under the regulation of the National Bank of Cambodia shall strictly implement this Declaration.

ARTICLES 30:

This Declaration shall enter into force from the date of its signature.

Phnom Penh, October 25, 1996

The Governor.

Seal of the National Bank of Cambodia

Signature of HE Thor Peng Leal

cc:

The Cabinet of the National Bank of Cambodia

The Supervision Department and concerned departments

All Commercial Banks under the regulation of the National Bank of Cambodia

“For implementation”

Archives